
OLR Bill Analysis

sSB 952

AN ACT CONCERNING THE ENHANCED PENALTY FOR THE SALE OR POSSESSION OF DRUGS NEAR SCHOOLS, DAY CARE CENTERS AND PUBLIC HOUSING PROJECTS.

SUMMARY:

This bill makes several changes in the laws that enhance the penalties for illegal drug activities near schools, day care centers, and public housing projects. Under current law, a mandatory sentence applies in addition and consecutive to any prison term imposed for the underlying crime as follows:

1. one year for possessing drug paraphernalia within 1,500 feet of property comprising a public or private elementary or secondary school when the perpetrator is not enrolled as a student there;
2. three years for selling illegal drugs within 1,500 feet of property comprising a (a) licensed child day care center identified by a conspicuous sign, (b) public or private elementary or secondary school, or (c) public housing project; and
3. two years for possessing illegal drugs within 1,500 feet of property comprising a (a) licensed child day care center identified by a conspicuous sign or (b) public or private elementary or secondary school when the perpetrator is not enrolled as a student there.

Under the bill, the prison sentence under these provisions remains a term that is in addition and consecutive to any prison term imposed for the underlying crime but the court can suspend all or a portion of it without meeting the criteria required by current law (see BACKGROUND). The bill also limits the scope of these provisions by:

1. reducing the size of the zones around the locations from 1,500 to

200 feet in cities with a population of more than 60,000 (see BACKGROUND);

2. for schools, requiring the illegal activity to occur during regular school hours or hours of any school-sponsored activity conducted on the property where students are present;
3. for day care centers, requiring the illegal activity to occur during the center's operating hours; and
4. eliminating the zones around public housing projects for drug crimes.

The bill specifies that the zones are measured from the perimeter of the property.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Cities With Population Over 60,000

According to the 2010 Census, the following cities have a population of over 60,000 people:

1. Bridgeport
2. Bristol
3. Danbury
4. Greenwich
5. Hamden
6. Hartford
7. Meriden
8. New Britain
9. New Haven

10. Norwalk

11. Stamford

12. Waterbury

13. West Hartford

Departing From a Mandatory Minimum

Judges can impose less than the law's mandatory minimum sentence under these laws when no one was hurt during the crime and the defendant (1) did not use or attempt or threaten to use physical force; (2) was unarmed; and (3) did not use, threaten to use, or suggest that he or she had a deadly weapon (such as a gun or knife) or other instrument that could cause death or serious injury.

Defendants must show good cause and can invoke these provisions only once. Judges must state at sentencing hearings their reasons for (1) imposing the sentence and (2) departing from the mandatory minimum (CGS § 21a-283a).

Penalties for Illegal Drug Crimes

By law, the penalty for using or possessing with intent to use drug paraphernalia is a class C misdemeanor, punishable by up to three months in prison, a fine of up to \$500, or both. Delivering, possessing with intent to deliver, or manufacturing drug paraphernalia is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both (CGS § 21a-267).

By law, selling, manufacturing, or distributing a hallucinogen (not marijuana) or narcotic is punishable (1) for a first offense, by up to 15 years in prison, a fine of up to \$50,000, or both; (2) for a second offense, up to 30 years, a fine of up to \$100,000, or both; and (3) for a subsequent offense, up to 30 years, a fine of up to \$250,000, or both. For marijuana and other controlled substances, the penalty is (1) for a first offense, up to seven years, a fine of up to \$25,000, or both and (2) for a subsequent offense, up to 15 years, a fine of up to \$100,000, or both (CGS § 21a-277).

By law, a non-drug dependent person selling, manufacturing, or distributing at least one ounce of heroin or methadone, one half ounce of cocaine or crack, or five milligrams of LSD is subject to five to 20 years in prison to life. For narcotics, hallucinogens, one kilogram or more of cannabis, or amphetamines, the penalty is (1) for a first offense five to 20 years and (2) for a subsequent offense, 10 to 25 years. There is an exception to the mandatory minimum sentence if the offender is under age 18 or had a significantly impaired mental capacity at the time (CGS § 21a-278).

By law, possession of narcotics is punishable (1) for a first offense, by up to seven years in prison, a fine of up to \$50,000, or both; (2) for a second offense, up to 15 years, a fine of up to \$100,000, or both; (3) for subsequent offenses, up to 25 years, a fine of up to \$250,000, or both. Possession of a hallucinogen or four or more ounces of marijuana is punishable (1) for a first offense, by up to five years in prison, a fine of up to \$2,000, or both and (2) for a subsequent offense, by up to 10 years, a fine of up to \$5,000, or both. Possession of other controlled substances or less than four ounces of marijuana is punishable (1) for a first offense, by up to one year in prison, a fine of up to \$1,000, or both and (2) for a subsequent offense, up to five years, a fine of up to \$3,000, or both (CGS § 21a-279).

BACKGROUND

Related Bill

sSB 1014, reported favorably by the Judiciary Committee, reduces the penalty for possessing less than one-half ounce of marijuana from a crime to an infraction for a first offense. It makes a subsequent offense punishable by a fine of \$200 to \$500. The bill also reduces the penalty for using drug paraphernalia from a crime to an infraction when the use relates to less than one-half ounce of marijuana. The bill requires the motor vehicle commissioner to suspend the driver's license of anyone under age 21 who is convicted of one of these violations.

HB 6391, File 536, allows the correction commissioner to immediately release an inmate to his or her residence subject to certain conditions if he or she was sentenced for (1) possessing a controlled

substance other than a narcotic, a hallucinogen, or less than four ounces of marijuana or (2) drug paraphernalia crimes.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 22 Nay 17 (04/06/2011)