



General Assembly

January Session, 2009

Raised Bill No. 6706

LCO No. 5093

05093_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING RESCISSION OF PROBATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-29 of the general statutes is amended by
2 adding subsection (h) as follows (*Effective October 1, 2009*):

3 (NEW) (h) At any time prior to the commencement of a period of
4 probation imposed under this section, the state may file a motion with
5 the court seeking the reopening of the sentence on the ground that the
6 defendant has engaged in conduct after imposition of the sentence that
7 renders the defendant unsuitable for a sentence that includes a period
8 of probation. Such motion shall set out the date, time, place and
9 description of such conduct. The defendant may file a response to such
10 motion. The court shall conduct a hearing on such motion at which the
11 state shall have the burden of proving by a preponderance of the
12 evidence the conduct of the defendant alleged by the state. If the court
13 finds that such conduct has been proved, the court shall further
14 determine whether such conduct renders the defendant unsuitable for
15 a sentence that includes a period of probation. The defendant shall
16 have the opportunity to present evidence and argument at such

17 hearing. If the court concludes that the sentence should be modified by
18 the rescission of the period of probation, it shall modify such sentence
19 within the limits fixed by law for the offense for which the defendant
20 was convicted, provided the court shall not sentence the defendant to a
21 term of imprisonment that exceeds the maximum possible term of
22 imprisonment that could have been imposed in accordance with any
23 plea agreement that was approved and accepted by the court. The
24 defendant shall not be released on probation during the pendency of
25 such motion.

26 Sec. 2. (NEW) (*Effective October 1, 2009*) Whenever a defendant
27 pleads guilty or nolo contendere in any criminal proceeding, the court
28 shall advise the defendant that any period of probation that the court
29 may impose as part of the sentence is subject to reconsideration and
30 rescission upon motion of the state based upon conduct of the
31 defendant that occurs after sentencing and prior to the defendant's
32 release on probation and renders the defendant unsuitable for a
33 sentence that includes a period of probation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	53a-29
Sec. 2	<i>October 1, 2009</i>	New section

Statement of Purpose:

To ensure that the sentencing court in a criminal case has jurisdiction to rescind the probationary portion of a sentence on the basis of the defendant's conduct while incarcerated.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]