



General Assembly

February Session, 2014

Raised Bill No. 5586

LCO No. 2778



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***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 Section 54-33g of the general statutes is repealed and the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, as amended by this act, 53a-189b,
117 53a-192a, 53a-196a, 53a-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, as amended by this act, 53a-189b, 53a-192a, 53a-196a, 53a-196b,
122 53a-196c or 53a-196i;

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

128 (4) All property used or intended for use, in any manner or part, to
129 commit or facilitate the commission of a violation [for pecuniary gain]
130 of subdivision (3) of subsection (a) of section 53-21 or section 53a-82,
131 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, as amended by this act, 53a-
132 189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i.

133 Sec. 3. Section 53a-189a of the general statutes is repealed and the
134 following is substituted in lieu thereof (*Effective October 1, 2014*):

135 (a) A person is guilty of voyeurism when, (1) with malice, such
136 person knowingly photographs, films, videotapes or otherwise records
137 the image of another person (A) without the knowledge and consent of
138 such other person, (B) while such other person is not in plain view, and
139 (C) under circumstances where such other person has a reasonable
140 expectation of privacy, or (2) with intent to arouse or satisfy the sexual
141 desire of such person or any other person, such person knowingly

142 photographs, films, videotapes or otherwise records the image of
143 another person (A) without the knowledge and consent of such other
144 person, (B) while such other person is not in plain view, and (C) under
145 circumstances where such other person has a reasonable expectation of
146 privacy, or (3) with intent to arouse or satisfy the sexual desire of such
147 person, such person commits simple trespass, as provided in section
148 53a-110a, and observes, in other than a casual or cursory manner,
149 another person (A) without the knowledge or consent of such other
150 person, (B) while such other person is inside a dwelling, as defined in
151 section 53a-100, and not in plain view, and (C) under circumstances
152 where such other person has a reasonable expectation of privacy or (4)
153 with intent to arouse or satisfy the sexual desire of such person or any
154 other person, such person knowingly photographs, films, videotapes
155 or otherwise records the genitals, pubic area or buttocks of another
156 person or the undergarments or stockings used to clothe the genitals,
157 buttocks or pubic area of another person.

158 (b) Voyeurism is (1) a class D felony for a first offense, except as
159 provided in subdivision (3) of this subsection, (2) a class C felony for
160 any subsequent offense, and (3) a class C felony for a first offense when
161 (A) such person has been previously convicted of an offense
162 enumerated in subsection (f) of section 53a-29, as amended by this act,
163 or (B) the intended subject of the offense is a person under sixteen
164 years of age.

165 (c) Notwithstanding the provisions of section 54-193, no person may
166 be prosecuted for an offense under subdivision (1), (2) or (4) of
167 subsection (a) of this section except within five years from the date of
168 the offense, or within five years from the date the subject of the offense
169 discovers the existence of the photograph, film, videotape or other
170 recording that constitutes a violation of subdivision (1), (2) or (4) of
171 subsection (a) of this section, whichever is later.

172 Sec. 4. Subsection (f) of section 53a-29 of the 2014 supplement to the
173 general statutes is repealed and the following is substituted in lieu

174 thereof (*Effective October 1, 2014*):

175 (f) The period of probation, unless terminated sooner as provided in
176 section 53a-32, shall be not less than ten years or more than thirty-five
177 years for conviction of a violation of subdivision (2) of subsection (a) of
178 section 53-21, [or] section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-
179 72b [,] or 53a-90a, subdivision (2), (3) or (4) of subsection (a) of section
180 53a-189a, as amended by this act, or section 53a-196b, 53a-196c, 53a-
181 196d, 53a-196e or 53a-196f.

182 Sec. 5. Subdivision (5) of section 54-250 of the 2014 supplement to
183 the general statutes is repealed and the following is substituted in lieu
184 thereof (*Effective October 1, 2014*):

185 (5) "Nonviolent sexual offense" means (A) a violation of section 53a-
186 73a or subdivision (2) , (3) or (4) of subsection (a) of section 53a-189a,
187 as amended by this act, or (B) a violation of any of the offenses
188 specified in subparagraph (A) of this subdivision for which a person is
189 criminally liable under section 53a-8, 53a-48 or 53a-49.

190 Sec. 6. Section 54-63c of the general statutes is repealed and the
191 following is substituted in lieu thereof (*Effective October 1, 2014*):

192 (a) Except in cases of arrest pursuant to a bench warrant of arrest in
193 which the court or a judge thereof has indicated that bail should be
194 denied or ordered that the officer or indifferent person making such
195 arrest shall, without undue delay, bring such person before the clerk or
196 assistant clerk of the superior court for the geographical area under
197 section 54-2a, when any person is arrested for aailable offense, the
198 chief of police, or the chief's authorized designee, of the police
199 department having custody of the arrested person or any probation
200 officer serving a violation of probation warrant shall promptly advise
201 such person of the person's rights under section 54-1b, and of the
202 person's right to be interviewed concerning the terms and conditions
203 of release. Unless the arrested person waives or refuses such interview,
204 the police officer or probation officer shall promptly interview the

205 arrested person to obtain information relevant to the terms and
206 conditions of the person's release from custody, and shall seek
207 independent verification of such information where necessary. At the
208 request of the arrested person, the person's counsel may be present
209 during the interview. No statement made by the arrested person in
210 response to any question during the interview related to the terms and
211 conditions of release shall be admissible as evidence against the
212 arrested person in any proceeding arising from the incident for which
213 the conditions of release were set. After such a waiver, refusal or
214 interview, the police officer or probation officer shall promptly order
215 release of the arrested person upon the execution of a written promise
216 to appear or the posting of such bond as may be set by the police
217 officer or probation officer, except that no condition of release set by
218 the court or a judge thereof may be modified by such [officer] officers
219 and no person shall be released upon the execution of a written
220 promise to appear or the posting of a bond without surety if the person
221 is charged with the commission of a family violence crime, as defined
222 in section 46b-38a, and in the commission of such crime the person
223 used or threatened the use of a firearm.

224 (b) If the person is charged with the commission of a family violence
225 crime, as defined in section 46b-38a, and the police officer does not
226 intend to impose nonfinancial conditions of release pursuant to this
227 subsection, the police officer shall, pursuant to the procedure set forth
228 in subsection (a) of this section, promptly order the release of such
229 person upon the execution of a written promise to appear or the
230 posting of such bond as may be set by the police officer. If such person
231 is not so released, the police officer shall make reasonable efforts to
232 immediately contact a bail commissioner or an intake, assessment and
233 referral specialist employed by the Judicial Branch to set the conditions
234 of such person's release pursuant to section 54-63d. If, after making
235 such reasonable efforts, the police officer is unable to contact a bail
236 commissioner or an intake, assessment and referral specialist or
237 contacts a bail commissioner or an intake, assessment and referral

238 specialist but such bail commissioner or intake, assessment and
239 referral specialist is unavailable to promptly perform such bail
240 commissioner's or intake, assessment and referral specialist's duties
241 pursuant to section 54-63d, the police officer shall, pursuant to the
242 procedure set forth in subsection (a) of this section, order the release of
243 such person upon the execution of a written promise to appear or the
244 posting of such bond as may be set by the police officer and may
245 impose nonfinancial conditions of release which may require that the
246 arrested person do one or more of the following: (1) Avoid all contact
247 with the alleged victim of the crime, (2) comply with specified
248 restrictions on the person's travel, association or place of abode that are
249 directly related to the protection of the alleged victim of the crime, or
250 (3) not use or possess a dangerous weapon, intoxicant or controlled
251 substance. Any such nonfinancial conditions of release shall be
252 indicated on a form prescribed by the Judicial Branch and sworn to by
253 the police officer. Such form shall articulate (A) the efforts that were
254 made to contact a bail commissioner or an intake, assessment and
255 referral specialist, (B) the specific factual basis relied upon by the
256 police officer to impose the nonfinancial conditions of release, and (C)
257 if the arrested person was non-English-speaking, that the services of a
258 translation service or interpreter were used. A copy of that portion of
259 the form that indicates the nonfinancial conditions of release shall
260 immediately be provided to the arrested person. A copy of the entire
261 form shall be provided to counsel for the arrested person at
262 arraignment. Any nonfinancial conditions of release imposed pursuant
263 to this subsection shall remain in effect until the arrested person is
264 presented before the Superior Court pursuant to subsection (a) of
265 section 54-1g. On such date, the court shall conduct a hearing pursuant
266 to section 46b-38c at which the defendant is entitled to be heard with
267 respect to the issuance of a protective order.

268 (c) When cash bail in excess of ten thousand dollars is received for a
269 detained person accused of a felony, where the underlying facts and
270 circumstances of the felony involve the use, attempted use or

271 threatened use of physical force against another person, the police
272 officer shall prepare a report that contains (1) the name, address and
273 taxpayer identification number of the accused person, (2) the name,
274 address and taxpayer identification number of each person offering the
275 cash bail, other than a person licensed as a professional bondsman
276 under chapter 533 or a surety bail bond agent under chapter 700f, (3)
277 the amount of cash received, and (4) the date the cash was received.
278 Not later than fifteen days after receipt of such cash bail, the police
279 officer shall file the report with the Department of Revenue Services
280 and mail a copy of the report to the state's attorney for the judicial
281 district in which the alleged offense was committed and to each person
282 offering the cash bail.

283 (d) No police officer or probation officer serving a violation of
284 probation warrant shall set the terms and conditions of a person's
285 release, set a bond for a person or release a person from custody under
286 this section unless the police officer or probation officer has first
287 checked the National Crime Information Center (NCIC) computerized
288 index of criminal justice information to determine if such person is
289 listed in such index.

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

294 (f) The chief, acting chief, superintendent of police, the
295 Commissioner of Emergency Services and Public Protection, any
296 captain or lieutenant of any local police department or the Division of
297 State Police within the Department of Emergency Services and Public
298 Protection or any person lawfully exercising the powers of any such
299 officer may take a written promise to appear or a bond with or without
300 surety from an arrested person as provided in subsection (a) of this
301 section, or as fixed by the court or any judge thereof, may administer
302 such oaths as are necessary in the taking of promises or bonds and

303 shall file any report required under subsection (c) of this section.

304 Sec. 7. Subsections (a) and (b) of section 53a-182b of the general
305 statutes are repealed and the following is substituted in lieu thereof
306 (*Effective October 1, 2014*):

307 (a) A person is guilty of harassment in the first degree when, with
308 the intent to harass, annoy, alarm or terrorize another person, he
309 threatens to kill or physically injure that person or any other person,
310 and communicates such threat by telephone, or by telegraph, mail,
311 computer network, as defined in section 53a-250, or any other form of
312 written communication, in a manner likely to cause annoyance or
313 alarm and has been convicted of a capital felony under the provisions
314 of section 53a-54b in effect prior to April 25, 2012, a class A felony, a
315 class B felony, except a conviction under section 53a-86 or 53a-122, a
316 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-
317 153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-
318 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For
319 the purposes of this section, "convicted" means having a judgment of
320 conviction entered by a court of competent jurisdiction.

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

325 Sec. 8. Subsections (b) and (c) of section 14-227a of the 2014
326 supplement to the general statutes are repealed and the following is
327 substituted in lieu thereof (*Effective October 1, 2014*):

328 (b) Except as provided in subsection (c) of this section, in any
329 criminal prosecution for violation of subsection (a) of this section,
330 evidence [respecting] concerning the amount of alcohol or drug in the
331 defendant's blood or urine at the time of the alleged offense, as shown
332 by a chemical analysis of the defendant's breath, blood or urine shall
333 be admissible and competent, provided: (1) The defendant was

334 afforded a reasonable opportunity to telephone an attorney prior to the
335 performance of the test and consented to the taking of the test upon
336 which such analysis is made; (2) a true copy of the report of the test
337 result was mailed to or personally delivered to the defendant within
338 twenty-four hours or by the end of the next regular business day, after
339 such result was known, whichever is later; (3) the test was performed
340 by or at the direction of a police officer according to methods and with
341 equipment approved by the Department of Emergency Services and
342 Public Protection and was performed in accordance with the
343 regulations adopted under subsection (d) of this section; (4) the device
344 used for such test was checked for accuracy in accordance with the
345 regulations adopted under subsection (d) of this section; (5) an
346 additional chemical test of the same type was performed at least ten
347 minutes after the initial test was performed or, if requested by the
348 police officer for reasonable cause, an additional chemical test of a
349 different type was performed to detect the presence of a drug or drugs
350 other than or in addition to alcohol, provided the results of the initial
351 test shall not be inadmissible under this subsection if reasonable efforts
352 were made to have such additional test performed in accordance with
353 the conditions set forth in this subsection and such additional test was
354 not performed or was not performed within a reasonable time, or the
355 results of such additional test are not admissible for failure to meet a
356 condition set forth in this subsection; and (6) evidence is presented that
357 the test was commenced within two hours of operation or, if the test
358 was not commenced within two hours of operation, evidence is
359 presented that demonstrates that the test results and analysis thereof
360 accurately indicate the blood alcohol content at the time of the alleged
361 offense. In any prosecution under this section it shall be a rebuttable
362 presumption that the results of such chemical analysis establish the
363 ratio of alcohol in the blood of the defendant at the time of the alleged
364 offense, except that if the results of the additional test indicate that the
365 ratio of alcohol in the blood of such defendant is ten-hundredths of one
366 per cent or less of alcohol, by weight, and is higher than the results of
367 the first test, evidence shall be presented that demonstrates that the

368 test results and the analysis thereof accurately indicate the blood
369 alcohol content at the time of the alleged offense.

370 (c) In any prosecution for a violation of subdivision (1) of subsection
371 (a) of this section, reliable evidence [respecting] concerning the amount
372 of alcohol in the defendant's blood or urine at the time of the alleged
373 offense, as shown by a chemical analysis of the defendant's blood,
374 breath or urine, otherwise admissible under subsection (b) of this
375 section, shall be admissible only at the request of the defendant.

376 Sec. 9. Subsection (c) of section 14-227b of the general statutes is
377 repealed and the following is substituted in lieu thereof (*Effective*
378 *October 1, 2014*):

379 (c) If the person arrested refuses to submit to such test or analysis or
380 submits to such test or analysis [, commenced within two hours of the
381 time of operation,] and the results of such test or analysis indicate that
382 such person has an elevated blood alcohol content, the police officer,
383 acting on behalf of the Commissioner of Motor Vehicles, shall
384 immediately revoke and take possession of the motor vehicle
385 operator's license or, if such person is a nonresident, suspend the
386 nonresident operating privilege of such person, for a twenty-four-hour
387 period. The police officer shall prepare a report of the incident and
388 shall mail or otherwise transmit in accordance with this subsection the
389 report and a copy of the results of any chemical test or analysis to the
390 Department of Motor Vehicles within three business days. The report
391 shall contain such information as prescribed by the Commissioner of
392 Motor Vehicles and shall be subscribed and sworn to under penalty of
393 false statement as provided in section 53a-157b by the arresting officer.
394 If the person arrested refused to submit to such test or analysis, the
395 report shall be endorsed by a third person who witnessed such refusal.
396 The report shall set forth the grounds for the officer's belief that there
397 was probable cause to arrest such person for a violation of subsection
398 (a) of section 14-227a and shall state that such person had refused to
399 submit to such test or analysis when requested by such police officer to

400 do so or that such person submitted to such test or analysis [,
401 commenced within two hours of the time of operation,] and the results
402 of such test or analysis indicated that such person had an elevated
403 blood alcohol content. The Commissioner of Motor Vehicles may
404 accept a police report under this subsection that is prepared and
405 transmitted as an electronic record, including electronic signature or
406 signatures, subject to such security procedures as the commissioner
407 may specify and in accordance with the provisions of sections 1-266 to
408 1-286, inclusive. In any hearing conducted pursuant to the provisions
409 of subsection (g) of this section, it shall not be a ground for objection to
410 the admissibility of a police report that it is an electronic record
411 prepared by electronic means.

412 Sec. 10. Subsection (g) of section 14-227b of the general statutes is
413 repealed and the following is substituted in lieu thereof (*Effective*
414 *October 1, 2014*):

415 (g) If such person contacts the department to schedule a hearing, the
416 department shall assign a date, time and place for the hearing, which
417 date shall be prior to the effective date of the suspension, except that,
418 with respect to a person whose operator's license or nonresident
419 operating privilege is suspended in accordance with subdivision (2) of
420 subsection (e) of this section, such hearing shall be scheduled not later
421 than thirty days after such person contacts the department. At the
422 request of such person or the hearing officer and upon a showing of
423 good cause, the commissioner may grant one or more continuances.
424 The hearing shall be limited to a determination of the following issues:
425 (1) Did the police officer have probable cause to arrest the person for
426 operating a motor vehicle while under the influence of intoxicating
427 liquor or any drug or both; (2) was such person placed under arrest; (3)
428 did such person refuse to submit to such test or analysis or did such
429 person submit to such test or analysis [, commenced within two hours
430 of the time of operation,] and the results of such test or analysis
431 indicated that such person had an elevated blood alcohol content; and
432 (4) was such person operating the motor vehicle. In the hearing, the

433 results of the test or analysis shall be sufficient to indicate the ratio of
434 alcohol in the blood of such person at the time of operation, [provided]
435 except that, if such test was not commenced within two hours of the
436 time of operation, evidence shall be presented that demonstrates that
437 the test results and analysis thereof accurately indicate the blood
438 alcohol content at the time of operation. The fees of any witness
439 summoned to appear at the hearing shall be the same as provided by
440 the general statutes for witnesses in criminal cases. Notwithstanding
441 the provisions of subsection (a) of section 52-143, any subpoena
442 summoning a police officer as a witness shall be served not less than
443 seventy-two hours prior to the designated time of the hearing.

444 Sec. 11. Subsection (a) of section 15-140r of the general statutes is
445 repealed and the following is substituted in lieu thereof (*Effective*
446 *October 1, 2014*):

447 (a) Except as provided in section 15-140s, as amended by this act, or
448 subsection (d) of this section, in any criminal prosecution for the
449 violation of section 15-132a, subsection (d) of section 15-133, section 15-
450 140l or 15-140n or subsection (b) of section 53-206d, evidence
451 [respecting] concerning the amount of alcohol or drug in the
452 defendant's blood or urine at the time of the alleged offense, as shown
453 by a chemical analysis of the defendant's breath, blood or urine shall
454 be admissible and competent, provided: (1) The defendant was
455 afforded a reasonable opportunity to telephone an attorney prior to the
456 performance of the test and consented to the taking of the test upon
457 which such analysis is made; (2) a true copy of the report of the test
458 result was mailed to or personally delivered to the defendant within
459 twenty-four hours or by the end of the next regular business day, after
460 such result was known, whichever is later; (3) the test was performed
461 by or at the direction of a certified law enforcement officer according to
462 methods and with equipment approved by the Department of
463 Emergency Services and Public Protection, and if a blood test was
464 performed, it was performed on a blood sample taken by a person
465 licensed to practice medicine and surgery in this state, a qualified

466 laboratory technician, an emergency medical technician II or a
467 registered nurse in accordance with the regulations adopted under
468 subsection (b) of this section; (4) the device used for such test was
469 checked for accuracy in accordance with the regulations adopted
470 under subsection (b) of this section; (5) an additional chemical test of
471 the same type was performed at least ten minutes after the initial test
472 was performed or, if requested by the peace officer for reasonable
473 cause, an additional chemical test of a different type was performed to
474 detect the presence of a drug or drugs other than or in addition to
475 alcohol, except that the results of the initial test shall not be
476 inadmissible under this subsection if reasonable efforts were made to
477 have such additional test performed in accordance with the conditions
478 set forth in this subsection and such additional test was not performed
479 or was not performed within a reasonable time, or the results of such
480 additional test are not admissible for failure to meet a condition set
481 forth in this subsection; and (6) evidence is presented that the test was
482 commenced within two hours of operation of the vessel or, [expert
483 testimony establishes the reliability of a test commenced beyond two
484 hours of operation of the vessel] if the test was not commenced within
485 two hours of operation of the vessel, evidence is presented that
486 demonstrates that the test results and analysis thereof accurately
487 indicate the blood alcohol content at the time of the alleged offense. In
488 any prosecution under this section, it shall be a rebuttable presumption
489 that the results of such chemical analysis establish the ratio of alcohol
490 in the blood of the defendant at the time of the alleged offense, except
491 that if the results of the additional test indicate that the ratio of alcohol
492 in the blood of such defendant is ten-hundredths of one per cent or less
493 of alcohol, by weight, and is higher than the results of the first test,
494 evidence shall be presented that demonstrates that the test results and
495 the analysis thereof accurately indicate the blood alcohol content at the
496 time of the alleged offense.

497 Sec. 12. Subsection (k) of section 14-227a of the 2014 supplement to
498 the general statutes is repealed and the following is substituted in lieu

499 thereof (*Effective October 1, 2014*):

500 (k) Notwithstanding the provisions of subsection (b) of this section,
501 evidence [respecting] concerning the amount of alcohol or drug in the
502 blood or urine of an operator of a motor vehicle involved in an
503 accident who has suffered or allegedly suffered physical injury in such
504 accident, which evidence is derived from a chemical analysis of a
505 blood sample taken from or a urine sample provided by such person
506 after such accident at the scene of the accident, while en route to a
507 hospital or at a hospital, shall be competent evidence to establish
508 probable cause for the arrest by warrant of such person for a violation
509 of subsection (a) of this section and shall be admissible and competent
510 in any subsequent prosecution thereof if: (1) The blood sample was
511 taken or the urine sample was provided for the diagnosis and
512 treatment of such injury; (2) if a blood sample was taken, the blood
513 sample was taken in accordance with the regulations adopted under
514 subsection (d) of this section; (3) a police officer has demonstrated to
515 the satisfaction of a judge of the Superior Court that such officer has
516 reason to believe that such person was operating a motor vehicle while
517 under the influence of intoxicating liquor or drug or both and that the
518 chemical analysis of such blood or urine sample constitutes evidence
519 of the commission of the offense of operating a motor vehicle while
520 under the influence of intoxicating liquor or drug or both in violation
521 of subsection (a) of this section; and (4) such judge has issued a search
522 warrant in accordance with section 54-33a authorizing the seizure of
523 the chemical analysis of such blood or urine sample. Such search
524 warrant may also authorize the seizure of the medical records
525 prepared by the hospital in connection with the diagnosis or treatment
526 of such injury.

527 Sec. 13. Section 15-140s of the general statutes is repealed and the
528 following is substituted in lieu thereof (*Effective October 1, 2014*):

529 Evidence [respecting] concerning the amount of alcohol or drug in
530 the blood or urine of an operator of a vessel involved in an accident

531 who has suffered or allegedly suffered physical injury in such accident,
532 which evidence is derived from a chemical analysis of a blood or urine
533 sample taken from such person at the scene of the accident, while en
534 route to a hospital or at a hospital after such accident, shall be
535 competent evidence to establish probable cause for the arrest by
536 warrant of such person for a violation of section 15-132a, 15-133, 15-
537 140l, or 15-140n and shall be admissible and competent in any
538 subsequent prosecution thereof if: (1) The blood or urine sample was
539 taken in the regular course of business of the hospital for the diagnosis
540 and treatment of such injury; (2) the blood sample was taken by a
541 person licensed to practice medicine in this state, a qualified laboratory
542 technician, an emergency technician II or a registered nurse; (3) a
543 police officer has demonstrated to the satisfaction of a judge of the
544 Superior Court that such officer has reason to believe that such person
545 was operating a vessel while under the influence of intoxicating liquor
546 or drug, or both, and that the chemical analysis of such blood or urine
547 sample constitutes evidence of the commission of the offense of
548 operating a vessel upon the waters of this state while under the
549 influence of intoxicating liquor or drug, or both, in violation of section
550 15-132a, 15-133, 15-140l, or 15-140n; and (4) such judge has issued a
551 search warrant in accordance with section 54-33a authorizing the
552 seizure of the chemical analysis of such blood or urine sample.

553 Sec. 14. Section 53a-127b of the general statutes is repealed and the
554 following is substituted in lieu thereof (*Effective October 1, 2014*):

555 (a) A person is guilty of fraudulent use of an automated teller
556 machine when, with intent to deprive another of property or to
557 appropriate the same to himself or herself or a third person, such
558 person knowingly uses in a fraudulent manner an automated teller
559 machine for the purpose of obtaining property. For the purposes of
560 this section, "automated teller machine" means an unmanned device at
561 which banking transactions including, without limitation, deposits,
562 withdrawals, advances, payments and transfers may be conducted,
563 and includes, without limitation, a satellite device and point of sale

564 terminal as defined in section 36a-2.

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

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

570 Sec. 15. Section 53a-128 of the general statutes is repealed and the
571 following is substituted in lieu thereof (*Effective October 1, 2014*):

572 (a) A person is guilty of issuing a bad check when: (1) As a drawer
573 or representative drawer, he issues a check knowing that he or his
574 principal, as the case may be, does not then have sufficient funds with
575 the drawee to cover it, and (A) he intends or believes at the time of
576 issuance that payment will be refused by the drawee upon
577 presentation, and (B) payment is refused by the drawee upon
578 presentation; or (2) he passes a check knowing that the drawer thereof
579 does not then have sufficient funds with the drawee to cover it, and
580 (A) he intends or believes at the time the check is passed that payment
581 will be refused by the drawee upon presentation, and (B) payment is
582 refused by the drawee upon presentation.

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

593 (c) Issuing a bad check is: (1) A class D felony if the amount of the

594 check was more than [one] two thousand dollars; (2) a class A
595 misdemeanor if the amount of the check was more than [five hundred]
596 one thousand dollars but not more than [one] two thousand dollars; (3)
597 a class B misdemeanor if the amount of the check was more than [two
598 hundred fifty] five hundred dollars but not more than [five hundred]
599 one thousand dollars; or (4) a class C misdemeanor if the amount of
600 the check was [two hundred fifty] five hundred dollars or less.

601

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>	53a-189a
Sec. 4	<i>October 1, 2014</i>	53a-29(f)
Sec. 5	<i>October 1, 2014</i>	54-250(5)
Sec. 6	<i>October 1, 2014</i>	54-63c
Sec. 7	<i>October 1, 2014</i>	53a-182b(a) and (b)
Sec. 8	<i>October 1, 2014</i>	14-227a(b) and (c)
Sec. 9	<i>October 1, 2014</i>	14-227b(c)
Sec. 10	<i>October 1, 2014</i>	14-227b(g)
Sec. 11	<i>October 1, 2014</i>	15-140r(a)
Sec. 12	<i>October 1, 2014</i>	14-227a(k)
Sec. 13	<i>October 1, 2014</i>	15-140s
Sec. 14	<i>October 1, 2014</i>	53a-127b
Sec. 15	<i>October 1, 2014</i>	53a-128

Statement of Purpose:

To: (1) Revise the procedure for forfeiture of property seized pursuant to a criminal violation; (2) increase the penalties and clarify the applicability of, and the statute of limitations for, certain voyeurism violations, including "upskirting", subsequent violations and violations involving children; (3) provide that probation officers may set bail when serving arrest warrants for violations of probation; (4) revise the offense of harassment in the first degree to reference all communications and not only telephone calls; (5) revise the requirement that tests for blood alcohol levels be commenced within

two hours of operation in order to be admitted as evidence in a criminal prosecution for drunken driving or drunken boating; (6) increase the penalty for fraudulent use of an automated teller machine; (7) increase the monetary thresholds that determine the various degrees of "issuing a bad check"; and (8) make technical and conforming changes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]