



# Senate

General Assembly

**File No. 748**

January Session, 2015

Substitute Senate Bill No. 952

*Senate, April 27, 2015*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING A SECOND CHANCE SOCIETY.**

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

1 Section 1. Section 21a-279 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) Any person who possesses or has under his or her control any  
4 quantity of any narcotic substance, controlled substance or  
5 hallucinogenic substance other than marijuana or who possesses or has  
6 under his or her control one-half ounce or more of a cannabis-type  
7 substance, except as authorized in this chapter, [for a first offense, may  
8 be imprisoned not more than seven years or be fined not more than  
9 fifty thousand dollars, or be both fined and imprisoned; and for a  
10 second offense, may be imprisoned not more than fifteen years or be  
11 fined not more than one hundred thousand dollars, or be both fined  
12 and imprisoned; and for any subsequent offense, may be imprisoned  
13 not more than twenty-five years or be fined not more than two  
14 hundred fifty thousand dollars, or be both fined and imprisoned] shall  
15 be guilty of a class A misdemeanor.

16 [(b) Any person who possesses or has under his control any  
17 quantity of a hallucinogenic substance other than marijuana or four  
18 ounces or more of a cannabis-type substance, except as authorized in  
19 this chapter, for a first offense, shall be guilty of a class D felony, and  
20 for a subsequent offense shall be guilty of a class C felony.

21 (c) Any person who possesses or has under his control any quantity  
22 of any controlled substance other than a narcotic substance, or a  
23 hallucinogenic substance other than marijuana or who possesses or has  
24 under his control one-half ounce or more but less than four ounces of a  
25 cannabis-type substance, except as authorized in this chapter, (1) for a  
26 first offense, may be fined not more than one thousand dollars or be  
27 imprisoned not more than one year, or be both fined and imprisoned;  
28 and (2) for a subsequent offense, shall be guilty of a class D felony.]

29 [(d)] (b) Any person who violates subsection (a) [, (b) or (c)] of this  
30 section in or on [, or within one thousand five hundred feet of,] the real  
31 property comprising a public or private elementary or secondary  
32 school and who is not enrolled as a student in such school or a licensed  
33 child day care center, as defined in section 19a-77, that is identified as a  
34 child day care center by a sign posted in a conspicuous place shall be  
35 [imprisoned for a term of two years, which shall not be suspended and  
36 shall be in addition and consecutive to any term of imprisonment  
37 imposed for violation of subsection (a), (b) or (c) of this section] guilty  
38 of a class E felony.

39 [(e) As an alternative to the sentences specified in subsections (a)  
40 and (b) and specified for a subsequent offense under subsection (c) of  
41 this section, the court may sentence the person to the custody of the  
42 Commissioner of Correction for an indeterminate term not to exceed  
43 three years or the maximum term specified for the offense, whichever  
44 is the lesser, and at any time within such indeterminate term and  
45 without regard to any other provision of law regarding minimum term  
46 of confinement, the Commissioner of Correction may release the  
47 convicted person so sentenced subject to such conditions as he may  
48 impose including, but not limited to, supervision by suitable authority.

49 At any time during such indeterminate term, the Commissioner of  
50 Correction may revoke any such conditional release in his discretion  
51 for violation of the conditions imposed and return the convicted  
52 person to a correctional institution.]

53 [(f)] (c) To the extent that it is possible, medical treatment rather  
54 than criminal sanctions shall be afforded individuals who breathe,  
55 inhale, sniff or drink the volatile substances [defined] described in  
56 subdivision (49) of section 21a-240.

57 [(g)] (d) The provisions of [subsections (a) to (c), inclusive,]  
58 subsection (a) of this section shall not apply to any person (1) who in  
59 good faith, seeks medical assistance for another person who such  
60 person reasonably believes is experiencing an overdose from the  
61 ingestion, inhalation or injection of intoxicating liquor or any drug or  
62 substance, (2) for whom another person, in good faith, seeks medical  
63 assistance, reasonably believing such person is experiencing an  
64 overdose from the ingestion, inhalation or injection of intoxicating  
65 liquor or any drug or substance, or (3) who reasonably believes he or  
66 she is experiencing an overdose from the ingestion, inhalation or  
67 injection of intoxicating liquor or any drug or substance and, in good  
68 faith, seeks medical assistance for himself or herself, if evidence of the  
69 possession or control of a controlled substance in violation of  
70 subsection (a) [, (b) or (c)] of this section was obtained as a result of the  
71 seeking of such medical assistance. For the purposes of this subsection,  
72 "good faith" does not include seeking medical assistance during the  
73 course of the execution of an arrest warrant or search warrant or a  
74 lawful search.

75 Sec. 2. Subsection (c) of section 7-294d of the general statutes is  
76 repealed and the following is substituted in lieu thereof (*Effective*  
77 *October 1, 2015*):

78 (c) (1) The council may refuse to renew any certificate if the holder  
79 fails to meet the requirements for renewal of his or her certification.

80 (2) The council may cancel or revoke any certificate if: (A) The

81 certificate was issued by administrative error, (B) the certificate was  
82 obtained through misrepresentation or fraud, (C) the holder falsified  
83 any document in order to obtain or renew any certificate, (D) the  
84 holder has been convicted of a felony, (E) the holder has been found  
85 not guilty of a felony by reason of mental disease or defect pursuant to  
86 section 53a-13, (F) the holder has been convicted of a violation of  
87 [subsection (c) of] section 21a-279, as amended by this act, (G) the  
88 holder has been refused issuance of a certificate or similar  
89 authorization or has had his or her certificate or other authorization  
90 cancelled or revoked by another jurisdiction on grounds which would  
91 authorize cancellation or revocation under the provisions of this  
92 subdivision, (H) the holder has been found by a law enforcement unit,  
93 pursuant to procedures established by such unit, to have used a  
94 firearm in an improper manner which resulted in the death or serious  
95 physical injury of another person, or (I) the holder has been found by a  
96 law enforcement unit, pursuant to procedures established by such  
97 unit, to have committed any act that would constitute tampering with  
98 or fabricating physical evidence in violation of section 53a-155, perjury  
99 in violation of section 53a-156 or false statement in violation of section  
100 53a-157b. Whenever the council believes there is a reasonable basis for  
101 cancellation or revocation of the certification of a police officer, police  
102 training school or law enforcement instructor, it shall give notice and  
103 an adequate opportunity for a hearing prior to such cancellation or  
104 revocation. The council may cancel or revoke any certificate if, after a  
105 de novo review, it finds by clear and convincing evidence (i) a basis set  
106 forth in subparagraphs (A) to (G), inclusive, of this subdivision, or (ii)  
107 that the holder of the certificate committed an act set forth in  
108 subparagraph (H) or (I) of this subdivision. Any police officer or law  
109 enforcement instructor whose certification is cancelled or revoked  
110 pursuant to this section may reapply for certification no sooner than  
111 two years after the date on which the cancellation or revocation order  
112 becomes final. Any police training school whose certification is  
113 cancelled or revoked pursuant to this section may reapply for  
114 certification at any time after the date on which such order becomes  
115 final.

116 Sec. 3. Subsection (b) of section 29-28 of the general statutes is  
117 repealed and the following is substituted in lieu thereof (*Effective*  
118 *October 1, 2015*):

119 (b) Upon the application of any person having a bona fide  
120 permanent residence within the jurisdiction of any such authority,  
121 such chief of police, warden or selectman may issue a temporary state  
122 permit to such person to carry a pistol or revolver within the state,  
123 provided such authority shall find that such applicant intends to make  
124 no use of any pistol or revolver which such applicant may be  
125 permitted to carry under such permit other than a lawful use and that  
126 such person is a suitable person to receive such permit. No state or  
127 temporary state permit to carry a pistol or revolver shall be issued  
128 under this subsection if the applicant (1) has failed to successfully  
129 complete a course approved by the Commissioner of Emergency  
130 Services and Public Protection in the safety and use of pistols and  
131 revolvers including, but not limited to, a safety or training course in  
132 the use of pistols and revolvers available to the public offered by a law  
133 enforcement agency, a private or public educational institution or a  
134 firearms training school, utilizing instructors certified by the National  
135 Rifle Association or the Department of Energy and Environmental  
136 Protection and a safety or training course in the use of pistols or  
137 revolvers conducted by an instructor certified by the state or the  
138 National Rifle Association, (2) has been convicted of (A) a felony, or (B)  
139 on or after October 1, 1994, a violation of [subsection (c) of] section 21a-  
140 279, as amended by this act, or section 53a-58, 53a-61, 53a-61a, 53a-62,  
141 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d, (3) has been  
142 convicted as delinquent for the commission of a serious juvenile  
143 offense, as defined in section 46b-120, (4) has been discharged from  
144 custody within the preceding twenty years after having been found  
145 not guilty of a crime by reason of mental disease or defect pursuant to  
146 section 53a-13, (5) (A) has been confined in a hospital for persons with  
147 psychiatric disabilities, as defined in section 17a-495, within the  
148 preceding sixty months by order of a probate court, or (B) has been  
149 voluntarily admitted on or after October 1, 2013, to a hospital for  
150 persons with psychiatric disabilities, as defined in section 17a-495,

151 within the preceding six months for care and treatment of a psychiatric  
152 disability and not solely for being an alcohol-dependent person or a  
153 drug-dependent person as those terms are defined in section 17a-680,  
154 (6) is subject to a restraining or protective order issued by a court in a  
155 case involving the use, attempted use or threatened use of physical  
156 force against another person, (7) is subject to a firearms seizure order  
157 issued pursuant to subsection (d) of section 29-38c after notice and  
158 hearing, (8) is prohibited from shipping, transporting, possessing or  
159 receiving a firearm pursuant to 18 USC 922(g)(4), (9) is an alien  
160 illegally or unlawfully in the United States, or (10) is less than twenty-  
161 one years of age. Nothing in this section shall require any person who  
162 holds a valid permit to carry a pistol or revolver on October 1, 1994, to  
163 participate in any additional training in the safety and use of pistols  
164 and revolvers. No person may apply for a temporary state permit to  
165 carry a pistol or revolver more than once within any twelve-month  
166 period, and no temporary state permit to carry a pistol or revolver  
167 shall be issued to any person who has applied for such permit more  
168 than once within the preceding twelve months. Any person who  
169 applies for a temporary state permit to carry a pistol or revolver shall  
170 indicate in writing on the application, under penalty of false statement  
171 in such manner as the issuing authority prescribes, that such person  
172 has not applied for a temporary state permit to carry a pistol or  
173 revolver within the past twelve months. Upon issuance of a temporary  
174 state permit to carry a pistol or revolver to the applicant, the local  
175 authority shall forward the original application to the commissioner.  
176 Not later than sixty days after receiving a temporary state permit, an  
177 applicant shall appear at a location designated by the commissioner to  
178 receive the state permit. The commissioner may then issue, to any  
179 holder of any temporary state permit, a state permit to carry a pistol or  
180 revolver within the state. Upon issuance of the state permit, the  
181 commissioner shall make available to the permit holder a copy of the  
182 law regarding the permit holder's responsibility to report the loss or  
183 theft of a firearm and the penalties associated with the failure to  
184 comply with such law. Upon issuance of the state permit, the  
185 commissioner shall forward a record of such permit to the local

186 authority issuing the temporary state permit. The commissioner shall  
187 retain records of all applications, whether approved or denied. The  
188 copy of the state permit delivered to the permittee shall be laminated  
189 and shall contain a full-face photograph of such permittee. A person  
190 holding a state permit issued pursuant to this subsection shall notify  
191 the issuing authority within two business days of any change of such  
192 person's address. The notification shall include the old address and the  
193 new address of such person.

194 Sec. 4. Subsection (b) of section 29-36f of the general statutes is  
195 repealed and the following is substituted in lieu thereof (*Effective*  
196 *October 1, 2015*):

197 (b) The Commissioner of Emergency Services and Public Protection  
198 shall issue an eligibility certificate unless said commissioner finds that  
199 the applicant: (1) Has failed to successfully complete a course  
200 approved by the Commissioner of Emergency Services and Public  
201 Protection in the safety and use of pistols and revolvers including, but  
202 not limited to, a safety or training course in the use of pistols and  
203 revolvers available to the public offered by a law enforcement agency,  
204 a private or public educational institution or a firearms training school,  
205 utilizing instructors certified by the National Rifle Association or the  
206 Department of Energy and Environmental Protection and a safety or  
207 training course in the use of pistols or revolvers conducted by an  
208 instructor certified by the state or the National Rifle Association; (2)  
209 has been convicted of a felony or of a violation of [subsection (c) of]  
210 section 21a-279, as amended by this act, or section 53a-58, 53a-61, 53a-  
211 61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d; (3)  
212 has been convicted as delinquent for the commission of a serious  
213 juvenile offense, as defined in section 46b-120; (4) has been discharged  
214 from custody within the preceding twenty years after having been  
215 found not guilty of a crime by reason of mental disease or defect  
216 pursuant to section 53a-13; (5) (A) has been confined in a hospital for  
217 persons with psychiatric disabilities, as defined in section 17a-495,  
218 within the preceding sixty months by order of a probate court; or (B)  
219 has been voluntarily admitted on or after October 1, 2013, to a hospital

220 for persons with psychiatric disabilities, as defined in section 17a-495,  
221 within the preceding six months for care and treatment of a psychiatric  
222 disability and not solely for being an alcohol-dependent person or a  
223 drug-dependent person as those terms are defined in section 17a-680,  
224 (6) is subject to a restraining or protective order issued by a court in a  
225 case involving the use, attempted use or threatened use of physical  
226 force against another person; (7) is subject to a firearms seizure order  
227 issued pursuant to subsection (d) of section 29-38c after notice and  
228 hearing; (8) is prohibited from shipping, transporting, possessing or  
229 receiving a firearm pursuant to 18 USC 922(g)(4); or (9) is an alien  
230 illegally or unlawfully in the United States.

231 Sec. 5. Subsection (b) of section 29-37p of the general statutes is  
232 repealed and the following is substituted in lieu thereof (*Effective*  
233 *October 1, 2015*):

234 (b) The Commissioner of Emergency Services and Public Protection  
235 shall issue a long gun eligibility certificate unless said commissioner  
236 finds that the applicant: (1) Has failed to successfully complete a  
237 course approved by the Commissioner of Emergency Services and  
238 Public Protection in the safety and use of firearms including, but not  
239 limited to, a safety or training course in the use of firearms available to  
240 the public offered by a law enforcement agency, a private or public  
241 educational institution or a firearms training school, utilizing  
242 instructors certified by the National Rifle Association or the  
243 Department of Energy and Environmental Protection and a safety or  
244 training course in the use of firearms conducted by an instructor  
245 certified by the state or the National Rifle Association; (2) has been  
246 convicted of (A) a felony, or (B) on or after October 1, 1994, a violation  
247 of [subsection (c) of] section 21a-279, as amended by this act, or section  
248 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-175, 53a-176, 53a-178  
249 or 53a-181d; (3) has been convicted as delinquent for the commission  
250 of a serious juvenile offense, as defined in section 46b-120; (4) has been  
251 discharged from custody within the preceding twenty years after  
252 having been found not guilty of a crime by reason of mental disease or  
253 defect pursuant to section 53a-13; (5) has been confined in a hospital

254 for persons with psychiatric disabilities, as defined in section 17a-495,  
255 within the preceding sixty months by order of a probate court; (6) has  
256 been voluntarily admitted to a hospital for persons with psychiatric  
257 disabilities, as defined in section 17a-495, within the preceding six  
258 months for care and treatment of a psychiatric disability and not solely  
259 for being an alcohol-dependent person or a drug-dependent person as  
260 those terms are defined in section 17a-680; (7) is subject to a restraining  
261 or protective order issued by a court in a case involving the use,  
262 attempted use or threatened use of physical force against another  
263 person; (8) is subject to a firearms seizure order issued pursuant to  
264 subsection (d) of section 29-38c after notice and hearing; (9) is  
265 prohibited from shipping, transporting, possessing or receiving a  
266 firearm pursuant to 18 USC 922(g)(4); or (10) is an alien illegally or  
267 unlawfully in the United States.

268 Sec. 6. Subsection (a) of section 53a-217 of the general statutes is  
269 repealed and the following is substituted in lieu thereof (*Effective*  
270 *October 1, 2015*):

271 (a) A person is guilty of criminal possession of a firearm,  
272 ammunition or an electronic defense weapon when such person  
273 possesses a firearm, ammunition or an electronic defense weapon and  
274 (1) has been convicted of a felony committed prior to, on or after  
275 October 1, 2013, or of a violation of [subsection (c) of] section 21a-279,  
276 as amended by this act, or section 53a-58, 53a-61, 53a-61a, 53a-62, 53a-  
277 63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d committed on or after  
278 October 1, 2013, (2) has been convicted as delinquent for the  
279 commission of a serious juvenile offense, as defined in section 46b-120,  
280 (3) has been discharged from custody within the preceding twenty  
281 years after having been found not guilty of a crime by reason of mental  
282 disease or defect pursuant to section 53a-13, (4) knows that such  
283 person is subject to (A) a restraining or protective order of a court of  
284 this state that has been issued against such person, after notice and an  
285 opportunity to be heard has been provided to such person, in a case  
286 involving the use, attempted use or threatened use of physical force  
287 against another person, or (B) a foreign order of protection, as defined

288 in section 46b-15a, that has been issued against such person in a case  
289 involving the use, attempted use or threatened use of physical force  
290 against another person, (5) (A) has been confined on or after October 1,  
291 2013, in a hospital for persons with psychiatric disabilities, as defined  
292 in section 17a-495, within the preceding sixty months by order of a  
293 probate court, or with respect to any person who holds a valid permit  
294 or certificate that was issued or renewed under the provisions of  
295 section 29-28, as amended by this act, or 29-36f, as amended by this act,  
296 in effect prior to October 1, 2013, such person has been confined in  
297 such hospital within the preceding twelve months, or (B) has been  
298 voluntarily admitted on or after October 1, 2013, to a hospital for  
299 persons with psychiatric disabilities, as defined in section 17a-495,  
300 within the preceding six months for care and treatment of a psychiatric  
301 disability and not solely for being an alcohol-dependent person or a  
302 drug-dependent person as those terms are defined in section 17a-680,  
303 (6) knows that such person is subject to a firearms seizure order issued  
304 pursuant to subsection (d) of section 29-38c after notice and an  
305 opportunity to be heard has been provided to such person, or (7) is  
306 prohibited from shipping, transporting, possessing or receiving a  
307 firearm pursuant to 18 USC 922(g)(4). For the purposes of this section,  
308 "convicted" means having a judgment of conviction entered by a court  
309 of competent jurisdiction, "ammunition" means a loaded cartridge,  
310 consisting of a primed case, propellant or projectile, designed for use  
311 in any firearm, and a motor vehicle violation for which a sentence to a  
312 term of imprisonment of more than one year may be imposed shall be  
313 deemed an unclassified felony.

314 Sec. 7. Subsection (a) of section 53a-217c of the general statutes is  
315 repealed and the following is substituted in lieu thereof (*Effective*  
316 *October 1, 2015*):

317 (a) A person is guilty of criminal possession of a pistol or revolver  
318 when such person possesses a pistol or revolver, as defined in section  
319 29-27, and (1) has been convicted of a felony committed prior to, on or  
320 after October 1, 2013, or of a violation of [subsection (c) of] section 21a-  
321 279, as amended by this act, or section 53a-58, 53a-61, 53a-61a, 53a-62,

322 53a-63, 53a-96, 53a-175, 53a-176, 53a-178 or 53a-181d committed on or  
323 after October 1, 1994, (2) has been convicted as delinquent for the  
324 commission of a serious juvenile offense, as defined in section 46b-120,  
325 (3) has been discharged from custody within the preceding twenty  
326 years after having been found not guilty of a crime by reason of mental  
327 disease or defect pursuant to section 53a-13, (4) (A) has been confined  
328 prior to October 1, 2013, in a hospital for persons with psychiatric  
329 disabilities, as defined in section 17a-495, within the preceding twelve  
330 months by order of a probate court, or has been confined on or after  
331 October 1, 2013, in a hospital for persons with psychiatric disabilities,  
332 as defined in section 17a-495, within the preceding sixty months by  
333 order of a probate court, or, with respect to any person who holds a  
334 valid permit or certificate that was issued or renewed under the  
335 provisions of section 29-28, as amended by this act, or 29-36f, as  
336 amended by this act, in effect prior to October 1, 2013, such person has  
337 been confined in such hospital within the preceding twelve months, or  
338 (B) has been voluntarily admitted on or after October 1, 2013, to a  
339 hospital for persons with psychiatric disabilities, as defined in section  
340 17a-495, within the preceding six months for care and treatment of a  
341 psychiatric disability and not solely for being an alcohol-dependent  
342 person or a drug-dependent person as those terms are defined in  
343 section 17a-680, (5) knows that such person is subject to (A) a  
344 restraining or protective order of a court of this state that has been  
345 issued against such person, after notice and an opportunity to be heard  
346 has been provided to such person, in a case involving the use,  
347 attempted use or threatened use of physical force against another  
348 person, or (B) a foreign order of protection, as defined in section 46b-  
349 15a, that has been issued against such person in a case involving the  
350 use, attempted use or threatened use of physical force against another  
351 person, (6) knows that such person is subject to a firearms seizure  
352 order issued pursuant to subsection (d) of section 29-38c after notice  
353 and an opportunity to be heard has been provided to such person, (7)  
354 is prohibited from shipping, transporting, possessing or receiving a  
355 firearm pursuant to 18 USC 922(g)(4), or (8) is an alien illegally or  
356 unlawfully in the United States. For the purposes of this section,

357 "convicted" means having a judgment of conviction entered by a court  
358 of competent jurisdiction.

359 Sec. 8. Subsection (b) of section 18-100h of the general statutes is  
360 repealed and the following is substituted in lieu thereof (*Effective*  
361 *October 1, 2015*):

362 (b) Notwithstanding any provision of the general statutes,  
363 whenever a person is sentenced to a term of imprisonment for a  
364 violation of section 21a-267 or [subsection (c) of section] 21a-279, as  
365 amended by this act, and committed by the court to the custody of the  
366 Commissioner of Correction, the commissioner may, after admission  
367 and a risk and needs assessment, release such person to such person's  
368 residence subject to the condition that such person not leave such  
369 residence unless otherwise authorized. Based upon the assessment of  
370 such person, the commissioner may require such person to be subject  
371 to electronic monitoring, which may include the use of a global  
372 positioning system and continuous monitoring for alcohol  
373 consumption, to drug testing on a random basis, and to any other  
374 conditions that the commissioner may impose. Any person released  
375 pursuant to this subsection shall remain in the custody of the  
376 commissioner and shall be supervised by employees of the department  
377 during the period of such release. Upon the violation by such person of  
378 any condition of such release, the commissioner may revoke such  
379 release and return such person to confinement in a correctional facility.  
380 For purposes of this subsection, "continuous monitoring for alcohol  
381 consumption" means automatically testing breath, blood or  
382 transdermal alcohol concentration levels and tamper attempts at least  
383 once every hour regardless of the location of the person being  
384 monitored.

385 Sec. 9. Section 54-124a of the general statutes is repealed and the  
386 following is substituted in lieu thereof (*Effective June 30, 2015*):

387 (a) (1) There shall be a Board of Pardons and Paroles within the  
388 Department of Correction, for administrative purposes only. [On and  
389 after July 1, 2008, and prior to July 1, 2010, the board shall consist of

390 eighteen members, and on and after July 1, 2010, the] On and after July  
391 1, 2015, the board shall consist of [twenty members. The Governor  
392 shall appoint all members of the board] ten full-time and up to five  
393 part-time members appointed by the Governor with the advice and  
394 consent of both houses of the General Assembly. [On and after July 1,  
395 2008, twelve of the members shall serve exclusively on parole release  
396 panels, five of the members shall serve exclusively on pardons panels  
397 and the chairperson may serve on both parole release panels and  
398 pardons panels, except that on and after July 1, 2010, seven of the  
399 members shall serve exclusively on pardons panels.] The term of any  
400 part-time member serving on the board on June 30, 2015, shall expire  
401 on said date. On or after July 1, 2015, the Governor may appoint up to  
402 five persons to serve as part-time members. In the appointment of the  
403 members, the Governor shall specify if the member is being appointed  
404 as [chairperson, the full-time and part-time members being appointed  
405 to serve on parole release panels and the members being appointed to  
406 serve on pardons panels] full-time or part-time. In the appointment of  
407 the members, the Governor shall comply with the provisions of section  
408 4-9b. The Governor shall appoint a chairperson from among the  
409 membership. The members of the board [appointed on or after  
410 February 1, 2008,] shall be qualified by education, experience or  
411 training in the administration of community corrections, parole or  
412 pardons, criminal justice, criminology, the evaluation or supervision of  
413 offenders or the provision of mental health services to offenders. Each  
414 appointment of a member of the board submitted by the Governor to  
415 the General Assembly, except as provided in subdivision (2) of this  
416 subsection, shall be referred, without debate, to the [committee on]  
417 joint standing committee of the General Assembly having cognizance  
418 of matters relating to the judiciary which shall report [thereon] on each  
419 appointment not later than thirty legislative days after the date of  
420 reference.

421 (2) If, not later than September 1, 2015, the Governor appoints a  
422 part-time member and such member was previously a member whose  
423 term expired June 30, 2015, such appointment shall take effect  
424 immediately without confirmation by the General Assembly.

425 (b) The term of each [appointed member of the board serving on  
426 June 30, 2008, who had been assigned by the chairperson exclusively to  
427 parole hearings, shall expire on said date. The term of each] member of  
428 the board [serving on June 30, 2008, who had been appointed  
429 chairperson, had been assigned by the chairperson exclusively to  
430 pardons hearings or has been appointed by the Governor on or after  
431 February 1, 2008,] shall be coterminous with the term of the Governor  
432 or until a successor is chosen, whichever is later. Any vacancy in the  
433 membership of the board shall be filled for the unexpired portion of  
434 the term by the Governor.

435 (c) [The chairperson and five of the members of the board appointed  
436 by the Governor on or after February 1, 2008, to serve on parole release  
437 panels] Ten of the members of the board shall devote full time to the  
438 performance of their duties under this section and shall be  
439 compensated therefor in such amount as the Commissioner of  
440 Administrative Services determines, subject to the provisions of section  
441 4-40. The other members of the board shall receive one hundred ten  
442 dollars for each day spent in the performance of their duties and shall  
443 be reimbursed for necessary expenses incurred in the performance of  
444 such duties. The chairperson or, in the chairperson's absence or  
445 inability to act, a member designated by the chairperson to serve  
446 temporarily as chairperson, shall be present at all meetings of the  
447 board and participate in all decisions. [thereof.]

448 (d) The chairperson shall be the executive and administrative head  
449 of said board and shall have the authority and responsibility for (1)  
450 overseeing all administrative affairs of the board, (2) assigning  
451 members to panels, (3) establishing procedural rules for members to  
452 follow when conducting hearings, reviewing recommendations made  
453 by employees of the board and making decisions, (4) adopting policies  
454 in all areas of pardons and paroles including, but not limited to,  
455 granting pardons, commutations of punishments or releases,  
456 conditioned or absolute, in the case of any person convicted of any  
457 offense against the state and commutations from the penalty of death,  
458 risk-based structured decision making and release criteria, (5)

459 consulting with the Department of Correction on shared issues  
460 including, but not limited to, prison overcrowding, (6) consulting with  
461 the Judicial Branch on shared issues of community supervision, and (7)  
462 signing and issuing subpoenas to compel the attendance and  
463 testimony of witnesses at parole proceedings. Any such subpoena shall  
464 be enforceable to the same extent as subpoenas issued pursuant to  
465 section 52-143.

466 (e) [Of the members appointed prior to February 1, 2008, the  
467 chairperson shall assign seven members exclusively to parole release  
468 hearings and shall assign five members exclusively to pardons  
469 hearings. Except for the chairperson, no member assigned to parole  
470 release hearings may be assigned subsequently to pardons hearings  
471 and no member assigned to pardons hearings may be assigned  
472 subsequently to parole release hearings. Prior to July 1, 2008, each  
473 parole release panel shall be composed of two members from among  
474 the members assigned by the chairperson exclusively to parole release  
475 hearings or the members appointed by the Governor on or after  
476 February 1, 2008, to serve exclusively on parole release panels, and the  
477 chairperson or a member designated to serve temporarily as  
478 chairperson, for each correctional institution. On and after July 1, 2008,  
479 and prior to October 5, 2009, each parole release panel shall be  
480 composed of two members appointed by the Governor on or after  
481 February 1, 2008, to serve on parole release panels, at least one of  
482 whom is a full-time member, and the chairperson or a full-time  
483 member designated to serve temporarily as chairperson, for each  
484 correctional institution. On and after October 5, 2009, each] Each parole  
485 release panel shall be composed of two members [appointed by the  
486 Governor to serve on parole release panels] and the chairperson or a  
487 full-time member designated by the chairperson to serve temporarily  
488 as chairperson. [, for each correctional institution. Such parole release  
489 panels shall be the paroling authority for the institutions to which they  
490 are assigned and] On and after January 1, 2016, not less than [two]  
491 three members shall be present at each parole hearing. Each pardons  
492 panel shall be composed of three members, [from among the members  
493 assigned by the chairperson exclusively to pardons hearings or the

494 members appointed by the Governor on or after February 1, 2008, to  
495 serve on pardons panels,] one of whom may be the chairperson, except  
496 that for hearings on commutations from the penalty of death, one  
497 member of the panel shall be the chairperson.

498 (f) The Board of Pardons and Paroles shall have independent  
499 decision-making authority to (1) grant or deny parole in accordance  
500 with sections 54-125, 54-125a, as amended by this act, 54-125e and 54-  
501 125g, as amended by this act, (2) establish conditions of parole or  
502 special parole supervision in accordance with section 54-126, (3)  
503 rescind or revoke parole or special parole in accordance with sections  
504 54-127 and 54-128, (4) grant commutations of punishment or releases,  
505 conditioned or absolute, in the case of any person convicted of any  
506 offense against the state and commutations from the penalty of death  
507 in accordance with section 54-130a.

508 (g) The Department of Correction shall be responsible for the  
509 supervision of any person transferred to the jurisdiction of the Board  
510 of Pardons and Paroles during such person's period of parole or  
511 special parole.

512 (h) The chairperson, or the chairperson's designee, and two  
513 members of the board [from among the members assigned by the  
514 chairperson to serve exclusively on parole release panels or the  
515 members appointed by the Governor on or after February 1, 2008, to  
516 serve on parole release panels,] shall conduct all parole release  
517 hearings, and shall approve or deny all (1) parole revocations and  
518 parole rescissions recommended by an employee of the board  
519 pursuant to section 54-127a, and (2) recommendations for parole  
520 pursuant to section 11 of this act. No panel of the Board of Pardons  
521 and Paroles shall hold a hearing to determine the suitability for parole  
522 release of any person unless the chairperson of the board has made  
523 reasonable efforts to determine the existence of and obtain all  
524 information deemed pertinent to the panel's decision and has certified  
525 that all such pertinent information determined to exist has been  
526 obtained or is unavailable.

527 (i) The chairperson of the board shall appoint an executive director.  
528 The executive director shall oversee the administration of the agency  
529 and, at the discretion of the chairperson, shall: (1) Direct and supervise  
530 all administrative affairs of the board, (2) prepare the budget and  
531 annual operation plan, (3) assign staff to administrative reviews, (4)  
532 organize pardons and parole release hearing calendars, (5) implement  
533 a uniform case filing and processing system, and (6) create programs  
534 for staff and board member development, training and education.

535 (j) The chairperson, in consultation with the executive director, shall  
536 adopt regulations, in accordance with chapter 54, concerning:

537 (1) Parole revocation and rescission hearings that include  
538 implementing due process requirements;

539 (2) An [administrative] expedited pardons [process] review that  
540 allows an applicant convicted of a crime to be granted a pardon with  
541 respect to such crime without a hearing, unless a victim of such crime  
542 requests such a hearing, if such applicant was [:] convicted of a  
543 nonviolent crime; and

544 [(A) Convicted of a misdemeanor and (i) such conduct no longer  
545 constitutes a crime, (ii) such applicant was under twenty-one years of  
546 age at the time of conviction and has not been convicted of a crime  
547 during the five years preceding the date on which the pardon is  
548 granted, or (iii) such conviction occurred prior to the effective date of  
549 the establishment of a program under sections 17a-692 to 17a-701,  
550 inclusive, section 46b-38c, 53a-39a, 53a-39c, 54-56e, 54-56g, 54-56i or 54-  
551 56j for which the applicant would have been eligible had such program  
552 existed at the time of conviction, provided the chairperson determines  
553 the applicant would likely have been granted entry into such program;  
554 or

555 (B) Convicted of a violation of section 21a-277, 21a-278 or 21a-279  
556 and such applicant has not been convicted of a crime during the five  
557 years preceding the date on which the pardon is granted, provided  
558 such date is at least ten years after the date of such conviction or such

559 applicant's release from incarceration, whichever is later; and]

560 (3) Requiring board members [assigned to pardons hearings] to  
561 issue written statements containing the reasons for rejecting any  
562 application for a pardon.

563 (k) The Board of Pardons and Paroles shall hold a pardons hearing  
564 at least once every three months and shall hold such hearings in  
565 various geographical areas of the state. The board shall not hold a  
566 pardons hearing within or on the grounds of a correctional facility  
567 except when solely for the benefit of applicants who are incarcerated at  
568 the time of such hearing.

569 (l) The chairperson and executive director shall establish:

570 (1) In consultation with the Department of Correction, a parole  
571 orientation program for all parole-eligible inmates upon their transfer  
572 to the custody of the Commissioner of Correction that will provide  
573 general information on the laws and policies regarding parole release,  
574 calculation of time-served standards, general conditions of release,  
575 supervision practices, revocation and rescission policies, and  
576 procedures for administrative review and panel hearings, and any  
577 other information that the board deems relevant for preparing inmates  
578 for parole;

579 (2) An incremental sanctions system for parole violations including,  
580 but not limited to, reincarceration based on the type, severity and  
581 frequency of the violation and specific periods of incarceration for  
582 certain types of violations; and

583 (3) A formal training program for members of the board and parole  
584 officers that shall include, but not be limited to, an overview of the  
585 criminal justice system, the parole system including factors to be  
586 considered in granting parole, victim rights and services, reentry  
587 strategies, risk assessment, case management and mental health issues.

588 (m) The board shall employ at least one psychologist with expertise  
589 in risk assessment and recidivism of criminal offenders who shall be

590 under the supervision of the chairperson and assist the board in its  
591 parole release decisions.

592 (n) In the event of the temporary inability of any member other than  
593 the chairperson to perform his or her duties, the Governor, at the  
594 request of the board, may appoint a qualified person to serve as a  
595 temporary member during such period of inability.

596 (o) The chairperson of the Board of Pardons and Paroles shall: (1)  
597 Adopt an annual budget and plan of operation, (2) adopt such rules as  
598 deemed necessary for the internal affairs of the board, and (3) submit  
599 an annual report to the Governor and General Assembly.

600 (p) Any decision of the board or a panel of the board shall be made  
601 by a majority of those members present.

602 Sec. 10. (NEW) (*Effective July 1, 2015*) Not later than January 1, 2016,  
603 the Board of Pardons and Paroles shall develop a pardon eligibility  
604 notice containing written explanatory text of the pardons process set  
605 forth in chapter 961 of the general statutes. The board, in conjunction  
606 with the Judicial Department and Department of Correction, shall  
607 ensure that such notice is provided to a person at the time such person  
608 (1) is sentenced pursuant to section 54-92 of the general statutes, (2) is  
609 released by the Department of Correction, including any pretrial  
610 release pursuant to section 18-100f of the general statutes, (3) has  
611 completed or been discharged from a period of parole, and (4) has  
612 completed a period of probation or conditional discharge pursuant to  
613 section 53a-29 or 53a-33 of the general statutes. The board shall update  
614 such notice as deemed necessary by the board.

615 Sec. 11. (NEW) (*Effective July 1, 2015*) (a) An inmate (1) not convicted  
616 of a crime for which there is a victim, as defined in section 54-201 of  
617 the general statutes or section 54-226 of the general statutes, who is  
618 known by the Board of Pardons and Paroles, (2) whose eligibility for  
619 parole release is not subject to the provisions of subsection (b) of  
620 section 54-125a of the general statutes, (3) who was not convicted of a  
621 violation of section 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-56b, 53a-57,

622 53a-58, 53a-59, 53a-59a, 53a-60, 53a-60a, 53a-60c, 53a-64aa, 53a-64bb,  
623 53a-70, 53a-70b, 53a-72b, 53a-92, 53a-92a, 53a-94a, 53a-95, 53a-100aa,  
624 53a-101, 53a-102, 53a-102a, 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135,  
625 53a-136, 53a-167c, 53a-179b, 53a-179c or 53a-181c of the general  
626 statutes, and (4) who is not otherwise prohibited from being granted  
627 parole for any reason, may be allowed to go at large on parole in  
628 accordance with the provisions of section 54-125a of the general  
629 statutes, as amended by this act, or section 54-125g of the general  
630 statutes, as amended by this act, pursuant to the provisions of  
631 subsections (b) and (c) of this section.

632 (b) A member of the board, or an employee of the board qualified  
633 by education, experience or training in the administration of  
634 community corrections, parole, pardons, criminal justice, criminology,  
635 the evaluation or supervision of offenders or the provision of mental  
636 health services to offenders, may evaluate whether parole should be  
637 granted to an inmate pursuant to this section. The board member or  
638 employee shall (1) use risk-based structured decision making and  
639 release criteria developed under policies adopted by the board  
640 pursuant to subsection (d) of section 54-124a of the general statutes, as  
641 amended by this act, and (2) review the inmate's offender  
642 accountability plan, including, but not limited to, the environment to  
643 which the inmate plans to return upon release, to determine whether  
644 parole should be recommended for such inmate.

645 (c) If the board member or qualified employee recommends parole  
646 for an inmate, the chairperson of the board shall present such  
647 recommendation and all pertinent information to a parole release  
648 panel for approval. No parole release panel may review such  
649 recommendation and determine the suitability for parole release of an  
650 inmate unless the chairperson has made reasonable efforts to  
651 determine the existence of and obtain all information deemed  
652 pertinent to the panel's decision and has certified that all such  
653 pertinent information determined to exist has been obtained or is  
654 unavailable.

655 Sec. 12. Subsection (a) of section 54-125a of the general statutes is  
656 repealed and the following is substituted in lieu thereof (*Effective July*  
657 *1, 2015*):

658 (a) A person convicted of one or more crimes who is incarcerated on  
659 or after October 1, 1990, who received a definite sentence or aggregate  
660 sentence of more than two years, and who has been confined under  
661 such sentence or sentences for not less than one-half of the aggregate  
662 sentence less any risk reduction credit earned under the provisions of  
663 section 18-98e or one-half of the most recent sentence imposed by the  
664 court less any risk reduction credit earned under the provisions of  
665 section 18-98e, whichever is greater, may be allowed to go at large on  
666 parole in (1) accordance with the provisions of section 11 of this act, or  
667 (2) the discretion of [the] a panel of the Board of Pardons and Paroles,  
668 [for the institution in which the person is confined,] if [(1)] (A) it  
669 appears from all available information, including any reports from the  
670 Commissioner of Correction that the panel may require, that there is  
671 reasonable probability that such inmate will live and remain at liberty  
672 without violating the law, and [(2)] (B) such release is not incompatible  
673 with the welfare of society. At the discretion of the panel, and under  
674 the terms and conditions as may be prescribed by the panel including  
675 requiring the parolee to submit personal reports, the parolee shall be  
676 allowed to return to the parolee's home or to reside in a residential  
677 community center, or to go elsewhere. The parolee shall, while on  
678 parole, remain under the jurisdiction of the board until the expiration  
679 of the maximum term or terms for which the parolee was sentenced  
680 less any risk reduction credit earned under the provisions of section  
681 18-98e. Any parolee released on the condition that the parolee reside in  
682 a residential community center may be required to contribute to the  
683 cost incidental to such residence. Each order of parole shall fix the  
684 limits of the parolee's residence, which may be changed in the  
685 discretion of the board and the Commissioner of Correction. Within  
686 three weeks after the commitment of each person sentenced to more  
687 than two years, the state's attorney for the judicial district shall send to  
688 the Board of Pardons and Paroles the record, if any, of such person.

689 Sec. 13. Section 54-125g of the general statutes is repealed and the  
690 following is substituted in lieu thereof (*Effective July 1, 2015*):

691 Notwithstanding the provisions of sections 18-100d, 54-124c and 54-  
692 125a, as amended by this act, any person who has six months or less to  
693 the expiration of the maximum term or terms for which such person  
694 was sentenced, may be allowed to go at large on parole pursuant to  
695 section 11 of this act or following a hearing pursuant to section 54-  
696 125a, as amended by this act, provided such person agrees (1) to be  
697 subject to supervision by personnel of the Department of Correction  
698 for a period of one year, and (2) to be retained in the institution from  
699 which such person was paroled for a period equal to the unexpired  
700 portion of the term of his or her sentence if such person is found to  
701 have violated the terms or conditions of his or her parole. Any person  
702 subject to the provisions of subdivision (1) or (2) of subsection (b) of  
703 section 54-125a shall only be eligible to go at large on parole under this  
704 section after having served ninety-five per cent of the definite sentence  
705 imposed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	21a-279
Sec. 2	<i>October 1, 2015</i>	7-294d(c)
Sec. 3	<i>October 1, 2015</i>	29-28(b)
Sec. 4	<i>October 1, 2015</i>	29-36f(b)
Sec. 5	<i>October 1, 2015</i>	29-37p(b)
Sec. 6	<i>October 1, 2015</i>	53a-217(a)
Sec. 7	<i>October 1, 2015</i>	53a-217c(a)
Sec. 8	<i>October 1, 2015</i>	18-100h(b)
Sec. 9	<i>June 30, 2015</i>	54-124a
Sec. 10	<i>July 1, 2015</i>	New section
Sec. 11	<i>July 1, 2015</i>	New section
Sec. 12	<i>July 1, 2015</i>	54-125a(a)
Sec. 13	<i>July 1, 2015</i>	54-125g

**Statement of Legislative Commissioners:**

In section 1(a), "or has under his or her control" was added for consistency. In section 9(a)(2), "action" was changed to "confirmation"

for consistency. In section 12(a)(2), "for the institution in which the person is confined," was bracketed in conformance with section 9.

**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 16 \$	FY 17 \$
Correction, Dept.	GF - Savings	6.6 million	at least 12.4 million

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes various changes to statutes regarding drug possession and results in a savings to the Department of Correction (DOC) of \$6.6 million in FY 16 and up to \$12.4 million in FY 17 through reduction in prison population and corresponding facility closures.

Section 1 reduces the penalties for felony drug possession crimes to class A misdemeanors. Based on current prison population, this will reduce the prison population by approximately 1,120 inmates during FY 16. These changes are summarized in the following chart.

Changes in Prison Population based on Changes to Drug Penalties	
Change	Population Reduction
Parole of sentenced prisoners	-550
Presentence population	-480
Sentenced Population changes	-90
<b>Total Reduction During FY 16</b>	<b>-1,120</b>

Currently there are approximately 550 sentenced inmates incarcerated for offenses changed in the bill. The bill allows the Commissioner of Correction to consider the changes to statute in the

bill when making parole decisions. The Commissioner has the authority to release these inmates from supervision in the facility to parole supervision in the community. In addition to the currently sentenced inmates, there are approximately 480 un-sentenced inmates incarcerated for these offenses that may avoid prison sentences. Lastly, approximately 90 offenders over the course of the last three quarters of FY 16 will avoid prison sentences based on the changes in the bill. These savings assume that although offenders can be sentenced to up to a year in prison, most will be sentenced to probation or subject to supervision in the community by the Department of Correction.

Based on the projected reduction in prison population due to changes in the bill, DOC will close three prison annexes over the course of FY 16 as the prison population decreases. The FY 16 savings associated with the closures is \$6.6 million. The annualized savings in FY 17 is \$12.4 million.

Section 1 also narrows the crime of possession of drugs on or near school property that result in potential savings to DOC. The section eliminates the mandatory minimum prison term of 2 years and also eliminates the buffer distance of 1,500 feet. To the extent that the changes in the bill reduce the incidence of prosecution of this offense, or the changes in the bill reduce the length of sentences associated with offenses, savings to DOC would result. There is no data available on how many offenses the changes in the bill will affect.

Section 9 makes changes to the membership of the Board of Pardons and Parole that result in no net fiscal impact. The section reduces the number of part time members of the Board of Pardons and Parole from 14 to a maximum of 5. The section also increases the number of full time members from 6 to 10. The reduction in part time members results in a savings up to \$550,000 (depending on the number of part time members hired and their utilization) and increasing the number of full time members results in a cost of approximately \$515,000 including fringe benefits.

**The Out Years**

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

Sources: *Department of Correction Summary of Offenders by Controlling Offense, as of 1/1/2015*

**OLR Bill Analysis****sSB 952*****AN ACT CONCERNING A SECOND CHANCE SOCIETY.*****SUMMARY:**

This bill:

1. reduces the penalties for current felony drug possession crimes to class A misdemeanors;
2. restricts the scope of the crime of possessing drugs within 1,500 feet of a school or day care center to possession on their grounds, and changes the penalty to a class E felony;
3. reduces the size of the Board of Pardons and Paroles from 20 to between 10 and 15 members, while increasing the number of members who serve full-time from six to 10;
4. removes the bar on board members serving on both parole and pardons panels;
5. allows the board to consider an inmate for release on parole after an evaluation, but without a hearing, if he or she was convicted of a non-violent crime and the board does not know of any victim of the crime;
6. expands the board chairman's authority, in consultation with the board's executive director, to adopt regulations on an expedited pardons review process;
7. requires the board to develop a pardon eligibility notice explaining the pardons process and requires providing the notice to people when they are sentenced; are released from the Department of Correction (DOC); and complete parole,

probation, or conditional discharge; and

8. makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2015, except the changes to the board's membership and panels and expedited pardons requirement take effect June 30, 2015, and the provisions on pardon eligibility notices and parole release without a hearing are effective July 1, 2015.

## **§§ 1-8—DRUG POSSESSION CRIMES**

### ***Drug Possession Penalties***

The bill reduces, from felonies to class A misdemeanors, the penalty for (1) possessing narcotics, hallucinogens (other than marijuana), or more than 4 ounces of marijuana and (2) subsequent offenses of possessing .5 to 4 ounces of marijuana or controlled substances other than narcotics or hallucinogens. A class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

Currently, a first offense of possessing .5 to 4 ounces of marijuana or controlled substances that are not narcotics or hallucinogens is an unclassified misdemeanor punishable by up to one year in prison, a fine of up to \$1,000, or both. The bill makes this crime a class A misdemeanor, thus increasing the maximum fine from \$1,000 to \$2,000, and leaving the maximum prison term unchanged.

The bill's changes make all types of drug possession class A misdemeanors, except for drug possession on school or day care property (see below) or possessing less than ½ ounce of marijuana (see BACKGROUND). Table 1 shows the current penalties for the drug possession crimes that become class A misdemeanors under the bill.

**Table 1: Drug Possession Penalties Under Current Law That Become Class A Misdemeanors Under the Bill**

<i>Possession Crime</i>	<i>Penalties Under Current Law</i>
-------------------------	------------------------------------

<b>Possession Crime</b>	<b>Penalties Under Current Law</b>
Narcotics (i.e., heroin, cocaine, and crack)	<p>1<sup>st</sup> offense: up to seven-year prison term, up to a \$50,000 fine, or both</p> <p>2<sup>nd</sup> offense: up to 15-year prison term, up to a \$100,000 fine, or both</p> <p>Subsequent offenses: up to 25-year prison term, up to a \$250,000 fine, or both</p> <p>Alternative sentence: up to 3-year indeterminate prison term with conditional release by DOC commissioner</p>
4 oz. or more of marijuana or any quantity of other hallucinogens	<p>1<sup>st</sup> offense: class D felony punishable by up to 5-year prison term, up to a \$5,000 fine, or both</p> <p>Subsequent offenses: class C felony, punishable by up to a 10-year prison term, up to a \$10,000 fine, or both</p> <p>Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner</p>
Any other illegal drug or at least ½ oz. but less than 4 oz. of marijuana	<p>1<sup>st</sup> offense: up to one-year prison term, up to a \$1,000 fine, or both</p> <p>Subsequent offenses: class D felony</p> <p>Alternative sentence for subsequent offenses only: up to three-year indeterminate prison term with conditional release by DOC commissioner</p>

The bill also extends eligibility for release to home confinement by the DOC commissioner to inmates sentenced for any type of drug possession crime. Currently, this applies to those sentenced for possessing .5 to four ounces of marijuana or controlled substances that are not narcotics or hallucinogens. By law, released offenders cannot leave their homes without authorization; DOC can require electronic monitoring, drug testing, and other conditions; and offenders can be returned to prison for violating release conditions.

By reducing the penalty from a felony to a misdemeanor for the

types of drug possession described above, the bill eliminates certain consequences of a conviction. For example, a felon:

1. loses his or her right to vote and hold office while incarcerated or on parole, but later can have those rights restored (CGS §§ 9-46 and -46a);
2. is disqualified from jury service for seven years (CGS § 51-217); and
3. could have his or her felony conviction considered as a factor in denying, suspending, or revoking certain state-issued professional licenses and credentials, such as those for many health care providers, professional bondsmen, and electricians.

However, the bill does not change certain consequences of a conviction of these types of drug possession, including provisions:

1. allowing the Police Officer Standards and Training Council (POST) to cancel or revoke a POST-certified officer's certificate;
2. making a person ineligible for a state permit to carry a pistol or revolver or an eligibility certificate for a pistol, revolver, or long gun (The bill also makes conforming changes to criminal possession of a pistol, revolver, firearm, ammunition, or electronic defense weapon.); and
3. allowing the appropriate commissioner to refuse to issue, suspend, or revoke a family day care home license, an approval for a family day care home staff member, a bail enforcement agent license, or a surety bail bond agent license (§§ 2-7 and CGS §§ 19a-87e, 29-152f, and 38a-660).

By reducing the penalty for these crimes to a class A misdemeanor, the bill no longer allows a juvenile charged with one of these crimes to be tried in adult court and sentenced as an adult. Currently, for juveniles ages 14 through 17 who are charged with felony drug possession, the prosecutor can request a hearing on whether the case

should be transferred from juvenile court to the Superior Court. The court can transfer the case to the adult court if (1) there is probable cause the child committed the crime and (2) both the child's and public's best interests are not served if the case remains in juvenile court. If the case is transferred to the Superior Court, the court can return the case to the juvenile court for good cause (CGS § 46b-127(b)). Under the bill, juveniles charged with these crimes must have their cases heard in juvenile court.

### ***Drug Possession on School or Day Care Property***

Under current law, there is an enhanced penalty for committing one of the possession crimes described in Table 1 within 1,500 feet of (1) an elementary or secondary school by someone who is not attending the school or (2) a licensed day care center identified as such by a sign posted in a conspicuous place. The penalty is a mandatory two-year prison term running consecutively to the prison term imposed for the underlying possession crime, but a judge can depart from the mandatory sentence under certain circumstances (see BACKGROUND).

The bill restricts the scope of this crime to possession crimes on school or day care center property. It also changes the penalty to a class E felony which, by law, is punishable by up to three years in prison, a fine of up to \$3,500, or both.

### **§ 9—BOARD OF PARDONS AND PAROLES MEMBERS AND PANELS**

Under current law, the Board of Pardons and Paroles consists of 20 members, with six full-time members (including the chairman) and 14 part-time members.

On July 1, 2015, the bill reduces the board's membership from 20 to between 10 and 15. It does so by increasing the number of full-time board members from six to 10, ending the terms of current part-time members on June 30, 2015, and reducing the number of part-time members from 14 to a maximum of five, as determined by the governor.

The bill retains most of the existing appointment procedures including qualifications for members, appointing members as either full-time or part-time, referring nominations to the Judiciary Committee, and approval by both houses of the legislature. But the bill:

1. allows the governor, through September 1, 2015, to appoint someone as a part-time member without legislative approval if the appointee was a part-time member whose term ended under the bill's provisions on June 30, 2015 and
2. no longer requires designating appointees as parole or pardons panel members (currently 12 appointments serve on parole panels, seven serve on pardons panels, and the chairman can serve on both; the bill removes the restriction on serving on both types of panels).

As under current law, a parole panel must consist of two members and the chairman or a full-time member designated by the chairman. Beginning January 1, 2016, the bill requires parole panels to have at least three members present. It also specifies that a decision of the board or a panel must be by majority of those present.

## **§§ 9 & 11-13—PAROLE DECISIONS WITHOUT A HEARING**

### ***Eligibility***

The bill creates a procedure to allow the board to consider certain inmates for release on parole without a hearing. This applies to an inmate who:

1. was not convicted of a crime involving a victim, known to the board, who was injured or killed (a) in a crime or criminal attempt or (b) while attempting to prevent a crime, apprehend a suspect, or assist a police officer in apprehension;
2. was not convicted of a violent crime or certain other crimes including 2<sup>nd</sup> degree burglary, 1<sup>st</sup> degree stalking, and criminally negligent homicide; and

3. is not prohibited from parole for any other reason.

Generally, inmates eligible for release under the bill's procedures could be released on parole under existing law after serving 50% of their sentences. They can also be released within six months of the end of their sentences if they agree to DOC supervision for one year and to be returned to prison for the unexpired term of their sentences for violating parole conditions.

### **Procedures**

Under the bill, a board member or certain board employees can evaluate a person's parole eligibility by (1) using risk-based structured decision making and release criteria under the board's policies and (2) reviewing an inmate's offender accountability plan, including the environment to which the inmate plans to return. An employee can only conduct this evaluation if he or she is qualified by education, experience, or training in administering community corrections, parole, pardons, criminal justice, criminology, offender evaluation or supervision, or providing offenders with mental health services.

The bill requires the board's chairman to present a member's or employee's parole recommendation to a parole release panel for approval after making reasonable efforts to obtain all information pertinent to the decision and certifying that it has been obtained or is unavailable. After he does so, the panel determines whether the person is suitable for release on parole.

### **§ 9—EXPEDITED PARDONS PROCESS**

The bill expands the board chairman's authority, in consultation with the board's executive director, to adopt regulations for an expedited pardons process.

Under current law, the chairman, in consultation with the executive director, can adopt regulations to allow people to receive a pardon without a hearing, unless a victim requests one, if the person was:

1. convicted of a misdemeanor and (a) it is no longer a crime, (b)

he or she was under age 21 at the time of the conviction and has no convictions during the five years before receiving the pardon, or (c) he or she was convicted before pretrial programs were created that the person would likely have been eligible for and participated in or

2. convicted of (a) illegal drug manufacture, distribution, sale, prescription, or dispensing; (b) illegal drug manufacture, distribution, sale, prescription, or dispensing by a non-drug-dependent person; or (c) illegal drug possession; he or she has no convictions during the five years before receiving the pardon; and it is at least 10 years since the person's conviction and release from prison.

The bill expands the expedited pardons process to allow anyone convicted of a nonviolent crime to receive a pardon without a hearing unless a victim requests one. (The bill does not define a nonviolent crime.)

## **§ 10—PARDON ELIGIBILITY NOTICE**

The bill requires the board to develop, by January 1, 2016, a pardon eligibility notice that explains the pardons process. The board must work with the Judicial Branch and DOC to provide the notice whenever a person is sentenced by the court, released from DOC including on pretrial release, completing parole, and completing probation or conditional discharge. The board must update the notice as necessary.

## **BACKGROUND**

### ***Departure from Mandatory Minimum Sentences for Drug Crimes***

Except for certain drug sale, manufacture, or distribution crimes, judges can impose less than the mandatory minimum sentence when no one was hurt during the crime and the defendant (1) did not use or attempt or threaten to use physical force; (2) was unarmed; and (3) did not threaten to use or suggest that he or she had a firearm, other deadly weapon (e.g., a switchblade knife), or other instrument that

could cause death or serious injury. Defendants must show good cause and can invoke these provisions only once. Judges must state at sentencing hearings their reasons for (1) imposing the sentence and (2) departing from the mandatory minimum (CGS § 21a-283a).

**Possessing Less Than 1/2 Ounce of Marijuana**

By law, possessing less than .5 ounce of marijuana is punishable by a:

1. \$150 fine payable by mail like an infraction for a first offense;
2. \$200 to \$500 fine payable by mail like an infraction for subsequent offenses (three-time violators must attend drug education, at their own expense); and
3. 60-day suspension of the driver’s license or nonresident operating privileges of anyone under age 21 who is convicted of a violation (if the person does not have a license, he or she is ineligible for one for 150 days after meeting all licensing requirements)(CGS §§ 14-111e and 21a-279a).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 22 Nay 20 (04/10/2015)