
OLR Bill Analysis

sSB 1224

AN ACT CONCERNING COURT OPERATIONS AND VICTIM SERVICES.

SUMMARY:

This bill makes numerous changes to court operations and victim services. It:

1. makes judge trial referee evaluations available to Judiciary Committee members before a hearing on a referee's nomination;
2. expands the courts' use of electronic documents and communications;
3. specifies that someone who pleads not guilty to an infraction or certain violations can, at a court proceeding, agree with the prosecutor on the amount of the fine and pay it without appearing before a judicial authority;
4. alters the rules for constituting a Supreme Court panel under certain circumstances;
5. requires the Department of Motor Vehicles (DMV) to give the jury administrator the latest updated file of people holding identity cards to use when compiling the master list for summoning jurors;
6. allows alternate jurors in civil trials to remain in service after deliberations begin;
7. specifies that motor vehicle violations punishable by a sentence of more than one year are considered unclassified felonies for certain purposes;
8. automatically terminates a defendant's bail bond when he or she

is admitted to the supervised diversionary program for people with psychiatric disabilities, as for other diversionary programs;

9. requires a defendant to make a motion for a nolle 13 months after a prosecutor continues a case and there is no prosecution or disposition in order to have the records erased, instead of having the records automatically qualify for erasure;
10. authorizes victim compensation when the Judicial Branch's Office of Victim Services (OVS) or a victim compensation commissioner reasonably concludes that (a) an alleged sexual assault crime or risk of injury to a minor occurred and (b) the personal injury was disclosed to certain individuals;
11. eliminates the \$100 deductible on the total amount of victim compensation determined for an injury (§§ 18-19);
12. expands OVS's lien for reimbursement of compensation paid to someone; and
13. repeals authority for judges to appoint messengers and assistant messengers and set their compensation and assignments (§ 22).

EFFECTIVE DATE: October 1, 2011 except for the provisions on judge trial referee evaluations and Supreme Court panels, which are effective July 1, 2011.

§ 1 — JUDGE TRIAL REFEREE EVALUATIONS

The bill requires the Judicial Branch to make performance evaluations of judge trial referees available to the Judiciary Committee's members before a public hearing on the referee's nomination. Committee members must use the information only for the purposes for which it was given and they cannot further disclose it. Existing law requires the branch to make judges' evaluations available under the same circumstances.

§§ 2 & 4 — COMMUNICATIONS FROM COURTS

Under current law, a court clerk, including a probate court clerk,

must notify counsel in writing of a court decision, order, decree, denial, or ruling unless the court made its ruling in the counsel's presence. The bill allows the written notice to be sent by mail or electronic means and requires notice to any appearing party as well.

The bill allows electronic communication by computer, fax, or other technology according to procedures and technical standards set by either the chief court administrator or probate court administrator. It gives notice delivered electronically the same validity and status as if sent by mail.

The bill allows the following people to sign or verify a notice, order, decision, execution, process, or other document by electronic means or using other technology under procedures and technical standards set by the chief court administrator: clerks; chief, deputy chief, deputy, assistant, temporary assistant, or administrative clerks; clerical or administrative assistants; Superior Court officers; and support enforcement officers. This applies to any document the person is authorized to issue under any statute.

The bill gives these documents the same validity and status as paper documents signed or verified by the person. The bill also allows transmitting the documents by mail or electronic delivery and defines electronic delivery as delivery by computer, fax, or other technology under procedures and technical standards set by the chief court administrator. Under the bill, notice or another document delivered electronically has the same validity and status as if delivered by mail.

Under current law, the Superior Court or a judge, judge trial referee, family support magistrate, or magistrate can sign or verify various documents by computer or fax or using other technology according to procedures and technical standards set by the chief court administrator. This applies to a notice, order, judgment, decision, decree, memorandum, ruling, opinion, mittimus, or similar document. The bill allows signing or verifying by any electronic means.

§ 3 — AGREED FINES FOR INFRACTIONS AND VIOLATIONS

By law, people alleged to have committed infractions and certain violations can pay a fine by mail or choose to plead not guilty. The bill specifies that someone who pleads not guilty can, at a later Superior Court proceeding, (1) agree with the prosecutor on the amount of the fine to pay and (2) pay it without appearing before a judicial authority. Under the bill, the amount of the fine cannot be more than the fine established for the infraction or violation, and the person must pay any additional fees and costs set for the infraction or violation. The person must pay the Superior Court clerk.

As for payments by mail under current law, payment under the bill is considered a plea of nolo contendere (no contest) and is inadmissible in any civil or criminal proceeding to establish the person's conduct but it does not affect the Department of Environmental Protection or DMV administrative sanctions authority.

Under the bill, the person does not need to submit a plea of nolo contendere in writing. The bill does not affect a person's right to request a trial.

§§ 5-6 — SUPREME COURT PANELS

Under current law, the Supreme Court chief justice, or the most senior associate justice if the chief justice is disabled or disqualified, can summon (1) the court's 6th or 7th member to constitute a panel when necessary because of justices' disability or disqualification or because the court's business requires it or (2) Superior Court judges, Supreme Court senior justices, and Appellate Court judges and senior judges if the Supreme Court's seven members cannot constitute a panel.

The bill allows the summoning of Superior Court judges, Supreme Court senior justices, and Appellate Court judges and senior judges regardless of whether the Supreme Court's 6th or 7th members could be summoned for a panel.

§ 7 — LIST OF PEOPLE HOLDING IDENTITY CARDS USED FOR JUROR LISTS

The bill requires DMV to give the jury administrator the latest

updated file of people holding identity cards to use when compiling the master list for summoning jurors. The bill adds this to the lists of licensed drivers, residents with permanent place of abode in Connecticut who filed a personal income tax return in the last tax year, unemployment compensation recipients, and electors that the administrator uses to compile the master list. By law, the administrator must attempt to delete duplicate names, names of those excluded from jury service, and names of deceased people before randomly summoning jurors.

§ 8 — ALTERNATE JURORS IN CIVIL TRIALS

By law, an alternate juror becomes part of the jury panel in a civil case if a juror dies or the judge excuses a juror who is unable to perform his or her duty. Under current law, alternates are excused when the jury begins deliberations. Under the bill, the court (1) can keep alternates in service after deliberations begin and (2) if an alternate joins the regular panel after deliberations began, must instruct the jury to start deliberations anew.

§§ 9-12 — MOTOR VEHICLE VIOLATIONS AS FELONIES

The Connecticut Supreme Court recently ruled that a second conviction of driving under the influence (CGS § 14-227a), which carries a possible prison term of over one year, is a criminal offense and not a motor vehicle violation (*McCoy v. Commissioner of Public Safety*, 300 Conn. 144 (2011)).

The bill makes changes specifying that any motor vehicle violation for which a sentence of more than one year may be imposed is considered an unclassified felony for purposes of:

1. sentencing to probation, and thus a person convicted of one of these motor vehicle violations can be sentenced to up to three years probation, but up to five years on a case-by-case basis, and can be considered for early termination of his or her probation terms;
2. the crime of criminal possession of a firearm or electronic

defense weapon, which can be committed by possessing one of those items while having a prior felony conviction, thus qualifying one of these motor vehicle violations as a prior felony conviction;

3. taking a sample for DNA testing based on a felony conviction; and
4. the interstate compact for adult offender jurisdiction, which governs supervision of adult offenders in the community who are authorized under the compact to travel across state lines.

§ 13 — TERMINATION OF BAIL BONDS

The bill automatically terminates a defendant's bail bond when he or she is admitted to the supervised diversionary program for people with psychiatric disabilities. The law already terminates bonds on admission to other programs such as accelerated rehabilitation, the pretrial alcohol education program, the community service labor program, and the pretrial drug education program.

§ 14 — ERASURE OF CERTAIN RECORDS

By law, all police, court, and prosecutorial records of a criminal charge that is nolle (the state declines to prosecute) are erased if at least 13 months have passed since the nolle. Current law also considers a case nolle and allows records to be erased if the prosecutor continues the case and there is no prosecution or disposition for 13 months. The bill requires the arrested person to make a motion for a nolle after 13 months in order to have the records erased.

§ 15 — BAIL BONDS

By law, the total amount of a forfeited bond for a motor vehicle violation that is composed in part of certain additional fees and costs imposed on these violations must be deposited in the General Fund or Special Transportation Fund. The bill adds to the list of fees and costs the \$10 surcharge on certain motor vehicle violations that the state must remit to the municipalities where the violations occurred. The surcharge applies to anyone who pays a fine or forfeiture for any of 35

motor vehicle violations, including: (1) speeding, (2) reckless driving, (3) driving under the influence, (4) making an illegal turn, (5) failing to yield right of way, (6) failing to stop for a school bus (for a first offense), and (7) failing to stop at a stop sign. The surcharge also applies to anyone who pays a fine or forfeiture under any ordinance enacted in accordance with these laws. The Superior Court clerk or the chief court administrator (or his designee) must certify to the comptroller the amount due for the previous quarter to each municipality.

§§ 16-21 — VICTIMS

Administering Compensation and Services (§ 16)

By law, OVS can apply for and use grants to implement victim services and award grants or purchase services. The bill deletes a provision requiring it to do so according to a plan developed by January 1, 1994, in coordination with various agencies, to effectively administer victim compensation and coordinate delivery of services.

Victim Compensation for Alleged Sexual Assault or Risk of Injury Crimes (§ 17)

The bill authorizes victim compensation when OVS or a victim compensation commissioner reasonably concludes that (1) an alleged sexual assault crime or risk of injury to a minor occurred and (2) the personal injury was disclosed to certain individuals. The bill applies to the crimes of sexual assault in the 1st, 2nd, 3rd, or 4th degree or 3rd degree with a firearm; 1st degree aggravated sexual assault; aggravated sexual assault of a minor; sexual assault in a spousal or cohabiting relationship; and risk of injury to a minor. Compensation can be paid if the personal injury is reported to a:

1. licensed physician, physician assistant, advanced practice registered nurse, registered nurse, practical nurse, psychologist, marital and family therapist, professional counselor, or clinical social worker;
2. resident physician or intern at a hospital, whether or not licensed;

3. police officer;
4. mental health professional;
5. licensed or certified emergency medical services provider or alcohol and drug counselor;
6. sexual assault or battered women's counselor; or
7. Department of Children and Families employee.

By law, OVS may compensate victims injured or killed as a result of (1) attempts to prevent crime, aid police, or apprehend criminal suspects; (2) attempts or actual commissions of any crime by another; (3) operation of a motor vehicle by someone else who is convicted of driving under the influence of drugs or alcohol, second-degree assault with a motor vehicle while intoxicated, or second-degree manslaughter with a motor vehicle while intoxicated; or (4) terrorist crimes.

OVS Liens (§ 20)

By law, OVS has a lien against any amount an applicant for victim compensation wins in a suit against those responsible for the injury or death for which compensation was granted. This lien is for 2/3 of the amount paid for victim compensation or restitution services.

The bill also gives OVS a lien for the same amount of reimbursement on money an applicant recovers from other sources including payments from state or municipal agencies, insurance benefits, or workers' compensation awards as a result of the incident or offense that gave rise to the application.

BACKGROUND

Motor Vehicle Violations

The following list provides examples of motor vehicle violations that carry a prison term of more than one year:

1. possessing a motor vehicle with a changed identification number (CGS § 14-149(a));

2. altering a motor vehicle identification number (CGS § 14-149(e));
3. operating a chop shop (CGS § 14-149a);
4. motor vehicle title certificate fraud (CGS § 14-196(a));
5. willful misuse of motor vehicle title certificate (CGS § 14-196(b));
6. evading responsibility, when causing serious injury or death (CGS § 14-224(a));
7. driving under the influence, second and subsequent offenses (CGS § 14-227a);
8. driving under the influence when under age 21, second and subsequent offenses (CGS § 14-227g); and
9. using traffic signal preemption device, when it results in an accident (CGS § 14-299a(f)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (04/05/2011)