



Senate

General Assembly

File No. 741

January Session, 2015

Substitute Senate Bill No. 1105

Senate, April 23, 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 REVISIONS TO THE CRIMINAL JUSTICE STATUTES.

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

1 Section 1. Subsection (a) of section 53a-31 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2015*):

4 (a) A period of probation or conditional discharge commences on
5 the day it is imposed, [except that, where it is preceded by a sentence
6 of imprisonment with execution suspended after a period of
7 imprisonment set by the court,] unless the defendant is imprisoned, in
8 which case it commences on the day the defendant is released from
9 such imprisonment. Multiple periods, whether imposed at the same or
10 different times, shall run concurrently.

11 Sec. 2. Section 54-65c of the general statutes is repealed and the
12 following is substituted in lieu thereof (*Effective October 1, 2015*):

13 A court shall vacate an order forfeiting a bail bond and release the
14 professional bondsman, as defined in section 29-144, or the surety bail
15 bond agent and the insurer, as both terms are defined in section 38a-
16 660, if (1) the principal on the bail bond (A) is detained or incarcerated
17 (i) in another state, territory or country, or (ii) by a federal agency, or
18 (B) has been removed by United States Immigration and Customs
19 Enforcement, and (2) the professional bondsman, the surety bail bond
20 agent or the insurer provides satisfactory proof of such detention,
21 incarceration or removal to the court and the state's attorney
22 prosecuting the case, and (3) (A) the state's attorney prosecuting the
23 case declines to seek extradition of the principal, or (B) the state's
24 attorney prosecuting the case decides to seek extradition of the principal
25 and the professional bondsman, surety bail bond agent or insurer
26 provides proof to the court that such bondsman, agent or insurer has paid
27 to the Division of Criminal Justice the costs it will incur in extraditing the
28 principal to the state.

29 Sec. 3. Section 53a-54c of the general statutes is repealed and the
30 following is substituted in lieu thereof (*Effective October 1, 2015*):

31 A person is guilty of murder when, acting either alone or with one
32 or more persons, [he] such person commits or attempts to commit
33 robbery, home invasion, burglary, kidnapping, sexual assault in the
34 first degree, aggravated sexual assault in the first degree, sexual
35 assault in the third degree, sexual assault in the third degree with a
36 firearm, escape in the first degree, or escape in the second degree and,
37 in the course of and in furtherance of such crime or of flight therefrom,
38 [he] such person, or another participant, if any, causes the death of a
39 person other than one of the participants, except that in any
40 prosecution under this section, in which the defendant was not the
41 only participant in the underlying crime, it shall be an affirmative
42 defense that the defendant: (1) Did not commit the homicidal act or in
43 any way solicit, request, command, importune, cause or aid the
44 commission thereof; and (2) was not armed with a deadly weapon, or
45 any dangerous instrument; and (3) had no reasonable ground to
46 believe that any other participant was armed with such a weapon or

47 instrument; and (4) had no reasonable ground to believe that any other
48 participant intended to engage in conduct likely to result in death or
49 serious physical injury.

50 Sec. 4. Section 53a-60 of the general statutes is repealed and the
51 following is substituted in lieu thereof (*Effective October 1, 2015*):

52 (a) A person is guilty of assault in the second degree when: (1) With
53 intent to cause serious physical injury to another person, [he] the actor
54 causes such injury to such person or to a third person; or (2) with
55 intent to cause physical injury to another person, [he] the actor causes
56 such injury to such person or to a third person by means of a deadly
57 weapon or a dangerous instrument other than by means of the
58 discharge of a firearm; or (3) [he] the actor recklessly causes serious
59 physical injury to another person by means of a deadly weapon or a
60 dangerous instrument; or (4) for a purpose other than lawful medical
61 or therapeutic treatment, [he] the actor intentionally causes stupor,
62 unconsciousness or other physical impairment or injury to another
63 person by administering to such person, without his consent, a drug,
64 substance or preparation capable of producing the same; or (5) [he] the
65 actor is a parolee from a correctional institution and with intent to
66 cause physical injury to an employee or member of the Board of
67 Pardons and Paroles, he causes physical injury to such employee or
68 member; or (6) with intent to cause serious physical injury to another
69 person by rendering such other person unconscious, and without
70 provocation by such other person, [he] the actor causes such injury to
71 such other person by striking such other person on the head.

72 (b) Assault in the second degree is a class D felony or, if the offense
73 resulted in serious physical injury, a class C felony.

74 Sec. 5. Subsection (a) of section 54-251 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2015*):

77 (a) Any person who has been convicted or found not guilty by
78 reason of mental disease or defect of a criminal offense against a victim

79 who is a minor or a nonviolent sexual offense, and is released into the
80 community on or after October 1, 1998, shall, within three days
81 following such release or, if such person is in the custody of the
82 Commissioner of Correction, at such time prior to release as the
83 commissioner shall direct, and whether or not such person's place of
84 residence is in this state, register such person's name, identifying
85 factors, criminal history record, residence address and electronic mail
86 address, instant message address or other similar Internet
87 communication identifier, if any, with the Commissioner of Emergency
88 Services and Public Protection, on such forms and in such locations as
89 the commissioner shall direct, and shall maintain such registration for
90 ten years from the date of such person's release into the community,
91 except that any person who has one or more prior convictions of any
92 such offense or who is convicted of a violation of subdivision (2) of
93 subsection (a) of section 53a-70 shall maintain such registration for life.
94 Prior to accepting a plea of guilty or nolo contendere from a person
95 with respect to a criminal offense against a victim who is a minor or a
96 nonviolent sexual offense, the court shall (1) inform the person that the
97 entry of a finding of guilty after acceptance of the plea will subject the
98 person to the registration requirements of this section, and (2)
99 determine that the person fully understands the consequences of the
100 plea. If any person who is subject to registration under this section
101 changes such person's name, such person shall, without undue delay,
102 notify the Commissioner of Emergency Services and Public Protection
103 in writing of the new name. If any person who is subject to registration
104 under this section changes such person's address, such person shall,
105 without undue delay, notify the Commissioner of Emergency Services
106 and Public Protection in writing of the new address and, if the new
107 address is in another state, such person shall also register with an
108 appropriate agency in that state, provided that state has a registration
109 requirement for such offenders. If any person who is subject to
110 registration under this section establishes or changes an electronic mail
111 address, instant message address or other similar Internet
112 communication identifier, such person shall, without undue delay,
113 notify the Commissioner of Emergency Services and Public Protection

114 in writing of such identifier. If any person who is subject to registration
115 under this section is employed at, carries on a vocation at or is a
116 student at a trade or professional institution or institution of higher
117 learning in this state, such person shall, without undue delay, notify
118 the Commissioner of Emergency Services and Public Protection of
119 such status and of any change in such status. If any person who is
120 subject to registration under this section is employed in another state,
121 carries on a vocation in another state or is a student in another state,
122 such person shall, without undue delay, notify the Commissioner of
123 Emergency Services and Public Protection and shall also register with
124 an appropriate agency in that state, provided that state has a
125 registration requirement for such offenders. During such period of
126 registration, each registrant shall complete and return forms mailed to
127 such registrant to verify such registrant's residence address and shall
128 submit to the retaking of a photographic image upon request of the
129 Commissioner of Emergency Services and Public Protection.

130 Sec. 6. Subsection (b) of section 54-252 of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective*
132 *October 1, 2015*):

133 (b) Any person who has been subject to the registration
134 requirements of section 54-102r of the general statutes, revised to
135 January 1, 1997, as amended by section 1 of public act 97-183, shall, not
136 later than three working days after October 1, 1998, register under this
137 section and thereafter comply with the provisions of sections 54-102g
138 and 54-250 to 54-258a, inclusive, except that any person who was
139 convicted or found not guilty by reason of mental disease or defect of
140 an offense that is classified as a criminal offense against a victim who is
141 a minor under subdivision (2) of section 54-250 and that is subject to a
142 ten-year period of registration under section 54-251, as amended by
143 this act, shall maintain such registration for ten years from the date of
144 such person's release into the community.

145 Sec. 7. Subsection (a) of section 54-254 of the general statutes is
146 repealed and the following is substituted in lieu thereof (*Effective*

147 *October 1, 2015*):

148 (a) Any person who has been convicted or found not guilty by
149 reason of mental disease or defect in this state on or after October 1,
150 1998, of any felony that the court finds was committed for a sexual
151 purpose, may be required by the court upon release into the
152 community or, if such person is in the custody of the Commissioner of
153 Correction, at such time prior to release as the commissioner shall
154 direct to register such person's name, identifying factors, criminal
155 history record, residence address and electronic mail address, instant
156 message address or other similar Internet communication identifier, if
157 any, with the Commissioner of Emergency Services and Public
158 Protection, on such forms and in such locations as the commissioner
159 shall direct, and to maintain such registration for ten years from the
160 date of such person's release into the community. If the court finds that
161 a person has committed a felony for a sexual purpose and intends to
162 require such person to register under this section, prior to accepting a
163 plea of guilty or nolo contendere from such person with respect to
164 such felony, the court shall (1) inform the person that the entry of a
165 finding of guilty after acceptance of the plea will subject the person to
166 the registration requirements of this section, and (2) determine that the
167 person fully understands the consequences of the plea. If any person
168 who is subject to registration under this section changes such person's
169 name, such person shall, without undue delay, notify the
170 Commissioner of Emergency Services and Public Protection in writing
171 of the new name. If any person who is subject to registration under this
172 section changes such person's address, such person shall, without
173 undue delay, notify the Commissioner of Emergency Services and
174 Public Protection in writing of the new address and, if the new address
175 is in another state, such person shall also register with an appropriate
176 agency in that state, provided that state has a registration requirement
177 for such offenders. If any person who is subject to registration under
178 this section establishes or changes an electronic mail address, instant
179 message address or other similar Internet communication identifier,
180 such person shall, without undue delay, notify the Commissioner of
181 Emergency Services and Public Protection in writing of such identifier.

182 If any person who is subject to registration under this section is
183 employed at, carries on a vocation at or is a student at a trade or
184 professional institution or institution of higher learning in this state,
185 such person shall, without undue delay, notify the Commissioner of
186 Emergency Services and Public Protection of such status and of any
187 change in such status. If any person who is subject to registration
188 under this section is employed in another state, carries on a vocation in
189 another state or is a student in another state, such person shall, without
190 undue delay, notify the Commissioner of Emergency Services and
191 Public Protection and shall also register with an appropriate agency in
192 that state, provided that state has a registration requirement for such
193 offenders. During such period of registration, each registrant shall
194 complete and return forms mailed to such registrant to verify such
195 registrant's residence address and shall submit to the retaking of a
196 photographic image upon request of the Commissioner of Emergency
197 Services and Public Protection.

198 Sec. 8. Section 53a-110a of the general statutes is repealed and the
199 following is substituted in lieu thereof (*Effective October 1, 2015*):

200 (a) A person is guilty of simple trespass when, knowing that [he]
201 such person is not licensed or privileged to do so, [he] such person
202 enters or remains in or on any premises without intent to harm any
203 property.

204 (b) Simple trespass is an infraction.

205 Sec. 9. Section 53a-151 of the general statutes is repealed and the
206 following is substituted in lieu thereof (*Effective October 1, 2015*):

207 (a) A person is guilty of tampering with a witness if, believing that
208 an investigation or official proceeding is pending or about to be
209 instituted, [he] such person induces or attempts to induce a witness to
210 testify or inform falsely, withhold testimony, information, a document
211 or a thing, elude legal process summoning [him] such person to testify
212 or provide evidence, or absent himself or herself from any official
213 proceeding or investigation to which such person has been summoned.

214 (b) Tampering with a witness is a class C felony.

215 Sec. 10. Section 53a-151a of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2015*):

217 (a) A person is guilty of intimidating a witness when, believing that
218 an investigation or official proceeding is pending or about to be
219 instituted, such person uses, attempts to use or threatens the use of
220 physical force against a witness or another person with intent to (1)
221 influence, delay or prevent the testimony of the witness in the official
222 proceeding, or the cooperation of the witness in the investigation, or
223 (2) induce the witness to testify or inform falsely, withhold testimony,
224 information, a document or a thing, elude legal process summoning
225 the witness to testify or provide evidence, or absent himself or herself
226 from the official proceeding or investigation to which such person has
227 been summoned.

228 (b) Intimidating a witness is a class C felony.

229 Sec. 11. Section 53a-155 of the general statutes is repealed and the
230 following is substituted in lieu thereof (*Effective October 1, 2015*):

231 (a) A person is guilty of tampering with or fabricating physical
232 evidence if, believing that an investigation or official proceeding is
233 pending, or about to be instituted, [he] such person: (1) Alters,
234 destroys, conceals or removes any record, document or thing with
235 purpose to impair its verity or availability in such investigation or
236 proceeding; or (2) makes, presents or uses any record, document or
237 thing knowing it to be false and with purpose to mislead a public
238 servant who is or may be engaged in such investigation or official
239 proceeding.

240 (b) Tampering with or fabricating physical evidence is a class D
241 felony.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	53a-31(a)
Sec. 2	<i>October 1, 2015</i>	54-65c
Sec. 3	<i>October 1, 2015</i>	53a-54c
Sec. 4	<i>October 1, 2015</i>	53a-60
Sec. 5	<i>October 1, 2015</i>	54-251(a)
Sec. 6	<i>October 1, 2015</i>	54-252(b)
Sec. 7	<i>October 1, 2015</i>	54-254(a)
Sec. 8	<i>October 1, 2015</i>	53a-110a
Sec. 9	<i>October 1, 2015</i>	53a-151
Sec. 10	<i>October 1, 2015</i>	53a-151a
Sec. 11	<i>October 1, 2015</i>	53a-155

Statement of Legislative Commissioners:

The title was revised to more accurately reflect the contents of the bill.

JUD *Joint Favorable Subst. -LCO*

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 \$
Criminal Justice, Div.	GF - Savings	190,000	190,000
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 of the bill requires a person's probation term to begin after serving any prison sentence. This results in a cost for the occasions when a person is serving a prison sentence and probation term concurrently. On average it costs the Judicial Department approximately \$6,050 (including fringe benefits) to supervise a person in the community.

Section 2 makes a bondsman, surety bail bond agent, or insurer responsible under certain circumstances for paying the costs of returning a person to the state. These costs are currently paid by the Division of Criminal Justice and the bill is anticipated to result in savings of approximately \$190,000 annually.

Section 3 adds home invasion to the crime of felony murder, punishable by 25 to 60 years in prison or a fine of up to \$20,000, or both. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for probation and supervision in the community or incarceration would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the

community as opposed to \$50,690 (including benefits) to incarcerate an offender. In FY 14, there were 26 charges of felony murder under the current statute, of which seven were found guilty or resulted in a plea bargain.

Section 4 increases the penalty for a 2nd degree assault when it results in serious physical injury, making it a class C felony instead of a class D felony. In FY 14 there were 1,377 charges of 2nd degree assault, 664 resulted in convictions or plea bargains. It is unclear how many of those resulted in serious physical injury. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for probation and supervision in the community or incarceration would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender.

Sections 5-7 make changes to the sex offender registration period and do not result in a fiscal impact.

Section 8 expands the crime of simple trespass, eliminating the action as an act of criminal trespass. Simple trespass is an infraction and carries a fine of between \$100 to \$300.

Sections 9-11 expands the scope of tampering with or intimidating a witness and tampering with evidence, which are class C felonies. In FY 14 there were 305 charges under these crimes, 76 which resulted in convictions. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for probation and supervision in the community or incarceration would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender.

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*
Judicial Department Offenses and Revenue Database

OLR Bill Analysis

SB 1105

AN ACT CONCERNING REVISIONS TO THE CRIMINAL JUSTICE STATUTES.

SUMMARY:

This bill makes a number of changes to criminal laws. Among other things, it:

1. requires a person's probation term to begin after he or she serves any prison sentence;
2. requires a court to vacate a bond forfeiture order and release a professional bondsman or surety bail bond agent and insurer under certain circumstances when one of them pays the costs to extradite the subject of the bond from another jurisdiction;
3. expands the crime of felony murder;
4. increases the penalty for 2nd degree assault, from a class D felony to a class C felony, when serious physical injury results;
5. specifies that the 10-year registration period required for certain sex offenders begins when the offender is released into the community;
6. expands the infraction of simple trespass; and
7. expands the crimes of tampering with or intimidating a witness and tampering with evidence to cover activities while an investigation, in addition to an official proceeding, is pending or anticipated.

EFFECTIVE DATE: October 1, 2015

§ 1 — SERVING PROBATION TERMS

When a person is sentenced to a period of probation or conditional discharge to be served after a prison sentence, the law requires the probation or conditional discharge period to begin when the person is released from prison. Under case law, the court can only delay the start of a probation or conditional discharge term when a person is in prison under a sentence for the same crime, and it cannot delay the probation or conditional discharge period if the person is in prison due to a sentence on a different conviction (*State v. Moore*, 85 Conn.App. 7 (2004)).

The bill requires any probation or conditional discharge term to begin when the defendant is released from prison, regardless of when the prison sentence is imposed.

§ 2 — BONDS AND EXTRADITION

By law, the court must vacate a bond forfeiture order and release a professional bondsman or surety bail bond agent and insurer who posted a bond for the accused when the (1) bondsman, agent, or insurer provides proof that the accused is held in another state, territory, or country, or by a federal agency, or is removed by federal Immigration and Customs Enforcement and (2) prosecutor does not seek to extradite the accused.

If the prosecutor seeks extradition under the circumstances described above, the bill vacates a bond forfeiture order and releases the bondsman or agent and insurer if the bondsman, agent, or insurer proves to the court that one of them paid the Division of Criminal Justice's expected extradition costs.

§ 3 — FELONY MURDER

The bill expands the crime of felony murder to include when a person commits or attempts to commit home invasion and, during or in furtherance of the crime, or while fleeing the crime, the person or any other participant in the crime causes the death of someone not participating in the crime.

By law, felony murder includes causing a death as described above related to the crime of robbery, burglary, kidnapping, 1st or 3rd degree sexual assault, 1st degree aggravated sexual assault, 3rd degree sexual assault with a firearm, or 1st and 2nd degree escape.

By law, felony murder is punishable by 25 to 60 years in prison, a fine of up to \$20,000, or both.

§ 4 — 2ND DEGREE ASSAULT

The bill increases the penalty, from a class D felony to a class C felony, when a 2nd degree assault results in serious physical injury. By law, a class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both. A class C felony is punishable by up to 10 years in prison, a fine of up to \$10,000, or both. By law, a “serious physical injury” is one that creates a substantial risk of death or causes serious disfigurement, impairment of health, or loss or impairment of an organ’s function (CGS § 53a-3(4)).

By law, a person commits 2nd degree assault when he or she does any of the following to someone:

1. intentionally causes serious physical injury;
2. intentionally causes physical injury by using a deadly weapon or dangerous instrument other than a firearm;
3. recklessly causes serious physical injury by using a deadly weapon or dangerous instrument;
4. for a purpose other than lawful medical or therapeutic treatment, intentionally causes stupor, unconsciousness, or other physical impairment or injury by administering, without the victim's consent, a drug, substance, or preparation capable of producing the same;
5. while on parole, intentionally causes physical injury to a Board of Pardons and Paroles employee or member; or

6. without provocation, strikes a person in the head intentionally causing serious physical injury and rendering him or her unconscious.

§ 5-7 — SEX OFFENDER REGISTRATION PERIOD

The bill specifies that the 10-year registration period required for certain sex offenders begins when the offender is released into the community. By law, offenders convicted of 4th degree sexual assault, voyeurism, or crimes designated as sexual offenses against a minor must register for 10 years. The court may require an offender convicted of a felony committed for a sexual purpose to register for 10 years.

By law, a person convicted of a violent crime or a subsequent conviction of 4th degree sexual assault, voyeurism, or a sexual offense against a minor must register for life.

§ 8 — TRESPASS

By law, a person commits simple trespass by entering any premises he or she is not licensed or privileged to enter, without intent to harm the property. The bill expands this infraction to include when a person remains in or on the premises.

§§ 9-11 — TAMPERING WITH OR INTIMIDATING A WITNESS AND TAMPERING WITH EVIDENCE

The bill expands the scope of these crimes to cover conduct that occurs when a person believes an investigation is pending or about to begin. By law, each of these crimes covers conduct when a person believes an official proceeding is pending or about to begin. The Connecticut Supreme Court ruled that the evidence tampering crime did not cover situations where a person believes that only an investigation but not an official proceeding is likely (*State v. Jordan*, 314 Conn. 354 (2014)).

The bill also makes other changes to these crimes.

Tampering With a Witness

By law, a person tampers with a witness when he or she:

1. believes an official proceeding is pending or about to begin and
2. induces or attempts to induce a witness to testify falsely, withhold testimony, elude legal process summoning the witness, or absent himself or herself from an official proceeding.

The bill expands this crime in a number of ways. It applies to tampering when an investigation is pending or about to begin, in addition to when an official proceeding is pending or about to begin. It also expands the types of tampering involved to include inducing the witness to inform falsely; withhold information, a document, or a thing; and elude legal process requiring the witness to produce evidence.

By law, this crime is a class C felony.

Intimidating a Witness

By law, a person intimidates a witness when he or she:

1. believes an official proceeding is pending or about to begin;
2. uses, attempts to use, or threatens to use physical force against the witness or another person; and
3. intends to influence, delay, or prevent the witness' testimony or induce the witness to testify falsely, withhold testimony, elude legal process summoning the witness, or absent himself or herself from an official proceeding

The bill expands this crime in a number of ways. It applies to intimidation when an investigation is pending or about to begin, in addition to when an official proceeding is pending or about to begin.

It also expands the types of intimidation involved to include conduct to influence, delay, or prevent the witness' cooperation in the investigation and inducing the witness to inform falsely; withhold

information, a document, or a thing; and elude legal process requiring the witness to produce evidence.

By law, this crime is a class C felony.

Tampering With or Fabricating Evidence

By law, a person tampers with or fabricates evidence when he or she:

1. believes an official proceeding is pending or about to begin and
2. (a) alters, destroys, conceals, or removes a record, document, or thing in order to impair its verity or availability in a proceeding or (b) makes, presents, or uses a record, document, or thing knowing it is false in order to mislead a public servant who is or may be engaged in the official proceeding.

The bill expands this crime to cover actions when an investigation is pending or about to begin.

By law, this crime is a class D felony.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 43 Nay 0 (04/06/2015)