



House of Representatives

General Assembly

File No. 725

January Session, 2015

Substitute House Bill No. 6939

House of Representatives, April 20, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING SEXUAL ASSAULT IN THE FIRST DEGREE.

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

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2 repealed and the following is substituted in lieu thereof (*Effective*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

4 (a) The court may sentence a person to a period of probation upon
5 conviction of any crime, [other than] except for a class A felony other
6 than a violation of section 53a-70, as amended by this act, or 53a-70a,
7 as amended by this act, if it is of the opinion that: (1) Present or
8 extended institutional confinement of the defendant is not necessary
9 for the protection of the public; (2) the defendant is in need of
10 guidance, training or assistance which, in the defendant's case, can be
11 effectively administered through probation supervision; and (3) such
12 disposition is not inconsistent with the ends of justice.

13 Sec. 2. Subsection (b) of section 53a-70 of the general statutes is
14 repealed and the following is substituted in lieu thereof (*Effective*

15 October 1, 2015):

16 (b) (1) Except as provided in subdivision (2) of this subsection,
17 sexual assault in the first degree is a class B felony for which two years
18 of the sentence imposed may not be suspended or reduced by the
19 court or, if the victim of the offense is under ten years of age, for which
20 ten years of the sentence imposed may not be suspended or reduced
21 by the court.

22 (2) Sexual assault in the first degree is a class A felony if the offense
23 is a violation of subdivision (1) of subsection (a) of this section and the
24 victim of the offense is under sixteen years of age or the offense is a
25 violation of subdivision (2) of subsection (a) of this section. Any person
26 found guilty under said subdivision (1) or (2) shall be sentenced to a
27 term of imprisonment of which ten years of the sentence imposed may
28 not be suspended or reduced by the court if the victim is under ten
29 years of age or of which five years of the sentence imposed may not be
30 suspended or reduced by the court if the victim is under sixteen years
31 of age.

32 (3) Any person found guilty under this section shall be sentenced to
33 a term of imprisonment of at least ten years, including any portion of
34 such term which is suspended, or a term of imprisonment and a period
35 of special parole pursuant to subsection (b) of section 53a-28 which
36 together constitute a sentence of at least ten years.

37 Sec. 3. Subsection (b) of section 53a-70a of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective*
39 *October 1, 2015*):

40 (b) Aggravated sexual assault in the first degree is a class B felony
41 or, if the victim of the offense is under sixteen years of age, a class A
42 felony. Any person found guilty under this section shall be sentenced
43 to a term of imprisonment of which five years of the sentence imposed
44 may not be suspended or reduced by the court, except that, if such
45 person committed sexual assault in the first degree by violating
46 subdivision (1) of subsection (a) of section 53a-70, and the victim of the

47 offense is under sixteen years of age, twenty years of the sentence
 48 imposed may not be suspended or reduced by the court, or if such
 49 person committed sexual assault in the first degree by violating
 50 subdivision (2) of subsection (a) of section 53a-70, and the victim of the
 51 offense is under ten years of age, ten years of the sentence may not be
 52 suspended or reduced by the court. Any person found guilty under this
 53 section, except a person who committed sexual assault in the first degree
 54 by violating subdivision (1) of subsection (a) of section 53a-70, and the
 55 victim of the offense is under sixteen years of age, shall be sentenced to a
 56 term of imprisonment of at least ten years, including any portion of
 57 such term which is suspended, or a term of imprisonment and a period
 58 of special parole pursuant to subsection (b) of section 53a-28 which
 59 together constitute a sentence of at least [five] ten years. Any person
 60 found guilty under this section who committed sexual assault in the first
 61 degree by violating subdivision (1) of subsection (a) of section 53a-70, and
 62 the victim of the offense is under sixteen years of age, shall be sentenced
 63 to a term of imprisonment of twenty-five years, including any portion of
 64 such term which is suspended, or a term of imprisonment and a period of
 65 special parole pursuant to subsection (b) of section 53a-28 which together
 66 constitute a sentence of twenty-five years.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	53a-29(a)
Sec. 2	October 1, 2015	53a-70(b)
Sec. 3	October 1, 2015	53a-70a(b)

Statement of Legislative Commissioners:

In Sections 2(b)(3) and 3(b) "that is" was changed to "of" for consistency, and in Section 3(b) "may be" was changed to "is" and a conjunction was added before the last clause, for proper form.

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
Correction, Dept.; Judicial Dpt (Probation)	GF - See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes to the way in which offenders of sexual assault statutes can be sentenced. In general, the bill requires that offenders of certain sexual assault statutes serve longer terms of supervision, but allows for portions of that supervision to either be probation or parole as opposed to incarceration. To the extent that future offenders are sentenced differently under this bill, potential costs for incarceration or probation supervision in the community 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 bill changes the structure of sentencing for approximately 4% of the prison population, or 475 inmates.

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**sHB 6939*****AN ACT CONCERNING SEXUAL ASSAULT IN THE FIRST DEGREE.*****SUMMARY:**

This bill makes changes affecting sentencing for 1st degree sexual assault and 1st degree aggravated sexual assault.

It extends the circumstances when courts can order probation for these crimes by allowing them to do so even when the crimes are class A felonies.

By law, there is a mandatory minimum prison term of two, five, or ten years for 1st degree sexual assault, depending on the particular violation. Currently, the sentence must also include a term of imprisonment and special parole that totals at least 10 years. As an alternative, the bill allows a 10-year or longer term of imprisonment, including any suspended portion of the sentence.

For aggravated sexual assault, the bill raises the mandatory minimum from five to 10 years in certain circumstances. (Unchanged by the bill, the mandatory minimum is 20 years for certain violations.) Also, instead of the currently required five years or more of special parole, the bill generally requires at least a 10-year (1) imprisonment term, including any suspended portion, or (2) combined imprisonment term and special parole.

Read together, these provisions allow courts to impose what is often referred to as a “split sentence” for these crimes (i.e., a term of imprisonment, part of which is suspended, followed by probation). The bill does not reduce any mandatory minimums.

By law, the mandatory minimums for these crimes may be higher if

the person falls under the persistent offender statutes (CGS § 53a-40).

EFFECTIVE DATE: October 1, 2015

PROBATION

First degree sexual assault and 1st degree aggravated sexual assault are generally class B felonies; they are class A felonies in some circumstances involving victims who are minors.

Current law prohibits courts from ordering probation for class A felonies. The bill creates an exception by allowing probation for the class A felonies of 1st degree or 1st degree aggravated sexual assault. Courts can already order probation for these crimes when they are class B felonies.

By law, probation for these crimes when class B felonies must generally be for at least 10 years and no more than 35 years. This applies as well under the bill when these crimes are class A felonies (CGS § 53a-29(f)).

FIRST DEGREE AGGRAVATED SEXUAL ASSAULT

By law, a person is guilty of 1st degree aggravated sexual assault when the person commits 1st degree sexual assault and one of four aggravating factors are involved (e.g., the use or threat of a deadly weapon or intentionally causing certain serious injuries).

The bill requires courts to impose a 10-year mandatory minimum prison term, rather than the current five-year minimum, if the crime involves sexual intercourse with a victim under age 10 when the perpetrator is at least two years older. (For offenders age 14 through 17, these cases are heard in criminal court unless the prosecutor requests a transfer back to juvenile court; see BACKGROUND.)

In all cases of 1st degree aggravated sexual assault, current law requires at least five years of special parole in addition to the mandatory minimum prison term. The bill instead generally requires at least a 10-year sentence of (1) imprisonment, including any

suspended portion, or (2) combined imprisonment and special parole.

Under the bill, the required total sentence (imprisonment or imprisonment combined with special parole) must be at least 25 years if the person committed the crime by engaging in sexual intercourse through the use or threat of force with a victim under age 16. Existing law, unchanged by the bill, requires a mandatory minimum prison term of 20 years in this circumstance.

BACKGROUND

Transfer of Juveniles to Criminal Court

In Connecticut, juvenile courts have jurisdiction over children under age 18. The law requires the juvenile court to automatically transfer a child aged 14 through 17 to adult criminal court if he or she is charged with a class A or B felony, among certain other crimes.

The state's attorney may file a motion to return the matter back to juvenile court at any time if the child is charged with:

1. a class B felony or
2. 1st degree sexual assault, involving sexual intercourse with a victim under age 13 when the perpetrator is more than two years older (but under age 18) (CGS § 46b-127).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (04/06/2015)