



House of Representatives

General Assembly

File No. 654

January Session, 2011

House Bill No. 6539

House of Representatives, April 28, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING SENTENCE MODIFICATION.

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

1 Section 1. Section 53a-39 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) At any time during the period of a definite sentence, [of three
4 years or less,] the sentencing court or judge may, after hearing and for
5 good cause shown, reduce the sentence, order the defendant
6 discharged, or order the defendant discharged on probation or
7 conditional discharge for a period not to exceed that to which the
8 defendant could have been originally sentenced.

9 [(b) At any time during the period of a definite sentence of more
10 than three years, upon agreement of the defendant and the state's
11 attorney to seek review of the sentence, the sentencing court or judge
12 may, after hearing and for good cause shown, reduce the sentence,
13 order the defendant discharged, or order the defendant discharged on
14 probation or conditional discharge for a period not to exceed that to

15 which the defendant could have been originally sentenced.]

16 [(c)] (b) The provisions of this section shall not apply to any portion
17 of a sentence imposed that is a mandatory minimum sentence for an
18 offense which may not be suspended or reduced by the court.

19 [(d)] (c) At a hearing held by the sentencing court or judge under
20 this section, such court or judge shall permit any victim of the crime to
21 appear before the court or judge for the purpose of making a statement
22 for the record concerning whether or not the sentence of the defendant
23 should be reduced, the defendant should be discharged or the
24 defendant should be discharged on probation or conditional discharge
25 pursuant to [subsection (a) or (b) of] this section. In lieu of such
26 appearance, the victim may submit a written statement to the court or
27 judge and the court or judge shall make such statement a part of the
28 record at the hearing. For the purposes of this subsection, "victim"
29 means the victim, the legal representative of the victim or a member of
30 the deceased victim's immediate family.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	53a-39

JUD *Joint Favorable*

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 12 \$	FY 13 \$
Pub. Defender Serv. Com.	GF - Cost	180,000	240,000
Criminal Justice, Div.	GF - Cost	180,000	240,000
Judicial Dept.	GF - Cost	147,000	196,000
Correction, Dept.	GF - Cost/Savings	See Below	See Below
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	120,460	160,600
Judicial Dpt (Probation)	GF - Savings	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill entitles inmates sentenced to prison for three years or more to have one hearing to consider sentence modification regardless of whether the state's attorney assents to the review; such hearings are routinely denied under current law.² This change will result in workload increases to various criminal justice agencies, with costs identified in the table below:

¹ The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

² Under current law, any person serving up to three years can seek sentence modification and any person serving more than three years must first get the state's attorney's approval. The bill permits any inmate (regardless of sentence length) to make an initial request without getting the state's attorney's approval; any subsequent requests would require the state's attorney's approval.

Agency	FY 12	FY 13
Judicial Department	\$ 147,000	\$ 196,000
Division of Criminal Justice	\$ 180,000	\$ 240,000
Public Defenders	\$ 180,000	\$ 240,000
Comptroller (Fringe)	\$ 120,460	\$ 160,600
Total	\$ 627,460	\$ 836,600

There are currently more than 5,000 sentenced offenders who would qualify for such hearings. Assuming that it takes two hours to prepare for and participate in any such hearing, the bill could generate approximately 10,000 hours of additional work for court staff and state prosecutors and 7,500 hours for public defenders (who handle roughly 75% of cases processed in Judicial District courts). This would require four additional caseload coordinator positions for the Judicial Department, four additional prosecutor positions for the Division of Criminal Justice and four additional attorney positions for the Public Defender Services Commission in order to handle this workload increase.

Approximately 2% of offenders for whom sentence review hearings are held have their sentences altered (in all cases reduced). Provided this rate of change holds for sentence modification hearings held under the bill, approximately 100 inmates could have their sentences reduced. To the extent that these changes increase the likelihood that offenders would have their sentences reduced, potential savings for incarceration and/or probation supervision in the community would result. On average, it costs the state \$3,785 to supervise an offender on probation in the community as compared to \$48,545 to incarcerate the offender.

The majority of inmates seeking court hearings could be transported from prison via the Department of Correction's routine transport system. However, higher risk inmates require direct supervision en route to and while at court. Average costs of \$350 - \$400 per day are incurred for overtime and mileage/fuel in these cases. While the exact number of high-risk individuals seeking court hearings in response to the bill's enactment cannot be known in advance, it is likely that costs

in excess of \$50,000 will be incurred. This estimate is based upon a projection that at least 140 inmates³ would require supervised transport.

The Out Years

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

*Sources: Core-CT Financial Accounting System
Judicial Department Offenses and Revenue Database*

³ Ten percent of the 1,400 sentences imposed in excess of three years in 2009.

OLR Bill Analysis**HB 6539*****AN ACT CONCERNING SENTENCE MODIFICATION.*****SUMMARY:**

Current law establishes different procedures for seeking sentence modification. Defendants serving a sentence of less than three years can ask the sentencing court or judge to modify the sentence; however, those serving a sentence of more than three years must get the state's attorney to agree to have the court or judge consider the request.

This bill eliminates the second procedure. Instead, it allows all defendants, regardless of their sentence length, to request a modification without first getting the state's attorney's approval.

By law, unchanged by the bill, a sentencing court or judge may reduce a defendant's sentence, order him or her discharged, or order him or her discharged on probation or conditional discharge. The decision to modify a sentence can only be made after a hearing and for good cause. A mandatory minimum sentence may not be suspended or reduced by the court.

EFFECTIVE DATE: October 1, 2011

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 29 Nay 15 (04/15/2011)