



Senate

General Assembly

File No. 425

February Session, 2012

Substitute Senate Bill No. 367

Senate, April 16, 2012

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PUBLIC INDECENCY IN A CORRECTIONAL INSTITUTION.

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

1 Section 1. (NEW) (*Effective July 1, 2012*) (a) A person is guilty of
2 public indecency in a correctional institution when such person is in
3 the custody of the Commissioner of Correction and confined in a
4 correctional institution and performs a lewd exposure of such person's
5 intimate parts, or an act of masturbation, which lewd exposure or act
6 may reasonably be expected to be viewed by a reasonably identifiable
7 employee of the Department of Correction. For the purposes of this
8 subsection, "intimate parts" has the meaning provided in section 53a-
9 65 of the general statutes, and "masturbation" has the meaning
10 provided in section 53a-193 of the general statutes.

11 (b) Public indecency in a correctional institution is a class D felony.
12 If any person who is confined in a correctional institution of the
13 Department of Correction is sentenced to a term of imprisonment for a
14 violation of this section, such term shall run consecutively to the term

15 for which such person was serving at the time of such violation.

16 Sec. 2. Subdivision (5) of section 54-250 of the general statutes is
17 repealed and the following is substituted in lieu thereof (*Effective July*
18 *1, 2012*):

19 (5) "Nonviolent sexual offense" means (A) a violation of section 53a-
20 73a or subdivision (2) of subsection (a) of section 53a-189a, [or] (B) a
21 violation of any of the offenses specified in subparagraph (A) of this
22 subdivision for which a person is criminally liable under section 53a-8,
23 53a-48 or 53a-49, or (C) a violation of section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	New section
Sec. 2	<i>July 1, 2012</i>	54-250(5)

Statement of Legislative Commissioners:

In Subsec. (a), "such person" was substituted for "a person" for accuracy, and in Subsec. (b), the final phrase was replaced by "such violation" for conciseness.

JUD *Joint Favorable Subst.-LCO*

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 - Potential Cost	See Below	See Below
Judicial Dept.	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill is anticipated to result in costs to the Department of Correction and revenue for the Judicial Department to the extent that acts of public indecency occur in prisons in the future. In 2011, there were a total of 390 violations of the Department of Correction's policies related to indecent exposure, committed by 94 inmates. The department anticipates that the harsher penalties and the requirement to register as a sex offender will significantly deter future occurrences of public indecency.

To the extent that the violations continue after passage of the bill, costs will be incurred by the Department of Correction if prison sentences for violation of the statute exceed the terms of the offender. The bill specifies a penalty of up to five years in prison for violation of the statute. Prison sentences for violation of the statute will occur concurrently with an inmate's existing sentence. On average, it costs the Department of Correction \$44,165 to incarcerate an offender annually.

Additionally, the bill levies a fine of up to \$5,000 per violation, which will potentially increase Judicial Department revenues to the

extent that fines are assessed in future cases.

The Out Years

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

OLR Bill Analysis**sSB 367****AN ACT CONCERNING PUBLIC INDECENCY IN A CORRECTIONAL INSTITUTION.****SUMMARY:**

This bill creates a crime of public indecency in a correctional institution. A prisoner commits this crime if (1) he or she performs a lewd exposure of his or her intimate parts or masturbates and (2) the act can reasonably be expected to be viewed by a reasonably identifiable Department of Correction employee. Under the bill, this crime is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.

The bill also makes this new crime a “nonviolent sexual offense” which requires registration as a sex offender for 10 years and for life for a subsequent offense.

EFFECTIVE DATE: July 1, 2012

BACKGROUND***Public Indecency***

A person commits public indecency if he or she, in a place where the conduct may reasonably be expected to be viewed by others, performs (1) an act of sexual intercourse, (2) a lewd exposure of the body with intent to arouse or satisfy his or her sexual desire, or (3) a lewd fondling or caress of another’s body. This crime is a class B misdemeanor punishable by up to six months in prison, a fine of up to \$1,000, or both (CGS § 53a-186).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (03/28/2012)