



# House of Representatives

General Assembly

**File No. 41**

February Session, 2012

House Bill No. 5247

*House of Representatives, March 19, 2012*

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING THE PENALTY FOR ASSAULT OF PUBLIC SAFETY, EMERGENCY MEDICAL, PUBLIC TRANSIT OR HEALTH CARE PERSONNEL.***

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

1 Section 1. Section 53a-167c of the 2012 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2012*):

4 (a) A person is guilty of assault of public safety, emergency medical,  
5 public transit or health care personnel when, with intent to prevent a  
6 reasonably identifiable peace officer, special policeman appointed  
7 under section 29-18b, motor vehicle inspector designated under section  
8 14-8 and certified pursuant to section 7-294d, firefighter or employee of  
9 an emergency medical service organization, as defined in section 53a-3,  
10 emergency room physician or nurse, health care employee as defined  
11 in section 19a-490q, employee of the Department of Correction,  
12 member or employee of the Board of Pardons and Paroles, probation  
13 officer, employee of the Judicial Branch assigned to provide pretrial

14 secure detention and programming services to juveniles accused of the  
15 commission of a delinquent act, employee of the Department of  
16 Children and Families assigned to provide direct services to children  
17 and youths in the care or custody of the department, employee of a  
18 municipal police department assigned to provide security at the police  
19 department's lockup and holding facility, active individual member of  
20 a volunteer canine search and rescue team, as defined in section 5-249,  
21 or public transit employee from performing his or her duties, and  
22 while such peace officer, special policeman, motor vehicle inspector,  
23 firefighter, employee, physician, nurse, health care employee, member,  
24 probation officer or active individual member is acting in the  
25 performance of his or her duties, (1) such person causes physical injury  
26 to such peace officer, special policeman, motor vehicle inspector,  
27 firefighter, employee, physician, nurse, member, probation officer or  
28 active individual member, or (2) such person throws or hurls, or  
29 causes to be thrown or hurled, any rock, bottle, can or other article,  
30 object or missile of any kind capable of causing physical harm, damage  
31 or injury, at such peace officer, special policeman, motor vehicle  
32 inspector, firefighter, employee, physician, nurse, member, probation  
33 officer or active individual member, or (3) such person uses or causes  
34 to be used any mace, tear gas or any like or similar deleterious agent  
35 against such peace officer, special policeman, motor vehicle inspector,  
36 firefighter, employee, physician, nurse, member, probation officer or  
37 active individual member, or (4) such person throws or hurls, or  
38 causes to be thrown or hurled, any paint, dye or other like or similar  
39 staining, discoloring or coloring agent or any type of offensive or  
40 noxious liquid, agent or substance at such peace officer, special  
41 policeman, motor vehicle inspector, firefighter, employee, physician,  
42 nurse, member, probation officer or active individual member, or (5)  
43 such person throws or hurls, or causes to be thrown or hurled, any  
44 bodily fluid including, but not limited to, urine, feces, blood or saliva  
45 at such peace officer, special policeman, motor vehicle inspector,  
46 firefighter, employee, physician, nurse, member, probation officer or  
47 active individual member. For the purposes of this section, "public  
48 transit employee" means a person employed by the state, a political

49 subdivision of the state, a transit district formed under chapter 103a or  
 50 a person with whom the Commissioner of Transportation has  
 51 contracted in accordance with section 13b-34 to provide transportation  
 52 services who operates a vehicle or vessel providing public rail service,  
 53 ferry service or fixed route bus service or performs duties directly  
 54 related to the operation of such vehicle or vessel.

55 (b) Assault of public safety, emergency medical, public transit or  
 56 health care personnel is a class C felony and any person found guilty  
 57 under this section shall be sentenced to a term of imprisonment of  
 58 which two years of the sentence imposed may not be suspended or  
 59 reduced by the court, except that the court may suspend the execution  
 60 of such mandatory minimum sentence if, at the time of the commission  
 61 of the offense, (1) such person was under the age of eighteen years, or  
 62 (2) such person's mental capacity was significantly impaired, but not  
 63 so impaired as to constitute a defense to prosecution. If any person  
 64 who is confined in an institution or facility of the Department of  
 65 Correction is sentenced to a term of imprisonment for assault of an  
 66 employee of the Department of Correction under this section, such  
 67 term shall run consecutively to the term for which the person was  
 68 serving at the time of the assault.

69 (c) In any prosecution under this section involving assault of a  
 70 health care employee, as defined in section 19a-490q, it shall be a  
 71 defense that the defendant is a person with a disability as described in  
 72 subdivision (13), (15) or (20) of section 46a-51 and the defendant's  
 73 conduct was a clear and direct manifestation of the disability.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	53a-167c

**PS**            *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 13 \$	FY 14 \$
Correction, Dept.	GF - Cost	up to 1,996,002	up to 5,911,752
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	up to 439,648	up to 1,302,148

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

Establishing a two-year minimum mandatory sentence for assault on public safety officials is anticipated to cost the Department of Correction up to \$1,996,002 in FY 13 and up to \$5,911,752 in FY 14. Additionally, the bill will increase costs for fringe accounts by up to \$439,648 in FY 13 and up to \$1,302,148 in FY 14. This assumes the average annual cost of a prisoner, including fringe benefits, is \$41,500.

Approximately 360 individuals are convicted of assault on a public safety official annually. However, based on historical trends, only 245 individuals are sentenced to prison each year. Therefore, this bill will potentially increase the prison population by roughly 115 prisoners in year one, and an additional 115 prisoners in the second year. The analysis assumes a linear increase in the prison population over a two year period. The analysis also assumes the bill will add a maximum of 230 inmates over a two year period. The estimate represents the upper boundary of the bill's fiscal impact. It is possible that the harsher sentence will act as a deterrent and reduce offenses, as well as change

<sup>1</sup> 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 most personnel changes is 29.22% of payroll in FY 13 and FY 14.

the incentives during the plea bargain process. Both circumstances would result in fewer than anticipated additional prisoners.

***The Out Years***

Because the bill mandates a two year minimum sentence, the full effect on the prison system will not take place until FY 15. In FY 15, it will cost the Department of Correction up to \$7,831,500 and increase fringe benefit expenses by up to \$1,725,000 for a total impact of approximately \$9,556,500. The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. In addition, normal annual pension costs (currently estimated at 7.7% of payroll) attributable to the identified personnel changes will be recognized in the state's annual required pension contribution in future actuarial valuations.

**OLR Bill Analysis****HB 5247*****AN ACT CONCERNING THE PENALTY FOR ASSAULT OF PUBLIC SAFETY, EMERGENCY MEDICAL, PUBLIC TRANSIT OR HEALTH CARE PERSONNEL.*****SUMMARY:**

This bill imposes a mandatory minimum two-year prison term for assaulting public safety, emergency medical, public transit, or health care personnel. The current penalty is a class C felony, punishable by one to 10 years imprisonment, a fine of up to \$10,000, or both; but, in practice, the court may suspend any part of the sentence. The bill allows the court to waive the mandatory minimum penalty if the offender was under age 18 at the time he or she committed the offense or his or her mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.

The law applies to anyone who assaults a reasonably identifiable public safety, emergency medical, public transit, or health care employee (see BACKGROUND) performing his or her duties, with intent to prevent the employee from performing them, by doing any of the following to the employee:

1. causing physical injury;
2. throwing potentially damaging objects, including rocks, bottles, cans;
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.

EFFECTIVE DATE: October 1, 2012

## **BACKGROUND**

### ***Assault on Public Safety Workers***

The law applies to:

1. peace officers,
2. special policemen,
3. Department of Motor Vehicles inspectors,
4. firefighters,
5. employees of an emergency medical service organization,
6. emergency room physicians or nurses,
7. health care employees,
8. Department of Correction employees,
9. members or employees of the Board of Pardons and Paroles,
10. probation officers,
11. Judicial Branch employees assigned to provide pretrial secure detention and programming services to juveniles accused of committing a delinquent act,
12. Department of Children and Families employees assigned to provide direct services to children and youths in the department's care or custody,
13. municipal police department employees assigned to provide security at the police department's lockup and holding facility,
14. active individual members of a volunteer canine search and rescue team, and

15. public transit employees.

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable

Yea 17    Nay 4    (03/01/2012)