



House of Representatives

General Assembly

File No. 596

February Session, 2014

Substitute House Bill No. 5586

House of Representatives, April 16, 2014

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 substitute bill ought to pass.

***AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM.***

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

1 Section 1. Section 54-33g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) When any property believed to be possessed, controlled,
4 designed or intended for use or which is or has been used or which
5 may be used as a means of committing any criminal offense, or which
6 constitutes the proceeds of the commission of any criminal offense,
7 except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, has
8 been seized as a result of a lawful arrest or lawful search, which the
9 state claims to be a nuisance and desires to have destroyed or disposed
10 of in accordance with the provisions of this section, the [judge or court
11 issuing the warrant or before whom the arrested person is to be
12 arraigned shall, within ten days after such seizure, cause to be left with
13 the owner of, and with any person claiming of record a bona fide
14 mortgage, assignment of lease or rent, lien or security interest in, the

15 property so seized, or at his usual place of abode, if he is known, or, if
16 unknown, at the place where the property was seized, a summons
17 notifying the owner and any such other person claiming such interest
18 and all others whom it may concern to appear before such judge or
19 court, at a place and time named in such notice, which shall be not less
20 than six nor more than twelve days after the service thereof. Such
21 summons may be signed by a clerk of the court or his assistant and
22 service may be made by a local or state police officer. It shall describe
23 such property with reasonable certainty and state when and where
24 and why the same was seized] Chief State's Attorney or a deputy chief
25 state's attorney, state's attorney or assistant or deputy assistant state's
26 attorney may petition the court not later than ninety days after the
27 seizure, in the nature of a proceeding in rem, to order forfeiture of such
28 property. Such proceeding shall be deemed a civil suit in equity, in
29 which the state shall have the burden of proving all material facts by
30 clear and convincing evidence. The court shall identify the owner of
31 such property and any other person as appears to have an interest in
32 such property, and order the state to give notice to such owner and
33 any interested person by certified or registered mail. The court shall
34 promptly, but not less than two weeks after such notice, hold a hearing
35 on the petition.

36 [(b) If the owner of such property or any person claiming any
37 interest in the same appears, he shall be made a party defendant in
38 such case. Any state's attorney or assistant state's attorney may appear
39 and prosecute such complaint and shall have the burden of proving all
40 material facts by clear and convincing evidence.]

41 [(c)] (b) If the [judge or] court finds the allegations made in such
42 [complaint] petition to be true and that the property has been
43 possessed, controlled or designed for use, or is or has been or is
44 intended to be used, with intent to violate or in violation of any of the
45 criminal laws of this state, or constitutes the proceeds of a violation of
46 any of the criminal laws of this state, except a violation of section 21a-
47 267, 21a-277, 21a-278 or 21a-279, [he] the court shall render judgment
48 that such property is a nuisance and order the [same] property to be

49 destroyed or disposed of to a charitable or educational institution or to
50 a governmental agency or institution, [provided,] except that if any
51 such property is subject to a bona fide mortgage, assignment of lease
52 or rent, lien or security interest, such property shall not be so
53 destroyed or disposed of in violation of the rights of the holder of such
54 mortgage, assignment of lease or rent, lien or security interest.

55 (c) (1) When [any money or valuable prize has been seized upon
56 such warrant and condemned under the provisions of this section,
57 such money or valuable prize shall become the property of the state
58 and when the property is money it shall be deposited in the General
59 Fund, provided any such property, which at the time of such order]
60 the condemned property is money, the court shall order that it be
61 distributed as follows: (A) Seventy per cent shall be allocated to the
62 law enforcement agency, including the Department of Emergency
63 Services and Public Protection and local police departments,
64 responsible for investigating the criminal violation and seizing the
65 funds, and such funds shall be used by such law enforcement agency
66 for the detection, investigation, apprehension and prosecution of
67 persons for the violation of criminal laws; (B) twenty per cent shall be
68 deposited in the Criminal Injuries Compensation Fund established in
69 section 54-215; and (C) ten per cent shall be allocated to the Division of
70 Criminal Justice for use by the division for the prosecution of persons
71 for the violation of criminal laws.

72 (2) When the condemned property is a valuable prize, which is
73 subject to a bona fide mortgage, assignment of lease or rent, lien or
74 security interest, such property shall remain subject to such mortgage,
75 assignment of lease or rent, lien or security interest.

76 (d) When any property or valuable prize has been declared a
77 nuisance and condemned under this section, the court may also order
78 that such property be sold [by sale at public auction in which case the
79 proceeds shall become the property of the state and shall be deposited
80 in the General Fund; provided, any person who has a bona fide
81 mortgage, assignment of lease or rent, lien or security interest shall

82 have the same right to the proceeds as he had in the property prior to
83 sale. Final destruction or disposal of such property shall not be made
84 until any criminal trial in which such property might be used as
85 evidence has been completed] in accordance with procedures
86 approved by the Commissioner of Administrative Services. Proceeds
87 of such sale shall first be allocated toward the balance of any mortgage,
88 assignment of lease or rent, lien or security interest, and the remaining
89 proceeds of such sale, if any, shall be allocated in accordance with
90 subparagraphs (A) to (C), inclusive, of subdivision (1) of subsection (c)
91 of this section. In any criminal prosecution, secondary evidence of
92 property condemned and destroyed pursuant to this section shall be
93 admissible against the defendant to the same extent as such evidence
94 would have been admissible had the property not been condemned
95 and destroyed.

96 [(d)] (e) If the [judge or] court finds the allegations not to be true, or
97 that the property has not been kept with intent to violate or in
98 violation of the criminal laws of this state, or that the property does not
99 constitute the proceeds of a violation of the criminal laws of this state,
100 or that [it] the property is the property of a person who is not a
101 defendant, [he] the court shall order the property returned to the
102 owner forthwith and the party in possession of such property pending
103 such determination shall be responsible and personally liable for such
104 property from the time of seizure and shall immediately comply with
105 such order.

106 [(e)] (f) Failure of the state to proceed against such property in
107 accordance with the provisions of this section shall not prevent the use
108 of such property as evidence in any criminal trial.

109 Sec. 2. Subsection (a) of section 54-36p of the 2014 supplement to the
110 general statutes is repealed and the following is substituted in lieu
111 thereof (*Effective October 1, 2014*):

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

114 (1) All moneys used, or intended for use, in a violation of
115 subdivision (3) of subsection (a) of section 53-21 or section 53a-82, 53a-
116 86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-
117 196b, 53a-196c or 53a-196i;

118 (2) All property constituting the proceeds obtained, directly or
119 indirectly, from a violation of subdivision (3) of subsection (a) of
120 section 53-21 or section 53a-82, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-
121 189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

122 (3) All property derived from the proceeds obtained, directly or
123 indirectly, [from any sale or exchange for pecuniary gain] from a
124 violation of subdivision (3) of subsection (a) of section 53-21 or section
125 53a-82, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a,
126 53a-196a, 53a-196b, 53a-196c or 53a-196i;

127 (4) All property used or intended for use, in any manner or part, to
128 commit or facilitate the commission of a violation [for pecuniary gain]
129 of subdivision (3) of subsection (a) of section 53-21 or section 53a-82,
130 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a,
131 53a-196b, 53a-196c or 53a-196i.

132 Sec. 3. Section 54-63c of the general statutes is repealed and the
133 following is substituted in lieu thereof (*Effective October 1, 2014*):

134 (a) Except in cases of arrest pursuant to a bench warrant of arrest in
135 which the court or a judge thereof has indicated that bail should be
136 denied or ordered that the officer or indifferent person making such
137 arrest shall, without undue delay, bring such person before the clerk or
138 assistant clerk of the superior court for the geographical area under
139 section 54-2a, when any person is arrested for a bailable offense, the
140 chief of police, or the chief's authorized designee, of the police
141 department having custody of the arrested person or any probation
142 officer serving a violation of probation warrant shall promptly advise
143 such person of the person's rights under section 54-1b, and of the
144 person's right to be interviewed concerning the terms and conditions
145 of release. Unless the arrested person waives or refuses such interview,

146 the police officer or probation officer shall promptly interview the
147 arrested person to obtain information relevant to the terms and
148 conditions of the person's release from custody, and shall seek
149 independent verification of such information where necessary. At the
150 request of the arrested person, the person's counsel may be present
151 during the interview. No statement made by the arrested person in
152 response to any question during the interview related to the terms and
153 conditions of release shall be admissible as evidence against the
154 arrested person in any proceeding arising from the incident for which
155 the conditions of release were set. After such a waiver, refusal or
156 interview, the police officer or probation officer shall promptly order
157 release of the arrested person upon the execution of a written promise
158 to appear or the posting of such bond as may be set by the police
159 officer or probation officer, except that no condition of release set by
160 the court or a judge thereof may be modified by such [officer] officers
161 and no person shall be released upon the execution of a written
162 promise to appear or the posting of a bond without surety if the person
163 is charged with the commission of a family violence crime, as defined
164 in section 46b-38a, and in the commission of such crime the person
165 used or threatened the use of a firearm.

166 (b) If the person is charged with the commission of a family violence
167 crime, as defined in section 46b-38a, and the police officer does not
168 intend to impose nonfinancial conditions of release pursuant to this
169 subsection, the police officer shall, pursuant to the procedure set forth
170 in subsection (a) of this section, promptly order the release of such
171 person upon the execution of a written promise to appear or the
172 posting of such bond as may be set by the police officer. If such person
173 is not so released, the police officer shall make reasonable efforts to
174 immediately contact a bail commissioner or an intake, assessment and
175 referral specialist employed by the Judicial Branch to set the conditions
176 of such person's release pursuant to section 54-63d. If, after making
177 such reasonable efforts, the police officer is unable to contact a bail
178 commissioner or an intake, assessment and referral specialist or
179 contacts a bail commissioner or an intake, assessment and referral
180 specialist but such bail commissioner or intake, assessment and

181 referral specialist is unavailable to promptly perform such bail
182 commissioner's or intake, assessment and referral specialist's duties
183 pursuant to section 54-63d, the police officer shall, pursuant to the
184 procedure set forth in subsection (a) of this section, order the release of
185 such person upon the execution of a written promise to appear or the
186 posting of such bond as may be set by the police officer and may
187 impose nonfinancial conditions of release which may require that the
188 arrested person do one or more of the following: (1) Avoid all contact
189 with the alleged victim of the crime, (2) comply with specified
190 restrictions on the person's travel, association or place of abode that are
191 directly related to the protection of the alleged victim of the crime, or
192 (3) not use or possess a dangerous weapon, intoxicant or controlled
193 substance. Any such nonfinancial conditions of release shall be
194 indicated on a form prescribed by the Judicial Branch and sworn to by
195 the police officer. Such form shall articulate (A) the efforts that were
196 made to contact a bail commissioner or an intake, assessment and
197 referral specialist, (B) the specific factual basis relied upon by the
198 police officer to impose the nonfinancial conditions of release, and (C)
199 if the arrested person was non-English-speaking, that the services of a
200 translation service or interpreter were used. A copy of that portion of
201 the form that indicates the nonfinancial conditions of release shall
202 immediately be provided to the arrested person. A copy of the entire
203 form shall be provided to counsel for the arrested person at
204 arraignment. Any nonfinancial conditions of release imposed pursuant
205 to this subsection shall remain in effect until the arrested person is
206 presented before the Superior Court pursuant to subsection (a) of
207 section 54-1g. On such date, the court shall conduct a hearing pursuant
208 to section 46b-38c at which the defendant is entitled to be heard with
209 respect to the issuance of a protective order.

210 (c) When cash bail in excess of ten thousand dollars is received for a
211 detained person accused of a felony, where the underlying facts and
212 circumstances of the felony involve the use, attempted use or
213 threatened use of physical force against another person, the police
214 officer shall prepare a report that contains (1) the name, address and
215 taxpayer identification number of the accused person, (2) the name,

216 address and taxpayer identification number of each person offering the
217 cash bail, other than a person licensed as a professional bondsman
218 under chapter 533 or a surety bail bond agent under chapter 700f, (3)
219 the amount of cash received, and (4) the date the cash was received.
220 Not later than fifteen days after receipt of such cash bail, the police
221 officer shall file the report with the Department of Revenue Services
222 and mail a copy of the report to the state's attorney for the judicial
223 district in which the alleged offense was committed and to each person
224 offering the cash bail.

225 (d) No police officer or probation officer serving a violation of
226 probation warrant shall set the terms and conditions of a person's
227 release, set a bond for a person or release a person from custody under
228 this section unless the police officer or probation officer has first
229 checked the National Crime Information Center (NCIC) computerized
230 index of criminal justice information to determine if such person is
231 listed in such index.

232 (e) If the arrested person has not posted bail, the police officer or
233 probation officer serving a violation of probation warrant shall
234 immediately notify a bail commissioner or an intake, assessment and
235 referral specialist.

236 (f) The chief, acting chief, superintendent of police, the
237 Commissioner of Emergency Services and Public Protection, any
238 captain or lieutenant of any local police department or the Division of
239 State Police within the Department of Emergency Services and Public
240 Protection or any person lawfully exercising the powers of any such
241 officer may take a written promise to appear or a bond with or without
242 surety from an arrested person as provided in subsection (a) of this
243 section, or as fixed by the court or any judge thereof, may administer
244 such oaths as are necessary in the taking of promises or bonds and
245 shall file any report required under subsection (c) of this section.

246 Sec. 4. Subsections (a) and (b) of section 53a-182b of the general
247 statutes are repealed and the following is substituted in lieu thereof
248 (*Effective October 1, 2014*):

249 (a) A person is guilty of harassment in the first degree when, with
250 the intent to harass, annoy, alarm or terrorize another person, he
251 threatens to kill or physically injure that person or any other person,
252 and communicates such threat by telephone, or by telegraph, mail,
253 computer network, as defined in section 53a-250, or any other form of
254 written communication, in a manner likely to cause annoyance or
255 alarm and has been convicted of a capital felony under the provisions
256 of section 53a-54b in effect prior to April 25, 2012, a class A felony, a
257 class B felony, except a conviction under section 53a-86 or 53a-122, a
258 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-
259 153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-
260 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For
261 the purposes of this section, "convicted" means having a judgment of
262 conviction entered by a court of competent jurisdiction.

263 (b) For the purposes of this section, such offense may be deemed to
264 have been committed either at the place where the [telephone call was
265 made or] communication originated or at the place where it was
266 received.

267 Sec. 5. Subsections (b) and (c) of section 14-227a of the 2014
268 supplement to the general statutes are repealed and the following is
269 substituted in lieu thereof (*Effective October 1, 2014*):

270 (b) Except as provided in subsection (c) of this section, in any
271 criminal prosecution for violation of subsection (a) of this section,
272 evidence [respecting] concerning the amount of alcohol or drug in the
273 defendant's blood or urine at the time of the alleged offense, as shown
274 by a chemical analysis of the defendant's breath, blood or urine shall
275 be admissible and competent, provided: (1) The defendant was
276 afforded a reasonable opportunity to telephone an attorney prior to the
277 performance of the test and consented to the taking of the test upon
278 which such analysis is made; (2) a true copy of the report of the test
279 result was mailed to or personally delivered to the defendant within
280 twenty-four hours or by the end of the next regular business day, after
281 such result was known, whichever is later; (3) the test was performed

282 by or at the direction of a police officer according to methods and with
283 equipment approved by the Department of Emergency Services and
284 Public Protection and was performed in accordance with the
285 regulations adopted under subsection (d) of this section; (4) the device
286 used for such test was checked for accuracy in accordance with the
287 regulations adopted under subsection (d) of this section; (5) an
288 additional chemical test of the same type was performed at least ten
289 minutes after the initial test was performed or, if requested by the
290 police officer for reasonable cause, an additional chemical test of a
291 different type was performed to detect the presence of a drug or drugs
292 other than or in addition to alcohol, provided the results of the initial
293 test shall not be inadmissible under this subsection if reasonable efforts
294 were made to have such additional test performed in accordance with
295 the conditions set forth in this subsection and such additional test was
296 not performed or was not performed within a reasonable time, or the
297 results of such additional test are not admissible for failure to meet a
298 condition set forth in this subsection; and (6) evidence is presented that
299 the test was commenced within two hours of operation or, if the test
300 was not commenced within two hours of operation, evidence is
301 presented that demonstrates that the test results and analysis thereof
302 accurately indicate the blood alcohol content at the time of the alleged
303 offense. In any prosecution under this section it shall be a rebuttable
304 presumption that the results of such chemical analysis establish the
305 ratio of alcohol in the blood of the defendant at the time of the alleged
306 offense, except that if the results of the additional test indicate that the
307 ratio of alcohol in the blood of such defendant is ten-hundredths of one
308 per cent or less of alcohol, by weight, and is higher than the results of
309 the first test, evidence shall be presented that demonstrates that the
310 test results and the analysis thereof accurately indicate the blood
311 alcohol content at the time of the alleged offense.

312 (c) In any prosecution for a violation of subdivision (1) of subsection
313 (a) of this section, reliable evidence [respecting] concerning the amount
314 of alcohol in the defendant's blood or urine at the time of the alleged
315 offense, as shown by a chemical analysis of the defendant's blood,
316 breath or urine, otherwise admissible under subsection (b) of this

317 section, shall be admissible only at the request of the defendant.

318 Sec. 6. Subsection (c) of section 14-227b of the general statutes is
319 repealed and the following is substituted in lieu thereof (*Effective*
320 *October 1, 2014*):

321 (c) If the person arrested refuses to submit to such test or analysis or
322 submits to such test or analysis [, commenced within two hours of the
323 time of operation,] and the results of such test or analysis indicate that
324 such person has an elevated blood alcohol content, the police officer,
325 acting on behalf of the Commissioner of Motor Vehicles, shall
326 immediately revoke and take possession of the motor vehicle
327 operator's license or, if such person is a nonresident, suspend the
328 nonresident operating privilege of such person, for a twenty-four-hour
329 period. The police officer shall prepare a report of the incident and
330 shall mail or otherwise transmit in accordance with this subsection the
331 report and a copy of the results of any chemical test or analysis to the
332 Department of Motor Vehicles within three business days. The report
333 shall contain such information as prescribed by the Commissioner of
334 Motor Vehicles and shall be subscribed and sworn to under penalty of
335 false statement as provided in section 53a-157b by the arresting officer.
336 If the person arrested refused to submit to such test or analysis, the
337 report shall be endorsed by a third person who witnessed such refusal.
338 The report shall set forth the grounds for the officer's belief that there
339 was probable cause to arrest such person for a violation of subsection
340 (a) of section 14-227a and shall state that such person had refused to
341 submit to such test or analysis when requested by such police officer to
342 do so or that such person submitted to such test or analysis [,
343 commenced within two hours of the time of operation,] and the results
344 of such test or analysis indicated that such person had an elevated
345 blood alcohol content. The Commissioner of Motor Vehicles may
346 accept a police report under this subsection that is prepared and
347 transmitted as an electronic record, including electronic signature or
348 signatures, subject to such security procedures as the commissioner
349 may specify and in accordance with the provisions of sections 1-266 to
350 1-286, inclusive. In any hearing conducted pursuant to the provisions

351 of subsection (g) of this section, it shall not be a ground for objection to
352 the admissibility of a police report that it is an electronic record
353 prepared by electronic means.

354 Sec. 7. Subsection (g) of section 14-227b of the general statutes is
355 repealed and the following is substituted in lieu thereof (*Effective*
356 *October 1, 2014*):

357 (g) If such person contacts the department to schedule a hearing, the
358 department shall assign a date, time and place for the hearing, which
359 date shall be prior to the effective date of the suspension, except that,
360 with respect to a person whose operator's license or nonresident
361 operating privilege is suspended in accordance with subdivision (2) of
362 subsection (e) of this section, such hearing shall be scheduled not later
363 than thirty days after such person contacts the department. At the
364 request of such person or the hearing officer and upon a showing of
365 good cause, the commissioner may grant one or more continuances.
366 The hearing shall be limited to a determination of the following issues:
367 (1) Did the police officer have probable cause to arrest the person for
368 operating a motor vehicle while under the influence of intoxicating
369 liquor or any drug or both; (2) was such person placed under arrest; (3)
370 did such person refuse to submit to such test or analysis or did such
371 person submit to such test or analysis [, commenced within two hours
372 of the time of operation,] and the results of such test or analysis
373 indicated that such person had an elevated blood alcohol content; and
374 (4) was such person operating the motor vehicle. In the hearing, the
375 results of the test or analysis shall be sufficient to indicate the ratio of
376 alcohol in the blood of such person at the time of operation, [provided]
377 except that, if such test was not commenced within two hours of the
378 time of operation, evidence shall be presented that demonstrates that
379 the test results and analysis thereof accurately indicate the blood
380 alcohol content at the time of operation. The fees of any witness
381 summoned to appear at the hearing shall be the same as provided by
382 the general statutes for witnesses in criminal cases. Notwithstanding
383 the provisions of subsection (a) of section 52-143, any subpoena
384 summoning a police officer as a witness shall be served not less than

385 seventy-two hours prior to the designated time of the hearing.

386 Sec. 8. Subsection (a) of section 15-140r of the general statutes is
387 repealed and the following is substituted in lieu thereof (*Effective*
388 *October 1, 2014*):

389 (a) Except as provided in section 15-140s, as amended by this act, or
390 subsection (d) of this section, in any criminal prosecution for the
391 violation of section 15-132a, subsection (d) of section 15-133, section 15-
392 140l or 15-140n or subsection (b) of section 53-206d, evidence
393 [respecting] concerning the amount of alcohol or drug in the
394 defendant's blood or urine at the time of the alleged offense, as shown
395 by a chemical analysis of the defendant's breath, blood or urine shall
396 be admissible and competent, provided: (1) The defendant was
397 afforded a reasonable opportunity to telephone an attorney prior to the
398 performance of the test and consented to the taking of the test upon
399 which such analysis is made; (2) a true copy of the report of the test
400 result was mailed to or personally delivered to the defendant within
401 twenty-four hours or by the end of the next regular business day, after
402 such result was known, whichever is later; (3) the test was performed
403 by or at the direction of a certified law enforcement officer according to
404 methods and with equipment approved by the Department of
405 Emergency Services and Public Protection, and if a blood test was
406 performed, it was performed on a blood sample taken by a person
407 licensed to practice medicine and surgery in this state, a qualified
408 laboratory technician, an emergency medical technician II or a
409 registered nurse in accordance with the regulations adopted under
410 subsection (b) of this section; (4) the device used for such test was
411 checked for accuracy in accordance with the regulations adopted
412 under subsection (b) of this section; (5) an additional chemical test of
413 the same type was performed at least ten minutes after the initial test
414 was performed or, if requested by the peace officer for reasonable
415 cause, an additional chemical test of a different type was performed to
416 detect the presence of a drug or drugs other than or in addition to
417 alcohol, except that the results of the initial test shall not be
418 inadmissible under this subsection if reasonable efforts were made to

419 have such additional test performed in accordance with the conditions
420 set forth in this subsection and such additional test was not performed
421 or was not performed within a reasonable time, or the results of such
422 additional test are not admissible for failure to meet a condition set
423 forth in this subsection; and (6) evidence is presented that the test was
424 commenced within two hours of operation of the vessel or, [expert
425 testimony establishes the reliability of a test commenced beyond two
426 hours of operation of the vessel] if the test was not commenced within
427 two hours of operation of the vessel, evidence is presented that
428 demonstrates that the test results and analysis thereof accurately
429 indicate the blood alcohol content at the time of the alleged offense. In
430 any prosecution under this section, it shall be a rebuttable presumption
431 that the results of such chemical analysis establish the ratio of alcohol
432 in the blood of the defendant at the time of the alleged offense, except
433 that if the results of the additional test indicate that the ratio of alcohol
434 in the blood of such defendant is ten-hundredths of one per cent or less
435 of alcohol, by weight, and is higher than the results of the first test,
436 evidence shall be presented that demonstrates that the test results and
437 the analysis thereof accurately indicate the blood alcohol content at the
438 time of the alleged offense.

439 Sec. 9. Subsection (k) of section 14-227a of the 2014 supplement to
440 the general statutes is repealed and the following is substituted in lieu
441 thereof (*Effective October 1, 2014*):

442 (k) Notwithstanding the provisions of subsection (b) of this section,
443 evidence [respecting] concerning the amount of alcohol or drug in the
444 blood or urine of an operator of a motor vehicle involved in an
445 accident who has suffered or allegedly suffered physical injury in such
446 accident, which evidence is derived from a chemical analysis of a
447 blood sample taken from or a urine sample provided by such person
448 after such accident at the scene of the accident, while en route to a
449 hospital or at a hospital, shall be competent evidence to establish
450 probable cause for the arrest by warrant of such person for a violation
451 of subsection (a) of this section and shall be admissible and competent
452 in any subsequent prosecution thereof if: (1) The blood sample was

453 taken or the urine sample was provided for the diagnosis and
454 treatment of such injury; (2) if a blood sample was taken, the blood
455 sample was taken in accordance with the regulations adopted under
456 subsection (d) of this section; (3) a police officer has demonstrated to
457 the satisfaction of a judge of the Superior Court that such officer has
458 reason to believe that such person was operating a motor vehicle while
459 under the influence of intoxicating liquor or drug or both and that the
460 chemical analysis of such blood or urine sample constitutes evidence
461 of the commission of the offense of operating a motor vehicle while
462 under the influence of intoxicating liquor or drug or both in violation
463 of subsection (a) of this section; and (4) such judge has issued a search
464 warrant in accordance with section 54-33a authorizing the seizure of
465 the chemical analysis of such blood or urine sample. Such search
466 warrant may also authorize the seizure of the medical records
467 prepared by the hospital in connection with the diagnosis or treatment
468 of such injury.

469 Sec. 10. Section 15-140s of the general statutes is repealed and the
470 following is substituted in lieu thereof (*Effective October 1, 2014*):

471 Evidence [respecting] concerning the amount of alcohol or drug in
472 the blood or urine of an operator of a vessel involved in an accident
473 who has suffered or allegedly suffered physical injury in such accident,
474 which evidence is derived from a chemical analysis of a blood or urine
475 sample taken from such person at the scene of the accident, while en
476 route to a hospital or at a hospital after such accident, shall be
477 competent evidence to establish probable cause for the arrest by
478 warrant of such person for a violation of section 15-132a, 15-133, 15-
479 140l, or 15-140n and shall be admissible and competent in any
480 subsequent prosecution thereof if: (1) The blood or urine sample was
481 taken in the regular course of business of the hospital for the diagnosis
482 and treatment of such injury; (2) the blood sample was taken by a
483 person licensed to practice medicine in this state, a qualified laboratory
484 technician, an emergency technician II or a registered nurse; (3) a
485 police officer has demonstrated to the satisfaction of a judge of the
486 Superior Court that such officer has reason to believe that such person

487 was operating a vessel while under the influence of intoxicating liquor
488 or drug, or both, and that the chemical analysis of such blood or urine
489 sample constitutes evidence of the commission of the offense of
490 operating a vessel upon the waters of this state while under the
491 influence of intoxicating liquor or drug, or both, in violation of section
492 15-132a, 15-133, 15-140l, or 15-140n; and (4) such judge has issued a
493 search warrant in accordance with section 54-33a authorizing the
494 seizure of the chemical analysis of such blood or urine sample.

495 Sec. 11. Section 53a-127b of the general statutes is repealed and the
496 following is substituted in lieu thereof (*Effective October 1, 2014*):

497 (a) A person is guilty of fraudulent use of an automated teller
498 machine when, with intent to deprive another of property or to
499 appropriate the same to himself or herself or a third person, such
500 person knowingly uses in a fraudulent manner an automated teller
501 machine for the purpose of obtaining property. For the purposes of
502 this section, "automated teller machine" means an unmanned device at
503 which banking transactions including, without limitation, deposits,
504 withdrawals, advances, payments and transfers may be conducted,
505 and includes, without limitation, a satellite device and point of sale
506 terminal as defined in section 36a-2.

507 (b) In any prosecution under this section, the crime shall be deemed
508 to have been committed in the town in which the automated teller
509 machine was located.

510 (c) Fraudulent use of an automated teller machine is a class [C] A
511 misdemeanor.

512 Sec. 12. Section 53a-128 of the general statutes is repealed and the
513 following is substituted in lieu thereof (*Effective October 1, 2014*):

514 (a) A person is guilty of issuing a bad check when: (1) As a drawer
515 or representative drawer, he issues a check knowing that he or his
516 principal, as the case may be, does not then have sufficient funds with
517 the drawee to cover it, and (A) he intends or believes at the time of

518 issuance that payment will be refused by the drawee upon
519 presentation, and (B) payment is refused by the drawee upon
520 presentation; or (2) he passes a check knowing that the drawer thereof
521 does not then have sufficient funds with the drawee to cover it, and
522 (A) he intends or believes at the time the check is passed that payment
523 will be refused by the drawee upon presentation, and (B) payment is
524 refused by the drawee upon presentation.

525 (b) For the purposes of this section, an issuer is presumed to know
526 that the check or order, other than a postdated check or order, would
527 not be paid, if: (1) The issuer had no account with the drawee at the
528 time the check or order was issued; or (2) payment was refused by the
529 drawee for insufficient funds upon presentation within thirty days
530 after issue and the issuer failed to make good within eight days after
531 receiving notice of such refusal. For the purposes of this subsection, an
532 issuer is presumed to have received notice of such refusal if the drawee
533 or payee provides proof of mailing such notice by certified mail, return
534 receipt requested, to the issuer at his last known address.

535 (c) Issuing a bad check is: (1) A class D felony if the amount of the
536 check was more than [one] two thousand dollars; (2) a class A
537 misdemeanor if the amount of the check was more than [five hundred]
538 one thousand dollars but not more than [one] two thousand dollars; (3)
539 a class B misdemeanor if the amount of the check was more than [two
540 hundred fifty] five hundred dollars but not more than [five hundred]
541 one thousand dollars; or (4) a class C misdemeanor if the amount of
542 the check was [two hundred fifty] five hundred dollars or less.

543 Sec. 13. Section 2 of public act 11-252, as amended by section 3 of
544 public act 12-111, is repealed and the following is substituted in lieu
545 thereof (*Effective from passage*):

546 (a) There is established an Eyewitness Identification Task Force to
547 study issues concerning eyewitness identification in criminal
548 investigations and the use of sequential live and photo lineups. The
549 task force shall examine: (1) The science of sequential methods of
550 conducting a live lineup and a photo lineup, (2) the use of sequential

551 lineups in other states, (3) the practical implications of a state law
552 mandating sequential lineups, and (4) such other topics as the task
553 force deems appropriate relating to eyewitness identification and the
554 provision of sequential lineups.

555 (b) The task force shall consist of the following members or their
556 designees: The chairpersons and ranking members of the joint
557 standing committee of the General Assembly on the judiciary; the
558 Chief State's Attorney; the Chief Public Defender; the Victim Advocate;
559 an active or retired judge appointed by the Chief Justice of the
560 Supreme Court; a municipal police chief appointed by the president of
561 the Connecticut Police Chiefs Association; a representative of the
562 Police Officer Standards and Training Council; a representative of the
563 State Police Training School appointed by the Commissioner of
564 Emergency Services and Public Protection; a representative of the
565 criminal defense bar appointed by the president of the Connecticut
566 Criminal Defense Lawyers Association; a representative from the
567 Connecticut Innocence Project; and six public members, including the
568 dean of a law school located in this state and a social scientist,
569 appointed one each by the president pro tempore of the Senate, the
570 speaker of the House of Representatives, the majority leader of the
571 Senate, the majority leader of the House of Representatives, the
572 minority leader of the Senate, and the minority leader of the House of
573 Representatives.

574 (c) The task force may solicit and accept gifts, donations, grants or
575 funds from any public or private source to assist the task force in
576 carrying out its duties.

577 (d) The task force shall report its findings and recommendations to
578 the joint standing committee of the General Assembly on the judiciary
579 in accordance with section 11-4a of the general statutes not later than
580 April 1, 2012.

581 (e) After submitting the report required under subsection (d) of this
582 section, the task force shall continue in existence for the purpose of (1)
583 assisting the Police Officer Standards and Training Council and the

584 Division of State Police within the Department of Emergency Services
 585 and Public Protection in the development of policies and guidelines for
 586 the conducting of eyewitness identification procedures by law
 587 enforcement agencies as required by subsection (b) of section 54-1p of
 588 the general statutes, [as amended by this act,] (2) researching and
 589 evaluating best practices in the conducting of eyewitness identification
 590 procedures as such practices may change from time to time, and
 591 recommending such revised best practices to the Police Officer
 592 Standards and Training Council and the Division of State Police within
 593 the Department of Emergency Services and Public Protection, (3)
 594 collecting statistics concerning the conducting of eyewitness
 595 identification procedures by law enforcement agencies, and (4)
 596 monitoring the implementation of section 54-1p of the general statutes.
 597 [, as amended by this act.] The task force shall report the results of
 598 such monitoring, including any recommendations for proposed
 599 legislation, to the joint standing committee of the General Assembly on
 600 the judiciary in accordance with section 11-4a of the general statutes
 601 not later than February 5, 2014.

602 (f) After submitting the report required under subsection (e) of this
 603 section, the task force may continue in existence until June 30, 2016, for
 604 the purpose set forth in subdivision (3) of subsection (e) of this section,
 605 to collect and assist in the archiving of eyewitness identification
 606 procedures used by law enforcement agencies in this state, and to
 607 consider best practices in eyewitness identification procedures adopted
 608 by law enforcement agencies in other states, provided members of the
 609 task force and advisors to the task force shall receive no compensation
 610 for their services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	54-33g
Sec. 2	<i>October 1, 2014</i>	54-36p(a)
Sec. 3	<i>October 1, 2014</i>	54-63c
Sec. 4	<i>October 1, 2014</i>	53a-182b(a) and (b)
Sec. 5	<i>October 1, 2014</i>	14-227a(b) and (c)

Sec. 6	<i>October 1, 2014</i>	14-227b(c)
Sec. 7	<i>October 1, 2014</i>	14-227b(g)
Sec. 8	<i>October 1, 2014</i>	15-140r(a)
Sec. 9	<i>October 1, 2014</i>	14-227a(k)
Sec. 10	<i>October 1, 2014</i>	15-140s
Sec. 11	<i>October 1, 2014</i>	53a-127b
Sec. 12	<i>October 1, 2014</i>	53a-128
Sec. 13	<i>from passage</i>	PA 11-252, Sec. 2

JUD *Joint Favorable Subst.*

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 15 \$	FY 16 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Judicial Dept.	CICF - Potential Revenue Gain	See Below	Approximately 260,000
Criminal Justice, Div.	GF - Potential Revenue Gain	See Below	Approximately 130,000

Municipal Impact:

Municipalities	Effect	FY 15 \$	FY 16 \$
Municipal Police Departments	Potential Revenue Gain	See Below	Approximately 910,000

Explanation

The bill results in a potential revenue gain to the state and municipalities by altering forfeiture provisions related to money and property seized in connection to specific non-drug crimes. The bill specifies that seized money, which is currently deposited into the General Fund, be distributed as follows: 70% to the law enforcement agency that investigated the crime and seized the funds, for use in the agency's law enforcement activities, 20% to the Criminal Injuries Compensation Fund, and 10% to the Division of Criminal Justice.

Under current law, very few non-drug cases result in asset forfeiture. The bill is anticipated to result in comparable asset forfeiture to drug asset forfeiture cases, which results in approximately \$1.3 million each year. Local law enforcement agencies would receive approximately \$910,000, the Criminal Injuries Compensation Fund

would receive approximately \$260,000, and the Division of Criminal Justice would receive approximately \$130,000. Minimal revenue is anticipated in FY 15 as few cases are expected to be completed in FY 15. On average each case results in approximately \$450 of assets.

In addition, the bill expands the type of property that can be seized and forfeited related to sexual exploitation and human trafficking crimes. Current law requires that seized property must be connected to pecuniary gain. The bill no longer requires these actions to be connected to pecuniary gain.

The bill increases the penalty for fraudulent use of an ATM. In FY 13 there were no convictions and no fines collected for this offense.

The bill alters the penalties for issuing a bad check, increasing the range of the bad check and in most cases, reducing the penalty. In FY 13, there were 13 convictions for this offense, resulting in approximately \$3,700 in fines.

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

sHB 5586

AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.

SUMMARY:

This bill makes a number of unrelated changes to criminal justice statutes, including:

1. altering the forfeiture procedures for property connected to criminal offenses other than certain drug crimes and allowing forfeiture of proceeds of these crimes;
2. expanding forfeiture provisions for sexual exploitation and human trafficking crimes to cover more property;
3. giving probation officers serving violation of probation warrants the same responsibilities as police officers when arresting someone under a warrant, including allowing them to release someone arrested on a violation of probation warrant;
4. making a minor change to the crime of 1st degree harassment;
5. allowing blood alcohol content (BAC) tests taken more the two hours after a person was operating a motor vehicle to be admissible in driving under the influence (DUI) prosecutions and administrative per se hearings regarding DUI if evidence shows their analysis accurately indicates a person's BAC at the time of the alleged offense;
6. makes a minor change regarding admissibility of BAC tests in boating under the influence cases;
7. increasing the penalty for fraudulent use of an ATM;

8. doubling the monetary thresholds for the different penalties that apply to issuing bad checks based on the value of the checks issued, thereby reducing the penalty in some cases; and
9. allowing the Eyewitness Identification Task Force to continue until June 30, 2016 for certain purposes.

EFFECTIVE DATE: October 1, 2014, except for the task force provision, which is effective upon passage.

§ 1 — FORFEITURE OF PROPERTY RELATED TO CRIMES

The bill makes a number of changes to the law authorizing forfeiture of property connected to a crime other than most drug crimes, making them similar to procedures for forfeiture of property related to other crimes such as drug crimes and sexual exploitation and human trafficking crimes.

Property Subject to Forfeiture

Current law subjects to forfeiture property possessed, controlled, designed, intended for use, or which is, has been, or may be used to commit a crime. The bill also subjects to forfeiture the proceeds of a crime.

Notice

Currently, the judge issuing the warrant or the arraignment court must notify the property owner and anyone with a recorded mortgage, assignment of lease or rent, lien, or security interest in the property through a summons within 10 days of the seizure. The bill instead:

1. allows a prosecutor to petition the court, within 90 days after seizure, for a civil proceeding to forfeit the property;
2. requires the court to identify owners and any others who appear to have an interest in the property; and
3. requires the state to notify owners and interested parties.

Current law allows a police officer to serve the notice by leaving it

with the person, at his or her usual place of abode, or at the place where the property was seized if the person's address is unknown. The bill instead requires the state to provide notice by certified or registered mail.

The bill eliminates requirements that the notice describe the property with reasonable certainty; state when, where, and why it was seized; and the date and place of the hearing.

Hearing

Current law requires the court to hold a hearing between six and 12 days after serving the notice. The bill instead requires the hearing to be at least two weeks after the notice.

It eliminates a provision making parties of those with an interest who appear at the court hearing. The bill makes the action an in rem action (an action against the property) that is a civil action. As under current law, the state must prove the material facts by clear and convincing evidence.

Disposition of Property

As under current law, the court can determine the property is a nuisance and order it destroyed or disposed of to a charitable or educational institution or a government agency or institution. Property may also be sold at public auction. It cannot be destroyed or disposed of in violation of a mortgage, assignment, lien, or security interest.

Currently, seized money is deposited in the General Fund but remains subject to a bona fide mortgage, assignment of lease or rent, lien, or security interest. The bill instead requires the money to be distributed as follows: (1) 70% to the law enforcement agency that investigated the crime and seized the funds, for use in the agency's law enforcement activities; (2) 20% to the Criminal Injuries Compensation Fund (which provides compensation and restitution to crime victims); and (3) 10% to the Division of Criminal Justice, for use in prosecutions.

Currently, a seized valuable prize can become the state's property

subject to a mortgage, assignment, lien, or security interest. The bill no longer requires it to become state property and thus allows it to be disposed of to other entities. Current law also allows selling the prize at public auction and depositing proceeds in the General Fund but preserves the rights of those with interests. The bill instead allows its sale according to procedures approved by the administrative services commissioner. The bill requires (1) using sale proceeds to pay any mortgage, assignment of lease or rent, lien, or security interest and (2) distributing any remaining amount in the manner described above for seized money.

The bill makes secondary evidence (evidence about the property rather than the property itself) of property condemned and destroyed under these provisions admissible against the defendant in a prosecution, to the same extent the evidence would have been admissible if the property was not destroyed.

§ 2 — FORFEITURE OF PROPERTY RELATED TO SEXUAL EXPLOITATION AND HUMAN TRAFFICKING

The bill expands the types of property related to sexual exploitation and human trafficking crimes that can be seized and forfeited.

Current law authorizes forfeiture of property (1) derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from these criminal violations and (2) used or intended for use, in any manner or part, to commit or facilitate the violation of those laws for pecuniary gain. The bill no longer requires these actions be connected to pecuniary gain.

By law, other funds and property are subject to forfeiture if they are (1) money used or intended for use in certain crimes or (2) property constituting the proceeds obtained, directly or indirectly, from these crimes.

By law, the sexual exploitation and human trafficking forfeiture procedure relates to property connected with the crimes of:

1. risk of injury to a minor, involving sale of a child under age 16;
2. prostitution and 1st, 2nd, and 3rd degree promoting prostitution;
3. enticing a minor using an interactive computer;
4. voyeurism, disseminating voyeuristic material, and employing or promoting a minor in an obscene performance;
5. human trafficking;
6. importing child pornography, and
7. commercial sexual exploitation of a minor.

§ 3 — PROBATION

The bill gives a probation officer serving a violation of probation warrant the same responsibilities current law gives a police officer serving most warrants, including violation of probation warrants. Under the bill, the probation officer must:

1. advise the subject of the warrant of his or her right to (a) counsel and (b) refuse to make statements and that statements may be introduced as evidence against him or her;
2. interview the subject to obtain information relevant to terms and conditions of the subject's release, unless the person waives or refuses the interview, and independently verify information when necessary;
3. release the person on a written promise to appear or on posting a bond with conditions set by the officer (conditions may not modify those set by the court), except for those charged with a family violence crime;
4. check the National Crime Information Center criminal information database before setting conditions of release; and
5. immediately notify a bail commissioner or intake, assessment,

and referral specialist if the person does not post bail.

§ 4 — 1ST DEGREE HARASSMENT

Under the bill, someone who commits 1st degree harassment is deemed to have committed the crime where the harassing communication originated or where it was received. Current law only deems the crime to have been committed in both places when the conduct involves telephone calls, although someone can commit 1st degree harassment through a telephone, telegraph, mail, computer network, or other form of communication. A similar provision already applies to 2nd degree harassment.

By law, 1st degree harassment is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.

§§ 5-10 — BAC TESTS FOR DRIVERS AND BOATERS

Under current law, a BAC test or analysis must be administered to a person within two hours of his or her operating a motor vehicle for the results to be admissible in a criminal prosecution for operating a motor vehicle while under the influence of drugs or alcohol or having an elevated BAC. The two-hour deadline also applies to an administrative per se hearing for operating a motor vehicle under the influence. (By law, drivers implicitly consent to testing and administrative per se license suspension procedures apply to drivers who refuse a test or whose test results indicate an elevated BAC (CGS § 14-227b).)

The bill allows a BAC test taken after the two-hour deadline to be admissible in a prosecution or per se hearing if evidence is presented that the results and analysis accurately indicate the BAC at the time of the alleged offense. By law, the BAC level must be confirmed by a second test taken within 10 minutes of the first test.

For boating under the influence crimes, current law requires expert testimony to establish a BAC test's reliability when the test was given to the person more than two hours after he or she operated the vessel. The bill instead requires evidence demonstrating that the test results and analysis accurately indicate the person's BAC at the time of the

offense.

The bill also makes technical changes.

§ 11 — FRAUDULENT USE OF AN ATM

The bill increases, from a class C to class A misdemeanor, the penalty for fraudulently using an ATM. By law, a person commits this crime when he or she knowingly uses an ATM in a fraudulent way to obtain property, with intent to deprive someone of property or appropriate it to someone.

By law, a class C misdemeanor is punishable by up to three months in prison, a fine of up to \$500, or both. A class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

§ 12 — ISSUING A BAD CHECK

By law, the penalty for knowingly issuing bad checks depends on the value of the checks issued. The bill doubles the monetary thresholds for the different penalties, as shown in Table 1. Thus, the bill reduces the penalty in some cases. For example, under current law, writing a \$1,500 bad check is a class D felony but under the bill it is a class A misdemeanor.

Table 1: Penalties for Issuing a Bad Check

<i>Penalty</i>	<i>Amount of Bad Checks Issued</i>	
	<i>Current Law</i>	<i>Under the Bill</i>
Class D felony (up to five years in prison, fine of up to \$5,000, or both)	Over \$1,000	Over \$2,000
Class A misdemeanor (up to one year in prison, a fine of up to \$2,000, or both)	\$500.01 to \$1,000	\$1,000.01 to \$2,000
Class B misdemeanor (up to six months in prison, a fine of up to \$1,000, or both)	\$250.01 to \$500	\$500.01 to \$1000
Class C misdemeanor (up to three months in prison, a fine of up to \$500, or both)	\$250 or less	\$500 or less

§ 13 — EYEWITNESS IDENTIFICATION TASK FORCE EXTENSION

The bill allows this task force to continue until June 30, 2016 to (1) collect statistics about eyewitness identification procedures conducted by law enforcement agencies, (2) collect and assist in archiving eyewitness identification procedures used by law enforcement in Connecticut, and (3) consider best practices adopted by agencies in other states. The bill prohibits task force members and advisors from receiving any compensation for their services.

The law previously charged this task force with studying issues concerning eyewitness identification in criminal investigations. The law allowed the task force to continue in existence in order to:

1. assist the Police Officer Standards and Training Council (POST) and State Police in developing policies and guidelines for eyewitness identification procedures,
2. research and evaluate best practices for these procedures and recommend revisions to POST and the State Police,
3. collect statistics on eyewitness identification procedures,
4. monitor implementation of the statutory requirements for eyewitness identification procedures, and
5. report to the Judiciary Committee on its monitoring activities and any recommended legislative changes by February 5, 2014.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/02/2014)