



House of Representatives

File No. 849

General Assembly

January Session, 2013

(Reprint of File No. 690)

Substitute House Bill No. 6581
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 23, 2013

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE
CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY
SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH
AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF
CERTAIN FELONY OFFENSES.**

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

1 Section 1. Section 54-125a of the general statutes, as amended by
2 section 59 of public act 13-3, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2013*):

4 (a) A person convicted of one or more crimes who is incarcerated on
5 or after October 1, 1990, who received a definite sentence or aggregate
6 sentence of more than two years, and who has been confined under
7 such sentence or sentences for not less than one-half of the aggregate
8 sentence less any risk reduction credit earned under the provisions of
9 section 18-98e or one-half of the most recent sentence imposed by the
10 court less any risk reduction credit earned under the provisions of
11 section 18-98e, whichever is greater, may be allowed to go at large on
12 parole in the discretion of the panel of the Board of Pardons and

13 Paroles for the institution in which the person is confined, if (1) it
14 appears from all available information, including any reports from the
15 Commissioner of Correction that the panel may require, that there is a
16 reasonable probability that such inmate will live and remain at liberty
17 without violating the law, and (2) such release is not incompatible with
18 the welfare of society. At the discretion of the panel, and under the
19 terms and conditions as may be prescribed by the panel including
20 requiring the parolee to submit personal reports, the parolee shall be
21 allowed to return to the parolee's home or to reside in a residential
22 community center, or to go elsewhere. The parolee shall, while on
23 parole, remain under the jurisdiction of the board until the expiration
24 of the maximum term or terms for which the parolee was sentenced
25 less any risk reduction credit earned under the provisions of section
26 18-98e. Any parolee released on the condition that the parolee reside in
27 a residential community center may be required to contribute to the
28 cost incidental to such residence. Each order of parole shall fix the
29 limits of the parolee's residence, which may be changed in the
30 discretion of the board and the Commissioner of Correction. Within
31 three weeks after the commitment of each person sentenced to more
32 than two years, the state's attorney for the judicial district shall send to
33 the Board of Pardons and Paroles the record, if any, of such person.

34 (b) (1) No person convicted of any of the following offenses, which
35 was committed on or after July 1, 1981, shall be eligible for parole
36 under subsection (a) of this section: (A) Capital felony, as provided
37 under the provisions of section 53a-54b, as amended by this act, in
38 effect prior to April 25, 2012, (B) murder with special circumstances, as
39 provided under the provisions of section 53a-54b, as amended by this
40 act, in effect on or after April 25, 2012, (C) felony murder, as provided
41 in section 53a-54c, (D) arson murder, as provided in section 53a-54d, as
42 amended by this act, (E) murder, as provided in section 53a-54a, as
43 amended by this act, or (F) aggravated sexual assault in the first
44 degree, as provided in section 53a-70a. (2) A person convicted of (A) a
45 violation of section 53a-100aa or 53a-102, or (B) an offense, other than
46 an offense specified in subdivision (1) of this subsection, where the

47 underlying facts and circumstances of the offense involve the use,
48 attempted use or threatened use of physical force against another
49 person shall be ineligible for parole under subsection (a) of this section
50 until such person has served not less than eighty-five per cent of the
51 definite sentence imposed.

52 (c) The Board of Pardons and Paroles shall, not later than July 1,
53 1996, adopt regulations in accordance with chapter 54 to ensure that a
54 person convicted of an offense described in subdivision (2) of
55 subsection (b) of this section is not released on parole until such person
56 has served eighty-five per cent of the definite sentence imposed by the
57 court. Such regulations shall include guidelines and procedures for
58 classifying a person as a violent offender that are not limited to a
59 consideration of the elements of the offense or offenses for which such
60 person was convicted.

61 (d) The Board of Pardons and Paroles shall hold a hearing to
62 determine the suitability for parole release of any person whose
63 eligibility for parole release is not subject to the provisions of
64 subsection (b) of this section upon completion by such person of
65 seventy-five per cent of such person's definite or aggregate sentence
66 less any risk reduction credit earned under the provisions of section
67 18-98e. An employee of the board or, if deemed necessary by the
68 chairperson, a panel of the board shall reassess the suitability for
69 parole release of such person based on the following standards: (1)
70 Whether there is a reasonable probability that such person will live
71 and remain at liberty without violating the law, and (2) whether the
72 benefits to such person and society that would result from such
73 person's release to community supervision substantially outweigh the
74 benefits to such person and society that would result from such
75 person's continued incarceration. After such hearing, if the board
76 determines that continued confinement is necessary, it shall articulate
77 for the record the specific reasons why such person and the public
78 would not benefit from such person serving a period of parole
79 supervision while transitioning from incarceration to the community.
80 The decision of the board under this subsection shall not be subject to

81 appeal.

82 (e) The Board of Pardons and Paroles shall hold a hearing to
83 determine the suitability for parole release of any person whose
84 eligibility for parole release is subject to the provisions of subdivision
85 (2) of subsection (b) of this section upon completion by such person of
86 eighty-five per cent of such person's definite or aggregate sentence. An
87 employee of the board or, if deemed necessary by the chairperson, a
88 panel of the board shall assess the suitability for parole release of such
89 person based on the following standards: (1) Whether there is a
90 reasonable probability that such person will live and remain at liberty
91 without violating the law, and (2) whether the benefits to such person
92 and society that would result from such person's release to community
93 supervision substantially outweigh the benefits to such person and
94 society that would result from such person's continued incarceration.
95 After such hearing, if the board determines that continued
96 confinement is necessary, it shall articulate for the record the specific
97 reasons why such person and the public would not benefit from such
98 person serving a period of parole supervision while transitioning from
99 incarceration to the community. The decision of the board under this
100 subsection shall not be subject to appeal.

101 (f) (1) Notwithstanding the provisions of subsections (a) to (e),
102 inclusive, of this section, a person convicted of one or more crimes
103 committed while such person was under eighteen years of age, who is
104 incarcerated on or after October 1, 2013, and who received a definite
105 sentence or aggregate sentence of more than ten years for such crimes
106 prior to, on or after October 1, 2013, may be allowed to go at large on
107 parole in the discretion of the panel of the Board of Pardons and
108 Paroles for the institution in which such person is confined. If such
109 person is serving a sentence of fifty years or less, such person shall be
110 eligible for parole after serving sixty per cent of the sentence or twelve
111 years, whichever is greater. If such person is serving a sentence of
112 more than fifty years, such person shall be eligible for parole after
113 serving thirty years. Nothing in this subsection shall limit a person's
114 eligibility for parole release under the provisions of subsections (a) to

115 (e), inclusive, of this section if such person would be eligible for parole
116 release at an earlier date under any of such provisions.

117 (2) The board shall apply the parole eligibility rules of this
118 subsection only with respect to the sentence for a crime or crimes
119 committed while a person was under eighteen years of age. Any
120 portion of a sentence that is based on a crime or crimes committed
121 while a person was eighteen years of age or older shall be subject to
122 the applicable parole eligibility, suitability and release rules set forth in
123 subsections (a) to (e), inclusive, of this section.

124 (3) Whenever a person becomes eligible for parole release pursuant
125 to this subsection, the board shall hold a hearing to determine such
126 person's suitability for parole release. At least twelve months prior to
127 such hearing, the board shall notify the office of Chief Public Defender
128 and the appropriate state's attorney of such person's eligibility for
129 parole release pursuant to this subsection. The office of Chief Public
130 Defender shall assign counsel for such person pursuant to section 51-
131 296 if such person is indigent. At any hearing to determine such
132 person's suitability for parole release pursuant to this subsection, the
133 board shall permit (A) such person to make a statement on such
134 person's behalf, (B) counsel for such person and the state's attorney to
135 submit reports and other documents, and (C) any victim of the crime
136 or crimes to make a statement pursuant to section 54-126a. The board
137 may request testimony from mental health professionals or other
138 relevant witnesses, and reports from the Commissioner of Correction
139 or other persons, as the board may require. The board shall use
140 validated risk assessment and needs assessment tools and its risk-
141 based structured decision making and release criteria established
142 pursuant to subsection (d) of section 54-124a in making a
143 determination pursuant to this subsection.

144 (4) After such hearing, the board may allow such person to go at
145 large on parole with respect to any portion of a sentence that was
146 based on a crime or crimes committed while such person was under
147 eighteen years of age if the board finds that such parole release would

148 be consistent with the factors set forth in subdivisions (1) to (4),
149 inclusive, of subsection (c) of section 54-300 and if it appears, from all
150 available information, including, but not limited to, any reports from
151 the Commissioner of Correction, that (A) there is a reasonable
152 probability that such person will live and remain at liberty without
153 violating the law; (B) the benefits to such person and society that
154 would result from such person's release to community supervision
155 substantially outweigh the benefits to such person and society that
156 would result from such person's continued incarceration; and (C) such
157 person has demonstrated substantial rehabilitation since the date such
158 crime or crimes were committed considering such person's character,
159 background and history, as demonstrated by factors including, but not
160 limited to, such person's correctional record, the age and circumstances
161 of such person as of the date of the commission of the crime or crimes,
162 whether such person has demonstrated remorse and increased
163 maturity since the date of the commission of the crime or crimes, such
164 person's contributions to the welfare of other persons through service,
165 such person's efforts to overcome substance abuse, addiction, trauma,
166 lack of education or obstacles that such person may have faced as a
167 child or youth in the adult correctional system, the opportunities for
168 rehabilitation in the adult correctional system and the overall degree of
169 such person's rehabilitation considering the nature and circumstances
170 of the crime or crimes.

171 (5) After such hearing, if the board determines that continued
172 confinement is necessary, the board shall articulate for the record the
173 specific reasons why such person and the public would not benefit
174 from such person serving a period of parole supervision while
175 transitioning from incarceration to the community. The board shall
176 reassess such person's suitability for parole release at a later date to be
177 determined at the discretion of the board.

178 (6) The decision of the board under this subsection shall not be
179 subject to appeal.

180 [(f)] (g) Any person released on parole under this section shall

181 remain in the custody of the Commissioner of Correction and be
182 subject to supervision by personnel of the Department of Correction
183 during such person's period of parole.

184 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) If the case of a child, as
185 defined in section 46b-120 of the general statutes, is transferred to the
186 regular criminal docket of the Superior Court pursuant to section 46b-
187 127 of the general statutes, as amended by this act, and the child is
188 convicted of a class A, B or C felony pursuant to such transfer, at the
189 time of sentencing, the court shall:

190 (1) Consider, in addition to any other information relevant to
191 sentencing, any scientific and psychological evidence showing the
192 differences between a child's brain development and an adult's brain
193 development, including, but not limited to, evidence showing, as
194 compared to an adult: (A) A child's lack of maturity and
195 underdeveloped sense of responsibility, including evidence showing a
196 child's recklessness, impulsivity and risk-taking tendencies; (B) a
197 child's vulnerability to negative influences and outside pressures from
198 peers or family members, or both; (C) a child's increased capacity for
199 change and rehabilitation; and (D) a child's reduced competency in (i)
200 appreciating the risks and consequences of his or her own actions, (ii)
201 negotiating the complexities of the criminal justice system, and (iii)
202 assisting in his or her own defense; and

203 (2) Consider, if the court proposes to sentence the child to a lengthy
204 sentence under which it is likely that the child will die while
205 incarcerated, how the scientific and psychological evidence described
206 in subdivision (1) of this subsection counsels against such a sentence.

207 (b) Notwithstanding the provisions of section 54-91a of the general
208 statutes, no presentence investigation or report may be waived with
209 respect to a child convicted of a class A or B felony. With respect to a
210 child convicted of a class C felony, the presentence investigation and
211 report may be waived by the child only upon approval by the court.
212 Any presentence report prepared with respect to a child convicted of a

213 class A, B or C felony shall address the factors set forth in
214 subparagraphs (A) to (D), inclusive, of subdivision (1) of subsection (a)
215 of this section.

216 (c) The Court Support Services Division of the Judicial Branch shall
217 establish reference materials relating to adolescent psychological and
218 brain development to assist courts in sentencing children pursuant to
219 this section.

220 Sec. 3. Subsection (c) of section 46b-127 of the general statutes is
221 repealed and the following is substituted in lieu thereof (*Effective*
222 *October 1, 2013*):

223 (c) Upon the effectuation of the transfer, such child shall stand trial
224 and be sentenced, if convicted, as if such child were eighteen years of
225 age, subject to the requirements of section 2 of this act. Such child shall
226 receive credit against any sentence imposed for time served in a
227 juvenile facility prior to the effectuation of the transfer. A child who
228 has been transferred may enter a guilty plea to a lesser offense if the
229 court finds that such plea is made knowingly and voluntarily. Any
230 child transferred to the regular criminal docket who pleads guilty to a
231 lesser offense shall not resume such child's status as a juvenile
232 regarding such offense. If the action is dismissed or nolleed or if such
233 child is found not guilty of the charge for which such child was
234 transferred or of any lesser included offenses, the child shall resume
235 such child's status as a juvenile until such child attains the age of
236 eighteen years.

237 Sec. 4. Subsection (f) of section 46b-133c of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective*
239 *October 1, 2013*):

240 (f) Whenever a proceeding has been designated a serious juvenile
241 repeat offender prosecution pursuant to subsection (b) of this section
242 and the child does not waive such child's right to a trial by jury, the
243 court shall transfer the case from the docket for juvenile matters to the
244 regular criminal docket of the Superior Court. Upon transfer, such

245 child shall stand trial and be sentenced, if convicted, as if such child
246 were eighteen years of age, subject to the requirements of section 2 of
247 this act, except that no such child shall be placed in a correctional
248 facility but shall be maintained in a facility for children and youths
249 until such child attains eighteen years of age or until such child is
250 sentenced, whichever occurs first. Such child shall receive credit
251 against any sentence imposed for time served in a juvenile facility
252 prior to the effectuation of the transfer. A child who has been
253 transferred may enter a guilty plea to a lesser offense if the court finds
254 that such plea is made knowingly and voluntarily. Any child
255 transferred to the regular criminal docket who pleads guilty to a lesser
256 offense shall not resume such child's status as a juvenile regarding
257 such offense. If the action is dismissed or nolleed or if such child is
258 found not guilty of the charge for which such child was transferred,
259 the child shall resume such child's status as a juvenile until such child
260 attains eighteen years of age.

261 Sec. 5. Subsection (f) of section 46b-133d of the general statutes is
262 repealed and the following is substituted in lieu thereof (*Effective*
263 *October 1, 2013*):

264 (f) When a proceeding has been designated a serious sexual
265 offender prosecution pursuant to subsection (c) of this section and the
266 child does not waive the right to a trial by jury, the court shall transfer
267 the case from the docket for juvenile matters to the regular criminal
268 docket of the Superior Court. Upon transfer, such child shall stand trial
269 and be sentenced, if convicted, as if such child were eighteen years of
270 age, subject to the requirements of section 2 of this act, except that no
271 such child shall be placed in a correctional facility but shall be
272 maintained in a facility for children and youths until such child attains
273 eighteen years of age or until such child is sentenced, whichever occurs
274 first. Such child shall receive credit against any sentence imposed for
275 time served in a juvenile facility prior to the effectuation of the
276 transfer. A child who has been transferred may enter a guilty plea to a
277 lesser offense if the court finds that such plea is made knowingly and
278 voluntarily. Any child transferred to the regular criminal docket who

279 pleads guilty to a lesser offense shall not resume such child's status as
280 a juvenile regarding such offense. If the action is dismissed or nolleed or
281 if such child is found not guilty of the charge for which such child was
282 transferred, the child shall resume such child's status as a juvenile until
283 such child attains eighteen years of age.

284 Sec. 6. Section 53a-46a of the general statutes is repealed and the
285 following is substituted in lieu thereof (*Effective October 1, 2013, and*
286 *applicable to any person convicted prior to, on or after said date*):

287 (a) A person shall be subjected to the penalty of death for a capital
288 felony committed prior to April 25, 2012, under the provisions of
289 section 53a-54b, as amended by this act, in effect prior to April 25,
290 2012, only if (1) a hearing is held in accordance with the provisions of
291 this section, and (2) such person was eighteen years of age or older at
292 the time the offense was committed.

293 (b) For the purpose of determining the sentence to be imposed when
294 a defendant is convicted of or pleads guilty to a capital felony, the
295 judge or judges who presided at the trial or before whom the guilty
296 plea was entered shall conduct a separate hearing to determine the
297 existence of any mitigating factor concerning the defendant's character,
298 background and history, or the nature and circumstances of the crime,
299 and any aggravating factor set forth in subsection (i) of this section.
300 Such hearing shall not be held if the state stipulates that none of the
301 aggravating factors set forth in subsection (i) of this section exists or
302 that any factor set forth in subsection (h) of this section exists. Such
303 hearing shall be conducted (1) before the jury which determined the
304 defendant's guilt, or (2) before a jury impaneled for the purpose of
305 such hearing if (A) the defendant was convicted upon a plea of guilty;
306 (B) the defendant was convicted after a trial before three judges as
307 provided in subsection (b) of section 53a-45; or (C) if the jury which
308 determined the defendant's guilt has been discharged by the court for
309 good cause, or (3) before the court, on motion of the defendant and
310 with the approval of the court and the consent of the state.

311 (c) In such hearing the court shall disclose to the defendant or his
312 counsel all material contained in any presentence report which may
313 have been prepared. No presentence information withheld from the
314 defendant shall be considered in determining the existence of any
315 mitigating or aggravating factor. Any information relevant to any
316 mitigating factor may be presented by either the state or the defendant,
317 regardless of its admissibility under the rules governing admission of
318 evidence in trials of criminal matters, but the admissibility of
319 information relevant to any of the aggravating factors set forth in
320 subsection (i) of this section shall be governed by the rules governing
321 the admission of evidence in such trials. The state and the defendant
322 shall be permitted to rebut any information received at the hearing and
323 shall be given fair opportunity to present argument as to the adequacy
324 of the information to establish the existence of any mitigating or
325 aggravating factor. The burden of establishing any of the aggravating
326 factors set forth in subsection (i) of this section shall be on the state.
327 The burden of establishing any mitigating factor shall be on the
328 defendant.

329 (d) In determining whether a mitigating factor exists concerning the
330 defendant's character, background or history, or the nature and
331 circumstances of the crime, pursuant to subsection (b) of this section,
332 the jury or, if there is no jury, the court shall first determine whether a
333 particular factor concerning the defendant's character, background or
334 history, or the nature and circumstances of the crime, has been
335 established by the evidence, and shall determine further whether that
336 factor is mitigating in nature, considering all the facts and
337 circumstances of the case. Mitigating factors are such as do not
338 constitute a defense or excuse for the capital felony of which the
339 defendant has been convicted, but which, in fairness and mercy, may
340 be considered as tending either to extenuate or reduce the degree of his
341 culpability or blame for the offense or to otherwise constitute a basis
342 for a sentence less than death.

343 (e) The jury or, if there is no jury, the court shall return a special
344 verdict setting forth its findings as to the existence of any factor set

345 forth in subsection (h) of this section, the existence of any aggravating
346 factor or factors set forth in subsection (i) of this section and whether
347 any aggravating factor or factors outweigh any mitigating factor or
348 factors found to exist pursuant to subsection (d) of this section.

349 (f) If the jury or, if there is no jury, the court finds that (1) none of
350 the factors set forth in subsection (h) of this section exist, (2) one or
351 more of the aggravating factors set forth in subsection (i) of this section
352 exist and (3) (A) no mitigating factor exists or (B) one or more
353 mitigating factors exist but are outweighed by one or more
354 aggravating factors set forth in subsection (i) of this section, the court
355 shall sentence the defendant to death.

356 (g) If the jury or, if there is no jury, the court finds that (1) any of the
357 factors set forth in subsection (h) of this section exist, or (2) none of the
358 aggravating factors set forth in subsection (i) of this section exists, or
359 (3) one or more of the aggravating factors set forth in subsection (i) of
360 this section exist and one or more mitigating factors exist, but the one
361 or more aggravating factors set forth in subsection (i) of this section do
362 not outweigh the one or more mitigating factors, the court shall impose
363 a sentence of life imprisonment without the possibility of release.

364 (h) The court shall not impose the sentence of death on the
365 defendant if the jury or, if there is no jury, the court finds by a special
366 verdict, as provided in subsection (e) of this section, that at the time of
367 the offense (1) the defendant was [under the age of eighteen years, or
368 (2) the defendant was] a person with intellectual disability, as defined
369 in section 1-1g, or [(3)] (2) the defendant's mental capacity was
370 significantly impaired or the defendant's ability to conform the
371 defendant's conduct to the requirements of law was significantly
372 impaired but not so impaired in either case as to constitute a defense to
373 prosecution, or [(4)] (3) the defendant was criminally liable under
374 sections 53a-8, 53a-9 and 53a-10 for the offense, which was committed
375 by another, but the defendant's participation in such offense was
376 relatively minor, although not so minor as to constitute a defense to
377 prosecution, or [(5)] (4) the defendant could not reasonably have

378 foreseen that the defendant's conduct in the course of commission of
379 the offense of which the defendant was convicted would cause, or
380 would create a grave risk of causing, death to another person.

381 (i) The aggravating factors to be considered shall be limited to the
382 following: (1) The defendant committed the offense during the
383 commission or attempted commission of, or during the immediate
384 flight from the commission or attempted commission of, a felony and
385 the defendant had previously been convicted of the same felony; or (2)
386 the defendant committed the offense after having been convicted of
387 two or more state offenses or two or more federal offenses or of one or
388 more state offenses and one or more federal offenses for each of which
389 a penalty of more than one year imprisonment may be imposed, which
390 offenses were committed on different occasions and which involved
391 the infliction of serious bodily injury upon another person; or (3) the
392 defendant committed the offense and in such commission knowingly
393 created a grave risk of death to another person in addition to the
394 victim of the offense; or (4) the defendant committed the offense in an
395 especially heinous, cruel or depraved manner; or (5) the defendant
396 procured the commission of the offense by payment, or promise of
397 payment, of anything of pecuniary value; or (6) the defendant
398 committed the offense as consideration for the receipt, or in
399 expectation of the receipt, of anything of pecuniary value; or (7) the
400 defendant committed the offense with an assault weapon, as defined
401 in section 53-202a; or (8) the defendant committed the offense set forth
402 in subdivision (1) of section 53a-54b, as amended by this act, to avoid
403 arrest for a criminal act or prevent detection of a criminal act or to
404 hamper or prevent the victim from carrying out any act within the
405 scope of the victim's official duties or to retaliate against the victim for
406 the performance of the victim's official duties.

407 Sec. 7. Section 53a-54b of the general statutes is repealed and the
408 following is substituted in lieu thereof (*Effective October 1, 2013, and*
409 *applicable to any person convicted prior to, on or after said date*):

410 A person is guilty of murder with special circumstances who is

411 convicted of any of the following and was eighteen years of age or
412 older when such person committed the murder: (1) Murder of a
413 member of the Division of State Police within the Department of
414 Emergency Services and Public Protection or of any local police
415 department, a chief inspector or inspector in the Division of Criminal
416 Justice, a state marshal who is exercising authority granted under any
417 provision of the general statutes, a judicial marshal in performance of
418 the duties of a judicial marshal, a constable who performs criminal law
419 enforcement duties, a special policeman appointed under section 29-
420 18, a conservation officer or special conservation officer appointed by
421 the Commissioner of Energy and Environmental Protection under the
422 provisions of section 26-5, an employee of the Department of
423 Correction or a person providing services on behalf of said department
424 when such employee or person is acting within the scope of such
425 employee's or person's employment or duties in a correctional
426 institution or facility and the actor is confined in such institution or
427 facility, or any firefighter, while such victim was acting within the
428 scope of such victim's duties; (2) murder committed by a defendant
429 who is hired to commit the same for pecuniary gain or murder
430 committed by one who is hired by the defendant to commit the same
431 for pecuniary gain; (3) murder committed by one who has previously
432 been convicted of intentional murder or of murder committed in the
433 course of commission of a felony; (4) murder committed by one who
434 was, at the time of commission of the murder, under sentence of life
435 imprisonment; (5) murder by a kidnapper of a kidnapped person
436 during the course of the kidnapping or before such person is able to
437 return or be returned to safety; (6) murder committed in the course of
438 the commission of sexual assault in the first degree; (7) murder of two
439 or more persons at the same time or in the course of a single
440 transaction; or (8) murder of a person under sixteen years of age.

441 Sec. 8. Section 53a-54d of the general statutes is repealed and the
442 following is substituted in lieu thereof (*Effective October 1, 2013, and*
443 *applicable to any person convicted prior to, on or after said date*):

444 A person is guilty of murder when, acting either alone or with one

445 or more persons, he commits arson and, in the course of such arson,
 446 causes the death of a person. Notwithstanding any other provision of
 447 the general statutes, any person convicted of murder under this section
 448 who was eighteen years of age or older at the time of the offense shall
 449 be punished by life imprisonment and shall not be eligible for parole.

450 Sec. 9. Subsection (c) of section 53a-54a of the general statutes is
 451 repealed and the following is substituted in lieu thereof (*Effective*
 452 *October 1, 2013, and applicable to any person convicted prior to, on or after*
 453 *said date*):

454 (c) Murder is punishable as a class A felony in accordance with
 455 subdivision (2) of section 53a-35a unless it is (1) a capital felony
 456 committed prior to April 25, 2012, by a person who was eighteen years
 457 of age or older at the time of the offense, punishable in accordance
 458 with subparagraph (A) of subdivision (1) of section 53a-35a, (2) murder
 459 with special circumstances committed on or after April 25, 2012, by a
 460 person who was eighteen years of age or older at the time of the
 461 offense, punishable as a class A felony in accordance with
 462 subparagraph (B) of subdivision (1) of section 53a-35a, or (3) murder
 463 under section 53a-54d, as amended by this act, committed by a person
 464 who was eighteen years of age or older at the time of the offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	54-125a
Sec. 2	October 1, 2013	New section
Sec. 3	October 1, 2013	46b-127(c)
Sec. 4	October 1, 2013	46b-133c(f)
Sec. 5	October 1, 2013	46b-133d(f)
Sec. 6	October 1, 2013, and applicable to any person convicted prior to, on or after said date	53a-46a

Sec. 7	<i>October 1, 2013, and applicable to any person convicted prior to, on or after said date</i>	53a-54b
Sec. 8	<i>October 1, 2013, and applicable to any person convicted prior to, on or after said date</i>	53a-54d
Sec. 9	<i>October 1, 2013, and applicable to any person convicted prior to, on or after said date</i>	53a-54a(c)

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 14 \$	FY 15 \$
Correction, Dept.	GF - Savings	See Below	See Below

Municipal Impact: None

Explanation

The bill is anticipated to result in a savings to the Department of Correction by retroactively eliminating life sentences without parole and expanding parole eligibility for inmates convicted for a crime committed when they were under the age of 18 and sentenced to more than 10 years in prison. To the extent that more inmates are granted parole or released, the agency will shift costs from incarceration to supervision in the community. On average, it saves approximately \$30,000 per inmate annually to supervise an inmate under parole instead of incarcerating them. There are currently approximately 200 inmates who meet the criteria of this bill.

In addition, the bill requires a parole hearing for inmates who meet the eligibility requirement, and a counsel to be appointed by the Office of the Chief Public Defender for indigent clients. It is anticipated that the Public Defender Services will be able to comply with this provision without additional resources.

The bill requires the court to consider certain factors when sentencing a juvenile and requires the Judicial Department Court Support Services Division (CSSD) to create reference materials on adolescent psychology and brain development to assist courts at

sentencing. It is anticipated that CSSD can do so with current resources and does not result in a fiscal impact.

The bill also makes changes to sentencing statutes for juveniles. As the changes are current practice based on case law, there is no fiscal impact from these changes.

House "A" changes the parole eligibility from 50% or 10 years to 60% or 12 years for certain offenders and reduces savings in the underlying bill. In addition the amendment makes changes to juvenile sentencing that do not result in a fiscal impact.

House "B" changes parole eligibility for inmates sentenced between 50 and 60 years to 30 years, instead of 60% of their sentence and results in savings to the Department of Correction.

The Out Years

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

Sources: Department of Correction Current Population Database

OLR Bill Analysis**sHB 6581 (as amended by House "A" and "B")******AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.*****SUMMARY:**

This bill makes a number of changes related to sentencing and parole release of offenders who were under age 18 at the time of committing their crimes. Among other things, it:

1. retroactively eliminates life sentences for capital felony, murder with special circumstances, and arson murder for offenders who committed these crimes when they were under age 18;
2. requires a criminal court to consider certain factors when sentencing someone convicted of a class A, B, or C felony committed when he or she was between ages 14 and 18;
3. (a) prohibits waiving a presentence investigation or report for a child convicted of a class A or B felony; (b) requires court approval to waive such an investigation or report for a child convicted of a class C felony; and (c) requires such an investigation or report for a child convicted of a class A, B, or C felony to consider the same sentencing factors the bill requires a judge to consider; and
4. establishes alternative parole eligibility rules that can make someone eligible for parole sooner if he or she (a) committed a crime when he or she was under age 18 and (b) was sentenced to more than 10 years in prison.

*House Amendment "A":

1. changes the underlying bill's parole eligibility rules to require someone sentenced to up to 60 years to serve the greater of 12 years or 60% of the sentence to be eligible, instead of serving 10 years or 50% of his or her sentence, and prohibits a person sentenced to over 60 years from using earned risk reduction credits to become eligible for parole sooner and
2. adds the provisions eliminating life sentences, requiring courts to consider certain factors at sentencing, and regarding presentence investigations.

*House Amendment "B" changes the bill's parole rules to make someone sentenced to more than 50 years but not more than 60 years eligible for parole after serving 30 years rather than 60% of his or her sentence.

EFFECTIVE DATE: October 1, 2013, and the provisions regarding capital felony, murder with special circumstances, and arson murder apply regardless of when an offender is convicted.

SENTENCES TO LIFE IMPRISONMENT

The bill prohibits sentencing someone for a capital felony if he or she was under age 18 when the crime was committed and overturns prior sentences of this type. By law, capital felony punishes crimes committed before April 25, 2012 with life imprisonment without possibility of release or death. The law prohibits sentencing offenders who were under age 18 at the time of the crime to death.

The bill prohibits convicting someone of murder with special circumstances unless the offender was at least age 18 at the time of the offense. It overturns any prior convictions of this crime for these offenders. By law, this crime is punishable by life imprisonment without the possibility of release.

The bill lowers the penalty for arson murder when the offender is

under age 18 from life imprisonment, statutorily defined as 60 years without parole, to 25 to 60 years. It applies this change retroactively to decrease the prison sentence of any offender previously convicted of committing this crime when under age 18.

The bill makes conforming changes.

CONSIDERATIONS AT SENTENCING

The bill requires a criminal court to consider certain factors when sentencing someone convicted of a class A, B, or C felony committed when he or she was between ages 14 and 18. In addition to other information relevant to sentencing, the bill requires the court to consider scientific and psychological evidence showing the differences between a child's and an adult's brain development, including evidence showing a child's, as compared to an adult's:

1. lack of maturity and underdeveloped sense of responsibility, including evidence of recklessness, impulsivity, and risk-taking tendencies;
2. vulnerability to negative influences and outside pressures from peers, family members, or both;
3. increased capacity for change and rehabilitation; and
4. reduced competency to appreciate the risks and consequences of actions, negotiate the criminal justice system's complexities, and assist in his or her defense.

If the court proposes a lengthy sentence under which it is likely the child will die in prison, the bill requires the court to consider how this evidence counsels against such a sentence.

The bill requires the Judicial Branch's Court Support Services Division to create reference material on adolescent psychology and brain development to assist courts.

PAROLE ELIGIBILITY

Currently, someone is generally eligible for parole after serving (1) 50% of his or her sentence minus any risk reduction credits earned if convicted of a non-violent crime and (2) 85% of his or her sentence if convicted of a violent crime, home invasion, or 2nd degree burglary. Someone convicted of the following crimes is ineligible for parole: murder, capital felony, murder with special circumstances, felony murder, arson murder, or 1st degree aggravated sexual assault.

The bill establishes alternative parole eligibility rules that can make someone eligible for parole sooner if he or she (1) committed a crime when he or she was under age 18 and (2) was sentenced to more than 10 years in prison. The rules apply if they make someone eligible for parole sooner than under existing law and they also apply to someone convicted of a crime who would otherwise be ineligible for parole. Under these rules, someone sentenced to:

1. up to 50 years in prison is eligible for parole after serving the greater of 12 years or 60% of his or her sentence or
2. more than 50 years in prison is eligible for parole after serving 30 years.

The bill applies retroactively regardless of when inmates were sentenced. But the eligibility rules only apply to sentences for crimes committed when a person was under age 18. They do not apply to any portion of a sentence imposed for a crime committed when the person was age 18 or older. Existing parole eligibility rules apply to such a sentence.

Required Hearing

The bill requires (1) a parole hearing when someone becomes parole eligible under the bill's provisions and (2) the board to notify the Chief Public Defender's Office and appropriate state's attorney at least 12 months before the hearing. The office must provide counsel for an indigent person.

At the hearing, the bill requires the board to permit:

1. the inmate to make a statement;
2. the inmate's counsel and state's attorney to submit reports and documents; and
3. a victim of the person's crime to make a statement, as with other parole hearings.

The board may also request (1) testimony from mental health professionals and relevant witnesses and (2) reports from the Department of Correction (DOC) or others. The board must use a validated risk and needs assessment tool and risk-based structured decision making and release criteria. (Existing law requires the board's chairwoman to adopt policies on these topics.)

Release Decisions

After the hearing, the bill allows the board to release someone on parole if it:

1. is consistent with (a) enhancing public safety while holding an offender accountable to the community; (b) reflecting the offense's seriousness and being proportional to the harm to victims and the community; (c) using the most appropriate sanctions available, including prison, community punishment, and supervision; (d) having an overriding goal of reducing criminal activity, imposing just punishment, and providing meaningful and effective rehabilitation and reintegration of the offender; and (e) being fair, just, and equitable while promoting respect for the law;
2. appears from all available information, including DOC reports, that (a) there is a reasonable probability the person will live and remain at liberty without violating the law and (b) the benefits to the person and society from release to community supervision substantially outweigh the benefits from continued confinement; and

3. appears from all available information, including DOC reports, that the person shows substantial rehabilitation since committing the crimes considering the person's character, background, and history, including (a) the person's prison record, age, and circumstances at the time of committing the crime; (b) whether he or she showed remorse and increased maturity since committing the crime; (c) his or her contributions to others' welfare through service; (d) his or her efforts to overcome substance abuse, addiction, trauma, lack of education, or obstacles he or she faced as a child or youth in prison; (e) the opportunities for rehabilitation in prison; and (f) the overall degree of his or her rehabilitation considering the nature and circumstances of the crime.

The bill requires the board, if it does not release an offender, to articulate specific reasons for the record why the person and public would not benefit from the person serving on parole as a transition from prison to the community. The bill requires the board to reassess the person's suitability at a later time determined by the board.

The bill specifies that the board's decisions under these provisions are not appealable.

BACKGROUND

Related Cases — U.S. Supreme Court

In *Graham v. Florida*, the U.S. Supreme Court ruled that the Eighth Amendment prohibition against cruel and unusual punishment prohibits states from imposing sentences of life without parole for defendants under age 18 for non-homicide crimes. The Court stated that there must be "some meaningful opportunity" for release based on a defendant's demonstrated maturity and rehabilitation. The Court stated that the Eighth Amendment does not prohibit a juvenile who commits a non-homicide crime from being kept in prison for life but it prohibits making the judgment "at the outset that those offenders never will be fit to re-enter society" (130 S.Ct. 2011 (2010)).

In *Miller v. Alabama*, the U.S. Supreme Court held that the Eighth Amendment prohibits courts from automatically imposing life without parole sentences on offenders who committed homicides while they were juveniles (under age 18). The Court did not categorically bar life without parole sentences for juveniles but stated that a court must “take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison” (132 S.Ct. 2455 (2012)).

Cases in Juvenile Court and Superior Court

By law, juvenile courts have jurisdiction to hear criminal cases of offenders under age 18. Depending on the circumstances, offenders alleged to have committed felonies when they were between ages 14 and 18 may have their cases transferred to the Superior Court criminal docket.

Capital Felony and Murder with Special Circumstances

A person commits a capital felony, before April 25, 2012, or murder with special circumstances, after that date, if he or she murders:

1. certain officers while performing their duties, such as a police officer, state marshal, special conservation officer, or DOC employee;
2. for pay or hires someone to murder;
3. after a previous conviction for intentional murder or murder while a felony was committed;
4. while sentenced to life imprisonment;
5. someone that he or she kidnapped;
6. while committing 1st degree sexual assault;
7. two or more people at the same time or in the course of a single transaction; or

8. a person under age 16.

Presentence Investigation Report

The law requires a presentence investigation for anyone convicted of a felony for the first time in Connecticut. The court may request it for any crime or offense other than a capital felony or murder with special circumstances. Probation officers prepare the report, which includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition.

Felony Classifications

The law classifies felonies as A, B, C, or D and establishes penalties for each classification. There are also unclassified felonies that have different penalties. Table 1 displays the penalties for felony classifications.

Table 1: Penalties for Felony Classifications

<i>Felony</i>	<i>Prison Term</i>	<i>Fine</i>
Class A felony of murder with special circumstances	Life without the possibility of release	Up to \$20,000
Class A felony of murder	25 to 60 years	Up to \$20,000
Class A felony of aggravated sexual assault of a minor	25 to 50 years	Up to \$20,000
Class A felony	10 to 25 years	Up to \$20,000
Class B felony of 1st degree manslaughter with a firearm	Five to 40 years	Up to \$15,000
Class B felony	One to 20 years	Up to \$15,000
Class C felony	One to 10 years	Up to \$10,000
Class D felony	One to 5 years	Up to \$5,000

Related Bill

sSB 1062 (File 681) reported favorably by the Judiciary Committee, among other things, contains similar provisions (1) retroactively eliminating life sentences for capital felony, murder with special circumstances, and arson murder for offenders who committed these crimes when they were under age 18 and (2) requiring a court to

consider certain factors when sentencing someone who was between ages 14 and 18 at the time of committing a crime.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 29 Nay 15 (04/16/2013)