



House of Representatives

General Assembly

File No. 556

February Session, 2010

Substitute House Bill No. 5253

House of Representatives, April 15, 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 CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.

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

1 Section 1. Section 53a-172 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) A person is guilty of failure to appear in the first degree when (1)
4 while charged with the commission of a felony and while out on bail
5 or released under other procedure of law, [he] such person wilfully
6 fails to appear when legally called according to the terms of [his] such
7 person's bail bond or promise to appear, or (2) while on probation for
8 conviction of a felony, [he] such person wilfully fails to appear when
9 legally called for [a violation of probation hearing] any court hearing
10 relating to a violation of such probation.

11 (b) Failure to appear in the first degree is a class D felony.

12 Sec. 2. Section 53a-173 of the general statutes is repealed and the

13 following is substituted in lieu thereof (*Effective October 1, 2010*):

14 (a) A person is guilty of failure to appear in the second degree when
15 (1) while charged with the commission of a misdemeanor or a motor
16 vehicle violation for which a sentence to a term of imprisonment may
17 be imposed and while out on bail or released under other procedure of
18 law, [he] such person wilfully fails to appear when legally called
19 according to the terms of [his] such person's bail bond or promise to
20 appear, or (2) while on probation for conviction of a misdemeanor or
21 motor vehicle violation, [he] such person wilfully fails to appear when
22 legally called for [a violation of probation hearing] any court hearing
23 relating to a violation of such probation.

24 (b) Failure to appear in the second degree is a class A misdemeanor.

25 Sec. 3. Section 51-237 of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective October 1, 2010*):

27 Each juror, duly chosen, drawn and summoned, who fails to appear
28 shall [have committed an infraction] be subject to a civil penalty, the
29 amount of which shall be established by the judges of the Superior
30 Court, but the court may excuse [him] such juror from the payment
31 thereof. If a sufficient number of the jurors summoned do not appear,
32 or if for any cause there is not a sufficient number of jurors to make up
33 the panel, the court may order such number of persons who qualify for
34 jury service under section 51-217 to be summoned as may be
35 necessary, as talesmen, and any talesman so summoned who makes
36 default of appearance without sufficient cause shall [have committed
37 an infraction] be subject to a civil penalty, the amount of which shall be
38 established by the judges of the Superior Court. The provisions of this
39 section shall be enforced by the Attorney General within available
40 appropriations.

41 Sec. 4. Section 53a-137 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective October 1, 2010*):

43 The following definitions are applicable to this part:

44 (1) "Written instrument" means any instrument or article containing
45 written or printed matter or the equivalent thereof, used for the
46 purpose of reciting, embodying, conveying or recording information
47 or constituting a symbol or evidence of value, right, privilege or
48 identification, which is capable of being used to the advantage or
49 disadvantage of some person.

50 (2) "Complete written instrument" means [one] a written instrument
51 which purports to be a genuine written instrument fully drawn with
52 respect to every essential feature thereof. An endorsement, attestation,
53 acknowledgment or other similar signature or statement is deemed
54 both a complete written instrument in itself and a part of the main
55 instrument in which it is contained or to which it attaches.

56 (3) "Incomplete written instrument" means [one] a written
57 instrument which contains some matter by way of content or
58 authentication but which requires additional matter in order to render
59 it a complete written instrument.

60 (4) A person "falsely makes" a written instrument when [he] (A)
61 such person makes or draws a complete written instrument in its
62 entirety, or an incomplete written instrument, which purports to be an
63 authentic creation of its ostensible maker or drawer, but which is not
64 such either because the ostensible maker or drawer is fictitious or
65 because, if real, [he] the ostensible maker or drawer did not authorize
66 the making or drawing thereof, or (B) such person signs his or her own
67 name to a written instrument, thereby falsely and fraudulently
68 representing that he or she has authority to sign in such capacity.

69 (5) A person "falsely completes" a written instrument when (A) such
70 person, by adding, inserting or changing matter, [he] transforms an
71 incomplete written instrument into a complete [one] written
72 instrument, without the authority of [anyone] any person entitled to
73 grant it, so that such complete written instrument appears or purports
74 to be in all respects an authentic creation of or fully authorized by its
75 ostensible maker or drawer, or (B) such person signs his or her own
76 name to a written instrument, thereby falsely and fraudulently

77 representing that he or she has authority to sign in such capacity.

78 (6) A person "falsely alters" a written instrument when (A) such
79 person, without the authority of [anyone] any person entitled to grant
80 it, [he] changes a written instrument, whether it be in complete or
81 incomplete form, by means of erasure, obliteration, deletion, insertion
82 of new matter [,] or transposition of matter [,] or in any other manner,
83 so that such instrument in its thus altered form appears or purports to
84 be in all respects an authentic creation of or fully authorized by its
85 ostensible maker or drawer, or (B) such person signs his or her own
86 name to a written instrument, thereby falsely and fraudulently
87 representing that he or she has authority to sign in such capacity.

88 (7) "Forged instrument" means a written instrument which has been
89 falsely made, completed or altered.

90 Sec. 5. Subsection (b) of section 54-76l of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective*
92 *October 1, 2010*):

93 (b) The records of any such youth, or any part thereof, may be
94 disclosed to and between individuals and agencies, and employees of
95 such agencies, providing services directly to the youth, including law
96 enforcement officials, state and federal prosecutorial officials, school
97 officials in accordance with section 10-233h, court officials, the Division
98 of Criminal Justice, the Court Support Services Division and an
99 advocate appointed pursuant to section 54-221 for a victim of a crime
100 committed by the youth. Such records shall also be available to the
101 attorney representing the youth, in any proceedings in which such
102 records are relevant, to the parents or guardian of such youth, until
103 such time as the youth reaches the age of majority or is emancipated,
104 and to the youth upon his or her emancipation or attainment of the age
105 of majority, provided proof of the identity of such youth is submitted
106 in accordance with guidelines prescribed by the Chief Court
107 Administrator. Such records shall also be available to members and
108 employees of the Board of Pardons and Paroles and employees of the
109 Department of Correction who, in the performance of their duties,

110 require access to such records, provided the subject of the record has
 111 been adjudged a youthful offender and sentenced to a term of
 112 imprisonment or been convicted of a crime in the regular criminal
 113 docket of the Superior Court, and such records are relevant to the
 114 performance of a risk and needs assessment of such person while such
 115 person is incarcerated, the determination of such person's suitability
 116 for release from incarceration or for a pardon, or the determination of
 117 the supervision and treatment needs of such person while on parole or
 118 other supervised release. Such records shall also be available to law
 119 enforcement officials and prosecutorial officials conducting legitimate
 120 criminal investigations. Such records disclosed pursuant to this
 121 subsection shall not be further disclosed.

| | | |
|---|-----------------|-----------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2010 | 53a-172 |
| Sec. 2 | October 1, 2010 | 53a-173 |
| Sec. 3 | October 1, 2010 | 51-237 |
| Sec. 4 | October 1, 2010 | 53a-137 |
| Sec. 5 | October 1, 2010 | 54-761(b) |

JUD *Joint Favorable Subst.*

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 \$ |
|-------------------|-------------|-------------|-------------|
| Correction, Dept. | GF - Cost | Potential | Potential |
| Attorney General | GF - Cost | Significant | Significant |

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1-2 expand the circumstances under which a person on probation is guilty of failure to appear. There are approximately 2,000 offenders currently incarcerated for violations of probation for various actions, including missing any legally called probation violation hearing. To the extent that this provision increases the number of offenders incarcerated, it would generate a cost to the Department of Correction.

Section 3 makes it a civil penalty, the amount of which is to be determined by the Judicial Department in accordance with the bill, for any person to fail to appear for jury duty. Each year approximately 26,000 people do not respond to the summons to appear for jury service. The Office of the Attorney General would be responsible for bringing such actions before the Judicial Department. It is anticipated that the OAG would incur significant costs annually to undertake this duty; the potential revenue gain is uncertain, pending determination of the fine amount and the success of enforcement actions. Current law provides that failure to appear is an infraction; no revenues are collected pursuant to this provision.

Section 4 expands the definition of forgery to include signing of a written instrument fraudulently representing that a person had the

authority to sign in the capacity that s/he did.¹ To the extent that offenders are subject to incarceration or probation supervision in the community as a result of this provision, a potential cost to criminal justice agencies exists. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$47,425 to incarcerate the offender.

| Forgery Convictions | | | |
|---------------------|-----------|---------------------|------------|
| | | | 2008 |
| 53a-138 | FORGERY 1 | Class C Felony | 44 |
| 53a-139 | FORGERY 2 | Class D Felony | 489 |
| 53a-140 | FORGERY 3 | Class B Misdemeanor | 273 |
| | | | <u>806</u> |

Section 5 makes Youthful Offender records available to law enforcement and prosecutorial officials conducting criminal investigations, which has no fiscal impact.

The Out Years

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

¹ Two cases, *State v. Raffa* and *State v. Robert Kuchta*, have shown that the definition of forgery does not include public officials who “signed off” on official building inspection reports when they did not have authority to do so.

OLR Bill Analysis**sHB 5253*****AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM.*****SUMMARY:**

This bill:

1. expands the circumstances under which a person on probation is guilty of failure to appear;
2. potentially increases the penalty for jurors who fail to respond to a jury summons;
3. expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document; and
4. makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations

EFFECTIVE DATE: October 1, 2010

§§ 1-2 — FAILURE TO APPEAR

The bill expands the circumstances under which a person on probation for a felony or misdemeanor conviction or motor vehicle violation is guilty of failure to appear. Under current law, the person is guilty if he or she misses a legally called probation violation hearing. Under the bill, the person is guilty if he or she misses any legally called court hearing related to a probation violation.

Failure to appear at a hearing on a felony violation is a class D

felony punishable by up to five years in prison, up to a \$5,000 fine, or both. Failure to appear for a hearing on a misdemeanor or motor vehicle violation is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both.

§ 3 — FAILURE TO APPEAR FOR JURY DUTY

The bill subjects jurors who fail to appear for jury duty to a civil penalty in an amount that the Superior Court judges must establish. Under current law, the jurors are guilty of an infraction. The bill requires the attorney general, within available appropriations, to enforce the provision.

§ 4 — FORGERY

The bill expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document.

By law, a person commits forgery by (1) falsely making, completing, or altering a written instrument with intent to defraud, deceive, or injure someone or (2) possessing a forged written instrument. The penalty ranges from a class B misdemeanor to a class C felony depending on the type of document forged.

§ 5 — YOUTHFUL OFFENDER RECORDS

The bill makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations. By law, records of youthful offenders are confidential unless they involve certain crimes. Current law allows disclosure of confidential records:

1. between agencies and individuals directly providing services to the youth, including law enforcement, state and federal prosecutors, school and court officials, the Division of Criminal Justice, the Court Support Services Division, and a crime victim advocate;

2. to the youth and the youth's parents or guardian until the youth reaches age 18 or is emancipated;
3. to the youth's attorney if the records are relevant to a proceeding; and
4. to Board of Pardons and Paroles and correction employees who need them to perform their duties when (a) the offender is adjudged a youthful offender and sentenced to prison or convicted of a crime on the regular Superior Court docket and (b) the records are relevant to a risk and needs assessment during incarceration or determining suitability for release or a pardon or supervision and treatment needs on parole or other release.

By law, records disclosed under these provisions cannot be further disclosed.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (03/29/2010)