



House of Representatives

General Assembly

File No. 560

February Session, 2010

Substitute House Bill No. 5339

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 NOTIFICATION OF PEACE OFFICERS WHO HAVE BEEN ASSAULTED PRIOR TO THE COURT SENTENCING OR ACCEPTING A PLEA AGREEMENT OF THE DEFENDANT.

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

1 Section 1. Section 54-91c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) For the purposes of this section, "victim" means a person who is
4 a victim of a crime, the legal representative of such person, a member
5 of a deceased victim's immediate family or a person designated by a
6 deceased victim in accordance with section 1-56r.

7 (b) Prior to the imposition of sentence upon any defendant who has
8 been found guilty of any crime or has pleaded guilty or nolo
9 contendere to any crime, and prior to the acceptance by the court of a
10 plea of guilty or nolo contendere made pursuant to a plea agreement
11 with the state wherein the defendant pleads to a lesser offense than the
12 offense with which such defendant was originally charged, the court

13 shall permit any victim of the crime to appear before the court for the
14 purpose of making a statement for the record, which statement may
15 include the victim's opinion of any plea agreement. In lieu of such
16 appearance, the victim may submit a written statement or, if the victim
17 of the crime is deceased, the legal representative or a member of the
18 immediate family of such deceased victim may submit a statement of
19 such deceased victim to the state's attorney, assistant state's attorney or
20 deputy assistant state's attorney in charge of the case. Such state's
21 attorney, assistant state's attorney or deputy assistant state's attorney
22 shall file the statement with the sentencing court and the statement
23 shall be made a part of the record at the sentencing hearing. Any such
24 statement, whether oral or written, shall relate to the facts of the case,
25 the appropriateness of any penalty and the extent of any injuries,
26 financial losses and loss of earnings directly resulting from the crime
27 for which the defendant is being sentenced. The court shall inquire on
28 the record whether any victim is present for the purpose of making an
29 oral statement or has submitted a written statement. If no victim is
30 present and no such written statement has been submitted, the court
31 shall inquire on the record whether an attempt has been made to notify
32 any such victim as provided in subdivision (1) of subsection (c) of this
33 section or, if the defendant was originally charged with a violation of
34 section 53a-167c for assaulting a peace officer, whether the peace
35 officer has been personally notified as provided in subdivision (2) of
36 subsection (c) of this section. After consideration of any such
37 statements, the court may refuse to accept, where appropriate, a
38 negotiated plea or sentence, and the court shall give the defendant an
39 opportunity to enter a new plea and to elect trial by jury or by the
40 court.

41 (c) [Prior] (1) Except as provided in subdivision (2) of this
42 subsection, prior to the imposition of sentence upon such defendant
43 and prior to the acceptance of a plea pursuant to a plea agreement, the
44 state's attorney, assistant state's attorney or deputy assistant state's
45 attorney in charge of the case shall [advise] notify the victim of such
46 crime of the date, time and place of the original sentencing hearing or
47 any judicial proceeding concerning the acceptance of a plea pursuant

48 to a plea agreement, provided the victim has informed such state's
 49 attorney, assistant state's attorney or deputy assistant state's attorney
 50 that such victim wishes to make or submit a statement as provided in
 51 subsection (b) of this section and has complied with a request from
 52 such state's attorney, assistant state's attorney or deputy assistant
 53 state's attorney to submit a stamped, self-addressed postcard for the
 54 purpose of such notification.

55 (2) Prior to the imposition of sentence upon a defendant originally
 56 charged with a violation of section 53a-167c for assaulting a peace
 57 officer, and prior to the acceptance of a plea pursuant to a plea
 58 agreement, the state's attorney, assistant state's attorney or deputy
 59 assistant state's attorney in charge of the case shall personally notify
 60 the peace officer who was the victim of such crime of the date, time
 61 and place of the original sentencing hearing or any judicial proceeding
 62 concerning the acceptance of a plea pursuant to a plea agreement.

63 (3) If the state's attorney, assistant state's attorney or deputy
 64 assistant state's attorney is unable to notify the victim, such state's
 65 attorney, assistant state's attorney or deputy state's attorney shall sign
 66 a statement as to such notification.

67 (d) Upon the request of a victim, prior to the acceptance by the court
 68 of a plea of a defendant pursuant to a proposed plea agreement, the
 69 state's attorney, assistant state's attorney or deputy assistant state's
 70 attorney in charge of the case shall provide such victim with the terms
 71 of such proposed plea agreement in writing.

72 (e) The provisions of this section shall not apply to any proceedings
 73 held in accordance with section 46b-121 or section 54-76h.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	54-91c

PS

Joint Favorable Subst. C/R

JUD

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: None

Municipal Impact: None

Explanation

The bill would enhance the notice that certain victims receive prior to court sentencing or acceptance of a plea agreement. This is anticipated to involve relatively few cases annually and therefore has no cost.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5339*****AN ACT CONCERNING NOTIFICATION OF PEACE OFFICERS WHO HAVE BEEN ASSAULTED PRIOR TO THE COURT SENTENCING OR ACCEPTING A PLEA AGREEMENT OF THE DEFENDANT.*****SUMMARY:**

By law, any crime victim (or the representative or immediate family of a deceased victim) may make or submit a statement to the court before the court sentences the defendant or accepts a plea agreement to a lesser charge. If no victim is present and no statement has been submitted, the court must ask, on the record, whether the appropriate official (state's attorney, assistant state's attorney, or deputy assistant state's attorney) attempted to contact the victim as required by law.

In cases involving a defendant charged with assaulting a peace officer under CGS § 53a-167c, this bill requires the court to ask, on the record, whether the peace officer was personally notified as the bill provides. Under the bill, before the court imposes a sentence and before accepting a plea, the appropriate official must personally notify the peace officer of the date, time, and place of the original sentencing hearing or any judicial proceeding concerning the acceptance of a plea.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Victim Statements***

The law gives all victims the right to make a statement to the court at sentencing and before a plea agreement is accepted. It requires the appropriate official to notify the victim of the date, time, and place of the original sentencing hearing or any judicial proceeding concerning the acceptance of a plea, provided the victim has informed the official

that he or she wishes to make a statement and has complied with a request from the official to submit a stamped, self-addressed postcard for the purpose.

Victim statements are limited to the case facts, the appropriateness of any penalty, the extent of any injuries, losses directly resulting from the defendant's crime, and opinions about the plea agreement.

CGS § 53a-167c

Under this statute, a person is guilty of assaulting a peace officer when he assaults a reasonably identifiable peace officer performing his or her duties, with intent to prevent him or her from performing them, by doing any of the following to him or her:

1. injuring;
2. throwing potentially damaging objects;
3. using tear gas, Mace, or a similar agent;
4. throwing paint, dye, or any other offensive substance; or
5. throwing bodily fluid, such as feces, blood, or saliva.

This crime is a class C felony, punishable by one to 10 years imprisonment, a fine of up to \$10,000, or both.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference
Yea 16 Nay 4 (03/09/2010)

Judiciary Committee

Joint Favorable Substitute
Yea 42 Nay 0 (03/29/2010)