



House of Representatives

General Assembly

File No. 687

January Session, 2013

House Bill No. 6342

House of Representatives, May 2, 2013

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING CRIMINAL PENALTIES FOR FAILURE TO REPORT CHILD ABUSE.

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

1 Section 1. Section 53-21 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Any person who (1) wilfully or unlawfully causes or permits any
4 child under the age of sixteen years to be placed in such a situation
5 that the life or limb of such child is endangered, the health of such
6 child is likely to be injured or the morals of such child are likely to be
7 impaired, or does any act likely to impair the health or morals of any
8 such child, or (2) has contact with the intimate parts, as defined in
9 section 53a-65, of a child under the age of sixteen years or subjects a
10 child under sixteen years of age to contact with the intimate parts of
11 such person, in a sexual and indecent manner likely to impair the
12 health or morals of such child, or (3) intentionally and unreasonably
13 interferes with or prevents the making of a report of suspected child
14 abuse or neglect required under section 17a-101a, as amended by this

15 act, or (4) permanently transfers the legal or physical custody of a child
16 under the age of sixteen years to another person for money or other
17 valuable consideration or acquires or receives the legal or physical
18 custody of a child under the age of sixteen years from another person
19 upon payment of money or other valuable consideration to such other
20 person or a third person, except in connection with an adoption
21 proceeding that complies with the provisions of chapter 803, shall be
22 guilty of a class C felony for a violation of subdivision (1) or [(3)] (4) of
23 this subsection, a class D felony for a violation of subdivision (3) of this
24 subsection and a class B felony for a violation of subdivision (2) of this
25 subsection, except that, if the violation is of subdivision (2) of this
26 subsection and the victim of the offense is under thirteen years of age,
27 such person shall be sentenced to a term of imprisonment of which
28 five years of the sentence imposed may not be suspended or reduced
29 by the court.

30 (b) The act of a parent or agent leaving an infant thirty days or
31 younger with a designated employee pursuant to section 17a-58 shall
32 not constitute a violation of this section.

33 Sec. 2. Section 17a-101a of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2013*):

35 (a) Any mandated reporter, as defined in section 17a-101, who in the
36 ordinary course of such person's employment or profession has
37 reasonable cause to suspect or believe that any child under the age of
38 eighteen years (1) has been abused or neglected, as defined in section
39 46b-120, as amended by this act, (2) has had nonaccidental physical
40 injury, or injury which is at variance with the history given of such
41 injury, inflicted upon such child, or (3) is placed at imminent risk of
42 serious harm, shall report or cause a report to be made in accordance
43 with the provisions of sections 17a-101b to 17a-101d, inclusive.

44 (b) Any person required to report under the provisions of this
45 section who fails to make such report or fails to make such report
46 within the time period prescribed in sections 17a-101b to 17a-101d,
47 inclusive, and section 17a-103 shall be [fined not less than five hundred

48 dollars or more than two thousand five hundred dollars] guilty of a
49 class A misdemeanor and shall be required to participate in an
50 educational and training program. The program may be provided by
51 one or more private organizations approved by the commissioner,
52 provided the entire cost of the program shall be paid from fees charged
53 to the participants, the amount of which shall be subject to the
54 approval of the commissioner.

55 (c) The Commissioner of Children and Families, or the
56 commissioner's designee, shall promptly notify the Chief State's
57 Attorney when there is reason to believe that any such person has
58 failed to make a report in accordance with this section.

59 Sec. 3. Subdivision (10) of section 46b-120 of the general statutes is
60 repealed and the following is substituted in lieu thereof (*Effective*
61 *October 1, 2013*):

62 (10) "Serious juvenile offense" means (A) the violation of, including
63 attempt or conspiracy to violate, section 21a-277, 21a-278, 29-33, 29-34,
64 29-35, subdivision (2) or [(3)] (4) of subsection (a) of section 53-21, as
65 amended by this act, 53-80a, 53-202b, 53-202c, 53-390 to 53-392,
66 inclusive, 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive, 53a-
67 64aa, 53a-64bb, 53a-70 to 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to
68 53a-94a, inclusive, 53a-95, 53a-100aa, 53a-101, 53a-102a, 53a-103a or
69 53a-111 to 53a-113, inclusive, subdivision (1) of subsection (a) of
70 section 53a-122, subdivision (3) of subsection (a) of section 53a-123,
71 section 53a-134, 53a-135, 53a-136a or 53a-167c, subsection (a) of section
72 53a-174, or section 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, or
73 (B) running away, without just cause, from any secure placement other
74 than home while referred as a delinquent child to the Court Support
75 Services Division or committed as a delinquent child to the
76 Commissioner of Children and Families for a serious juvenile offense;

77 Sec. 4. Subsection (a) of section 54-36p of the general statutes is
78 repealed and the following is substituted in lieu thereof (*Effective*
79 *October 1, 2013*):

80 (a) The following property shall be subject to forfeiture to the state
81 pursuant to subsection (b) of this section:

82 (1) All moneys used, or intended for use, in a violation of
83 subdivision [(3)] (4) of subsection (a) of section 53-21, as amended by
84 this act, or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a,
85 53a-196a, 53a-196b or 53a-196c;

86 (2) All property constituting the proceeds obtained, directly or
87 indirectly, from a violation of subdivision [(3)] (4) of subsection (a) of
88 section 53-21, as amended by this act, or section 53a-86, 53a-87, 53a-
89 90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-196c;

90 (3) All property derived from the proceeds obtained, directly or
91 indirectly, from any sale or exchange for pecuniary gain from a
92 violation of subdivision [(3)] (4) of subsection (a) of section 53-21, as
93 amended by this act, or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-
94 189b, 53a-192a, 53a-196a, 53a-196b or 53a-196c;

95 (4) All property used or intended for use, in any manner or part, to
96 commit or facilitate the commission of a violation for pecuniary gain of
97 subdivision [(3)] (4) of subsection (a) of section 53-21, as amended by
98 this act, or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a,
99 53a-196a, 53a-196b or 53a-196c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	53-21
Sec. 2	October 1, 2013	17a-101a
Sec. 3	October 1, 2013	46b-120(10)
Sec. 4	October 1, 2013	54-36p(a)

JUD 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 14 \$	FY 15 \$
Judicial Dept.	GF - Potential Revenue Gain	Less than \$5000	Less than \$5000

Municipal Impact: None

Explanation

The bill creates a new form of risk of injury to a child, which will be a class D felony. This is anticipated to result in a revenue gain of less than \$5,000. The current risk of injury to a child offense resulted in one fine in FY 12 for a total of \$100.

The bill results in a minimal potential revenue gain to the Judicial Department from making failure to report by mandated reporters a class A misdemeanor. This revenue gain is dependent upon the number of individuals that are convicted of a class A misdemeanor for failure to report. It is anticipated that few individuals will be convicted, as none have been to date. There is no revenue loss to the Department of Children and Families (DCF) from eliminating fines for failure to report as DCF does not impose or collect fines for any reason, regardless of having authority to do so.

The Out Years

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

Sources: *Judicial Department Offenses and Revenue Database*

OLR Bill Analysis**HB 6342*****AN ACT CONCERNING CRIMINAL PENALTIES FOR FAILURE TO REPORT CHILD ABUSE.*****SUMMARY:**

This bill makes it a form of risk of injury to a child for a person to intentionally and unreasonably interfere with or prevent a person who is required to report suspected child abuse and neglect (a mandated reporter) from carrying out this obligation.

The bill also makes it a crime for mandated reporters to fail to report suspected child abuse or neglect to the Department of Children and Families (DCF). Currently, this inaction subjects them to fines between \$500 and \$2,500. The bill makes it a class A misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$2,000, or both. As under existing law, these reporters must also participate in an educational and training program.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2013

INJURY OR RISK OF INJURY TO A CHILD

The bill creates a new form of risk of injury to a child that is committed when a person intentionally and unreasonably interferes with or prevents the mandatory reporting of suspected abuse and neglect of a child under age 18. It is a class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both. Under existing law, the crime is committed when a person:

1. wilfully or unlawfully causes or permits the life, health, or morals of a child under age 16 to be endangered, impaired, or

likely to be impaired;

2. permanently transfers or acquires the legal or physical custody of a child under age 16 for money or other valuable consideration, except in connection with certain adoptions; or
3. has intimate contact with a child under age 16 in a sexual and indecent manner likely to impair the health or morals of such child.

The first two offenses are class C felonies, punishable by imprisonment for up to 10 years, fines of up to \$10,000, or both. The third offense is a class B felony, punishable by imprisonment for up to 20 years (five years of which the court cannot suspend or reduce if the victim is under age 13), fines of up to \$15,000, or both.

MANDATORY REPORTING OF SUSPECTED CHILD ABUSE OR NEGLECT

By law, a person is required to report suspected child abuse or neglect within certain specified timeframes if (1) such person is a mandated reporter and (2) in the ordinary course of his or her employment or profession, has reasonable cause to suspect a child under age 18 has:

1. been abused or neglected,
2. suffered a non-accidental physical injury or one that is inconsistent with the given history of such injury, or
3. been placed at imminent risk of serious harm.

BACKGROUND

Abuse

A child under age 18 may be found abused if he or she has (1) suffered a non-accidental physical injury; (2) injuries that are at variance with their given history; or (3) suffered maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional abuse, or cruel punishment (CGS § 46b-

120(7)).

Neglect

A child under age 18 may be found neglected if, for reasons other than poverty, he or she (1) has been abandoned; (2) is being denied proper care and attention, physically; educationally; emotionally; or morally; or (3) is being permitted to live under conditions, circumstances, or associations injurious to his or her well-being (CGS § 46b-120(6)).

Mandated Reporter

By law, mandated child abuse reporters are:

1. Connecticut-licensed physicians or surgeons;
2. resident physicians or interns in any Connecticut hospital, whether or not licensed in this state;
3. registered nurses, licensed practical nurses, and physician assistants;
4. medical examiners;
5. dentists and dental hygienists;
6. psychologists, social workers, and mental health professionals;
7. school employees;
8. police officers;
9. juvenile or adult probation and parole officers;
10. members of the clergy;
11. pharmacists;
12. physical therapists and chiropractors;
13. optometrists;

- 14. podiatrists;
- 15. licensed or certified emergency medical services providers;
- 16. licensed or certified alcohol and drug counselors, (b) licensed professional counselors, and (c) sexual assault or battered women’s counselors;
- 17. licensed marital and family therapists;
- 18. foster parents;
- 19. (a) child care workers at state-licensed facilities, day care centers, or group or family day care homes and (b) the Department of Public Health Employees who license these facilities and youth camps;
- 20. DCF employees;
- 21. the child advocate and her staff;
- 22. family relations counselors and trainees; and
- 23. Judicial Branch family services supervisors (CGS § 17a-101(b)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/16/2013)