



# House of Representatives

General Assembly

**File No. 67**

February Session, 2010

Substitute House Bill No. 5248

*House of Representatives, March 18, 2010*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT ESTABLISHING A SENTENCING COMMISSION.**

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

1 Section 1. (NEW) (*Effective February 1, 2011*) (a) There is established,  
2 within existing budgetary resources, a Connecticut Sentencing  
3 Commission which shall be within the Office of Policy and  
4 Management for administrative purposes only.

5 (b) The mission of the commission shall be to review the existing  
6 criminal sentencing structure in the state and any proposed changes  
7 thereto, including existing statutes, proposed criminal justice  
8 legislation and existing and proposed sentencing policies and practices  
9 and make recommendations to the Governor, the General Assembly  
10 and appropriate criminal justice agencies.

11 (c) In fulfilling its mission, the commission shall recognize that: (1)  
12 The primary purpose of sentencing in the state is to enhance public  
13 safety while holding the offender accountable to the community, (2)  
14 sentencing should reflect the seriousness of the offense and be

15 proportional to the harm to victims and the community, using the  
16 most appropriate sanctions available, including incarceration,  
17 community punishment and supervision, (3) sentencing should have  
18 as an overriding goal the reduction of criminal activity, the imposition  
19 of just punishment and the provision of meaningful and effective  
20 rehabilitation and reintegration of the offender, and (4) sentences  
21 should be fair, just and equitable while promoting respect for the law.

22 (d) The commission shall be composed of the following members:

23 (1) Eight persons appointed one each by: (A) The Governor, (B) the  
24 Chief Justice of the Supreme Court, (C) the president pro tempore of  
25 the Senate, (D) the speaker of the House of Representatives, (E) the  
26 majority leader of the Senate, (F) the majority leader of the House of  
27 Representatives, (G) the minority leader of the Senate, and (H) the  
28 minority leader of the House of Representatives, all of whom shall  
29 serve for a term of four years;

30 (2) Two judges appointed by the Chief Justice of the Supreme Court,  
31 one of whom shall serve for a term of one year and one of whom shall  
32 serve for a term of three years;

33 (3) One representative of the Court Support Services Division of the  
34 Judicial Branch appointed by the Chief Justice of the Supreme Court,  
35 who shall serve for a term of two years;

36 (4) The Commissioner of Correction, who shall serve for a term  
37 coterminous with his or her term of office;

38 (5) The Chief State's Attorney, who shall serve for a term  
39 coterminous with his or her term of office;

40 (6) The Chief Public Defender, who shall serve for a term  
41 coterminous with his or her term of office;

42 (7) One state's attorney appointed by the Chief State's Attorney,  
43 who shall serve for a term of three years;

44 (8) One member of the criminal defense bar appointed by the  
45 president of the Connecticut Criminal Defense Lawyers Association,  
46 who shall serve for a term of three years;

47 (9) The Victim Advocate, who shall serve for a term coterminous  
48 with his or her term of office;

49 (10) The chairperson of the Board of Pardons and Paroles, who shall  
50 serve for a term coterminous with his or her term of office;

51 (11) The Commissioner of Public Safety, who shall serve for a term  
52 coterminous with his or her term of office;

53 (12) A municipal police chief appointed by the president of the  
54 Connecticut Police Chiefs Association, who shall serve for a term of  
55 two years;

56 (13) The Commissioner of Mental Health and Addiction Services,  
57 who shall serve for a term coterminous with his or her term of office;

58 (14) The undersecretary of the Criminal Justice Policy and Planning  
59 Division within the Office of Policy and Management, who shall serve  
60 for a term coterminous with his or her term of office; and

61 (15) An active or retired judge appointed by the Chief Justice of the  
62 Supreme Court, who shall serve as chairperson of the commission and  
63 serve for a term of four years.

64 (e) The commission shall elect a vice-chairperson from among the  
65 membership. Appointed members of the commission shall serve for  
66 the term specified in subsection (d) of this section and may be  
67 reappointed. Any vacancy in the appointed membership of the  
68 commission shall be filled by the appointing authority for the  
69 unexpired portion of the term.

70 (f) The commission shall:

71 (1) Facilitate the development and maintenance of a state-wide  
72 sentencing database in collaboration with state and local agencies,

73 using existing state databases or resources where appropriate;

74 (2) Evaluate existing sentencing statutes, policies and practices  
75 including conducting a cost-benefit analysis;

76 (3) Conduct sentencing trends analyses and studies and prepare  
77 offender profiles;

78 (4) Provide training regarding sentencing and related issues,  
79 policies and practices;

80 (5) Act as a sentencing policy resource for the state;

81 (6) Preserve judicial discretion and provide for individualized  
82 sentencing;

83 (7) Evaluate the impact of pre-trial, sentencing diversion,  
84 incarceration and post-release supervision programs;

85 (8) Perform fiscal impact analyses on selected proposed criminal  
86 justice legislation; and

87 (9) Identify potential areas of sentencing disparity related to racial,  
88 ethnic, gender and socioeconomic status.

89 (g) Upon completing the development of the state-wide sentencing  
90 database pursuant to subdivision (1) of subsection (f) of this section,  
91 the commission shall review criminal justice legislation as requested  
92 and as resources allow.

93 (h) The commission shall make recommendations concerning  
94 criminal justice legislation, including proposed modifications thereto,  
95 to the joint standing committee of the General Assembly having  
96 cognizance of matters relating to the judiciary which shall hold a  
97 hearing thereon.

98 (i) The commission shall have access to confidential information  
99 received by sentencing courts and the Board of Pardons and Paroles  
100 including, but not limited to, arrest data, criminal history records,

101 medical records and other nonconviction information.

102 (j) The commission shall obtain full and complete information with  
103 respect to programs and other activities and operations of the state that  
104 relate to the criminal sentencing structure in the state.

105 (k) The commission may request any office, department, board,  
106 commission or other agency of the state or any political subdivision of  
107 the state to supply such records, information and assistance as may be  
108 necessary or appropriate in order for the commission to carry out its  
109 duties. Each officer or employee of such office, department, board,  
110 commission or other agency of the state or any political subdivision of  
111 the state is authorized and directed to cooperate with the commission  
112 and to furnish such records, information and assistance.

113 (l) The commission may accept, on behalf of the state, any grants of  
114 federal or private funds made available for any purposes consistent  
115 with the provisions of this section.

116 (m) Any records or information supplied to the commission that is  
117 confidential in accordance with any provision of the general statutes  
118 shall remain confidential while in the custody of the commission and  
119 shall not be disclosed. Any penalty for the disclosure of such records  
120 or information applicable to the officials, employees and authorized  
121 representatives of the office, department, board, commission or other  
122 agency of the state or any political subdivision of the state that  
123 supplied such records or information shall apply in the same manner  
124 and to the same extent to the members, staff and authorized  
125 representatives of the commission.

126 (n) The commission shall be deemed to be a criminal justice agency  
127 as defined in subsection (b) of section 54-142g of the general statutes.

128 (o) The commission shall meet at least once during each calendar  
129 quarter and at such other times as the chairperson deems necessary.

130 (p) Not later than January 15, 2012, and annually thereafter, the  
131 commission shall submit a report, in accordance with the provisions of

132 section 11-4a of the general statutes, to the Governor, the General  
133 Assembly and the Chief Justice of the Supreme Court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>February 1, 2011</i>	New section

**Statement of Legislative Commissioners:**

Minor changes in wording and phrasing were made for internal consistency and consistency with the style of the general statutes.

**JUD**      *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Policy & Mgmt., Off.	GF - Cost	85,000	66,750
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	17,329	17,795
Legislative Mgmt.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill establishes, within existing budgetary resources, a permanent Sentencing Commission within the Office of Policy and Management (OPM) for administrative purposes only. The bill requires the Commission to undertake various tasks as follows: assisting in database development; conducting quantitative analyses of various types including program evaluation and cost benefit analyses; conducting training on sentencing and related issues; and researching sentencing disparity.

It is anticipated that the Office of Policy and Management's Criminal Justice Policy and Planning Division will be able to assist the Commission in many respects. However, given the ongoing nature of the bill's Commission and the scope and potential intensity of work involved in the carrying out of its duties, it is anticipated that the OPM would require an additional position with an estimated FY 11 salary of

<sup>1</sup> The estimated non-pension fringe benefit rate as a percentage of payroll is 26.66% which includes health insurance, social security, Medicare, life insurance, and unemployment compensation. Fringe benefit costs for new positions do not include pension costs as new positions will not impact the state's pension contribution until FY 12 after the next scheduled actuarial valuation.

\$65,000 and funding of approximately \$20,000 in FY 11 to contract for outside expertise in developing the database. Since the bill requires the program to be established and administered within existing budgetary resources, passage of the bill would require the agency to either: (1) reallocate existing funding for this purpose from another program; (2) incur additional costs; (3) delay or not implement this program due to lack of funding; or (4) incur a deficiency.

To the extent that legislative members of the Commission receive mileage reimbursement (currently 50 cents per mile) related to their work on the Commission, the Office of Legislative Management would incur a minimal cost annually.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****HB 5248*****AN ACT ESTABLISHING A SENTENCING COMMISSION.*****SUMMARY:**

This bill creates, within existing budgetary resources, a 23-member Connecticut Sentencing Commission to review the existing criminal sentencing structure and any proposed changes, including existing statutes, proposed legislation, and existing and proposed sentencing policies and practices. It puts the commission within the Office of Policy and Management (OPM) for administrative purposes only.

The bill sets out a guiding principle for the commission's work and the purposes of sentencing, lists specific duties for the commission, and authorizes the commission to access information held by state and municipal agencies.

The bill requires the commission to meet at least once each quarter and at other times the chairperson deems necessary. It must make recommendations to the governor, legislature, and criminal justice agencies and begin submitting annual reports to the governor, legislature, and Supreme Court chief justice by January 15, 2012.

The bill authorizes the commission to accept federal grants or private funds for purposes consistent with its duties.

EFFECTIVE DATE: February 1, 2011

**COMMISSION MEMBERS*****Ex-Officio Members***

The bill makes the following officials commission members with terms coterminous with their term of office:

1. Board of Pardons and Paroles chairperson;
2. chief public defender;
3. chief state’s attorney;
4. correction, mental health and addiction services, and public safety commissioners;
5. OPM’s Criminal Justice Policy and Planning Division undersecretary; and
6. victim advocate.

**Appointed Members**

The bill requires various authorities to appoint additional members. Table 1 displays the appointing authority, criteria for member appointment, and the term for each member.

**Table 1: Members Appointed to the Commission**

<b>Appointing Authority</b>	<b>Criteria for Member</b>	<b>Term</b>
Supreme Court chief justice	Judge	One year
	Judge	Three years
	Representative of the Judicial Branch’s Court Support Services Division	Two years
	Active or retired judge	Four years
	None specified	Four years
Chief State’s Attorney	State’s attorney	Three years
Connecticut Criminal Defense Lawyers Association president	Member of the criminal defense bar	Three years

Connecticut Police Chiefs Association president	Municipal police chief	Two years
Governor	None specified	Four years
Senate president pro tempore	None specified	Four years
Senate majority leader	None specified	Four years
Senate minority leader	None specified	Four years
House speaker	None specified	Four years
House majority leader	None specified	Four years
House minority leader	None specified	Four years

### ***Reappointments and Vacancies***

Under the bill, appointed members may be reappointed, and any vacancy is filled by the appointing authority for the unexpired portion of the term.

### ***Chairperson and Vice-Chairperson***

The bill makes the active or retired judge appointed by the Supreme Court chief justice the commission's chairperson. The commission must elect one of its members as vice-chairperson.

### **GUIDING PRINCIPLE AND PURPOSE OF SENTENCING**

The bill sets a general principle that the commission must consider in its work: sentencing's primary purpose is to enhance public safety while holding the offender accountable to the community. In addition, sentencing should:

1. reflect the seriousness of the offense;
2. be proportional to the harm to victims and the community;
3. use the most appropriate sanctions available, including prison,

community punishment, and supervision;

4. have an overriding goal of reducing criminal activity, imposing just punishment, and providing meaningful and effective rehabilitation and reintegration of the offender; and
5. be fair, just, and equitable while promoting respect for the law.

### **COMMISSION'S DUTIES**

The bill requires the commission to:

1. facilitate development and maintenance of a statewide sentencing database in collaboration with existing state and local agencies, use existing state databases or resources where appropriate, and, when the database is completed, review criminal justice legislation on request, within resources;
2. evaluate current sentencing statutes, policies, and practices and conduct a cost-benefit analysis;
3. analyze and study sentencing trends and prepare offender profiles;
4. provide training on sentencing and related issues, policies, and practices;
5. act as a sentencing policy resource for the state;
6. preserve judicial discretion and provide for individualized sentencing;
7. evaluate the impact of pre-trial, sentencing diversion, incarceration, and post-release supervision programs;
8. perform fiscal impact analyses on selected proposed criminal justice legislation;
9. identify potential areas of sentencing disparity relevant to racial, ethnic, gender, and socioeconomic status; and

10. make recommendations for criminal justice legislation to the Judiciary Committee, which must hold a hearing on them.

## **INFORMATION**

The bill requires the commission to have access to confidential information received by sentencing courts and the Board of Pardons and Paroles that includes arrest data, criminal history records, medical records, and other non-conviction information.

It requires the commission to obtain full and complete information on state programs, activities, and operations relating to the state's criminal sentencing structure. The bill allows the commission to ask any state or municipal subdivision office, department, board, commission, or agency to provide records, information, and assistance needed or appropriate to carry out the commission's duties. It authorizes and directs the officers and employees of those entities to cooperate with the commission and to furnish requested records, information, and assistance.

The bill provides that any record or information given to the commission that is confidential under the statutes remains confidential while in the commission's custody and cannot be disclosed. Any penalty that applies to the officials, employees, and authorized representatives that give the records to the commission also applies in the same way to the commission's members, staff, and authorized representatives.

The bill makes the commission a "criminal justice agency" for purposes of access to criminal history record information of state agencies and subjects the commission to the same security and privacy provisions as the other criminal justice agencies.

## **BACKGROUND**

### ***Sentencing Task Force***

PA 06-193 created a Connecticut Sentencing Task Force to review the state's criminal justice and sentencing policies and laws to create a more just, effective, and efficient system of sentencing. PA 08-143

required the task force to recommend whether to establish a permanent sentencing commission and, if so, the permanent commission's mission, duties, membership, and procedures. The task force's January 7, 2009 report recommended creation of a permanent sentencing commission.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 34 Nay 0 (03/03/2010)