
OLR Bill Analysis

HB 6571

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO SEXUAL ASSAULT IN THE FOURTH DEGREE AND KIDNAPPING IN THE FIRST DEGREE WITH A FIREARM.

SUMMARY:

This bill increases the mandatory minimum sentence for 1st degree kidnapping with a firearm from one to 10 years. By doing so, it reinstates the 10-year mandatory minimum sentence for 1st degree kidnapping (see below).

It also makes a change to the crime of 4th degree sexual assault. Currently, one way a person commits this crime is to intentionally subject certain victims to sexual contact. The bill no longer requires that this contact be intentional but leaves in place the requirement that the offender intend to (1) derive sexual gratification from the act or (2) degrade or humiliate the victim.

EFFECTIVE DATE: October 1, 2013

KIDNAPPING AND MANDATORY MINIMUM SENTENCES

By statute, 1st degree kidnapping is a class A felony and 10 years of a sentence for a class A felony cannot be suspended. However, in *State v. Jenkins*, the Connecticut Supreme Court ruled that it was unconstitutional to subject a person convicted of 1st degree kidnapping to a higher mandatory minimum sentence than a person convicted of kidnapping with a firearm, which is punishable as a class A felony with only a one-year mandatory minimum sentence (198 Conn. 671 (1986)). The Court ruled that the one-year mandatory minimum sentence would apply to both crimes.

By eliminating the one-year mandatory minimum for 1st degree kidnapping with a firearm, the bill makes both 1st degree kidnapping

and 1st degree kidnapping with a firearm class A felonies subject to a 10-year mandatory minimum sentence.

SEXUAL ASSAULT 4TH DEGREE

Under current law, one way to commit 4th degree sexual assault is to intentionally subject to sexual contact a victim who is:

1. under age 13 and the offender is more than two years older,
2. age 13 or 14 and the offender is more than three years older,
3. mentally defective or incapacitated to the extent that he or she is unable to consent to sexual contact,
4. physically helpless,
5. under age 18 and the offender is his or her guardian or otherwise responsible for his or her welfare, or
6. in custody or detained in a hospital or other institution and the offender has supervisory or disciplinary authority over him or her.

The bill no longer requires intentional contact but retains the requirement that the offender intend to (1) derive sexual gratification from the act or (2) degrade or humiliate the victim. Other acts constituting 4th degree sexual assault, such as sexual contact without the victim's consent or with a student enrolled in a school where the offender works, do not require that they be committed intentionally but require that they be done for the actor's sexual gratification or to degrade or humiliate the victim.

Fourth-degree sexual assault is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both. But it is a class D felony, punishable by up to five years in prison, a fine of up to \$5,000, or both if the victim is under age 16.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/12/2013)