



Senate

General Assembly

File No. 599

February Session, 2016

Substitute Senate Bill No. 363

Senate, April 13, 2016

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 VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM.***

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

1 Section 1. Subsection (c) of section 19a-343 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2016*):

4 (c) Three or more arrests, the issuance of three or more arrest
5 warrants indicating a pattern of criminal activity and not isolated
6 incidents or the issuance of three or more citations for a violation of a
7 municipal ordinance as described in subdivision (14) of this
8 subsection, for the following offenses shall constitute the basis for
9 bringing an action to abate a public nuisance:

10 (1) Prostitution under section 53a-82, 53a-83, 53a-86, 53a-87, 53a-88
11 or 53a-89.

12 (2) Promoting an obscene performance or obscene material under
13 section 53a-196 or 53a-196b, employing a minor in an obscene
14 performance under section 53a-196a, importing child pornography

15 under section 53a-196c, possessing child pornography in the first
16 degree under section 53a-196d, possessing child pornography in the
17 second degree under section 53a-196e or possessing child pornography
18 in the third degree under section 53a-196f.

19 (3) Transmission of gambling information under section 53-278b or
20 53-278d or maintaining of a gambling premises under section 53-278e.

21 (4) Offenses for the sale of controlled substances, possession of
22 controlled substances with intent to sell, or maintaining a drug factory
23 under section 21a-277, 21a-278 or 21a-278a or use of the property by
24 persons possessing controlled substances under section 21a-279.
25 Nothing in this section shall prevent the state from also proceeding
26 against property under section 21a-259 or 54-36h.

27 (5) Unauthorized sale of alcoholic liquor under section 30-74 or
28 disposing of liquor without a permit under section 30-77, or sale of
29 alcoholic liquor to any minor under subdivision (1) or (2) of subsection
30 (b) of section 30-86.

31 (6) Maintaining a motor vehicle chop shop under section 14-149a.

32 (7) Inciting injury to persons or property under section 53a-179a.

33 (8) Murder or manslaughter under section 53a-54a, 53a-54b, 53a-55,
34 53a-56 or 53a-56a.

35 (9) Assault under section 53a-59, 53a-59a, subdivision (1) of
36 subsection (a) of section 53a-60 or section 53a-60a or 53a-61.

37 (10) Sexual assault under section 53a-70 or 53a-70a.

38 (11) Fire safety violations under section 29-292, subsection (b) of
39 section 29-310, or section 29-315, 29-320, 29-329, 29-337, 29-349 or 29-
40 357.

41 (12) Firearm offenses under section 29-35, 53-202aa, 53-203, 53a-211,
42 53a-212, 53a-216, 53a-217 or 53a-217c.

43 (13) Illegal manufacture, sale, possession or dispensing of a drug
44 under subdivision (2) of section 21a-108.

45 (14) Violation of a municipal ordinance resulting in the issuance of a
46 citation for (A) excessive noise on nonresidential real property that
47 significantly impacts the surrounding area, provided the
48 municipality's excessive noise ordinance is based on an objective
49 standard, (B) owning or leasing a dwelling unit that provides residence
50 to an excessive number of unrelated persons resulting in dangerous or
51 unsanitary conditions that significantly impact the safety of the
52 surrounding area, or (C) impermissible operation of (i) a business that
53 permits persons who are not licensed pursuant to section 20-206b to
54 engage in the practice of massage therapy, or (ii) a massage parlor, as
55 defined by the applicable municipal ordinance, that significantly
56 impacts the safety of the surrounding area.

57 Sec. 2. Subsection (b) of section 21a-283 of the general statutes is
58 repealed and the following is substituted in lieu thereof (*Effective*
59 *October 1, 2016*):

60 (b) The Division of Scientific Services within the Department of
61 Emergency Services and Public Protection shall establish the standards
62 for analytical tests to be conducted with respect to controlled drugs, or
63 with respect to body fluids believed to contain alcohol, by qualified
64 professional toxicologists and chemists operating under the division's
65 direction and shall have the general responsibility for supervising such
66 analytical personnel in the performance of such tests. The original
67 report of an analysis made by such analytical personnel of the Division
68 of Scientific Services or by a qualified toxicologist, pathologist or
69 chemist of a laboratory of the United States Bureau of Narcotics shall
70 be signed and dated, either by hand or electronically, by the analyst
71 actually conducting the tests and shall state the nature of the analytical
72 tests or procedures, the identification and number of samples tested
73 and the results of the analytical tests. A copy of such report certified by
74 the analyst shall be received in any court of this state as competent
75 evidence of the matters and facts therein contained at any hearing in

76 probable cause, pretrial hearing or trial. If such copy is to be offered in
77 evidence at a trial, the attorney for the state shall send a copy thereof,
78 by certified mail, to the attorney of the defendant who has filed an
79 appearance of record or, if there is no such attorney, to the defendant if
80 such defendant has filed an appearance pro se, and such attorney or
81 defendant, as the case may be, shall, within five days of the receipt of
82 such copy, notify the attorney for the state, in writing, if such attorney
83 or defendant intends to contest the introduction of such certified copy.
84 No such trial shall commence until the expiration of such five-day
85 period and, if such intention to contest has been filed, the usual rules
86 of evidence shall obtain at such trial.

87 Sec. 3. Section 53-39a of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2016*):

89 Whenever, in any prosecution of [an officer of the Division of State
90 Police within the Department of Emergency Services and Public
91 Protection, or a member of the Office of State Capitol Police or] any
92 member of a law enforcement unit, as defined in section 7-294a, any
93 person appointed under section 29-18 as a special policeman for the
94 State Capitol building and grounds, the Legislative Office Building
95 and parking garage and related structures and facilities, and other
96 areas under the supervision and control of the Joint Committee on
97 Legislative Management, or [a local police department] any inspector
98 in the Division of Criminal Justice for a crime allegedly committed by
99 such [officer] person in the course of [his] duty, [as such,] the charge is
100 dismissed or the [officer] person found not guilty, such [officer] person
101 shall be indemnified by [his] such person's employing governmental
102 unit for economic loss sustained by [him] such person as a result of
103 such prosecution, including the payment of attorney's fees and costs
104 incurred during the prosecution and the enforcement of this section.
105 Such [officer] person may bring an action in the Superior Court against
106 such employing governmental unit to enforce the provisions of this
107 section.

108 Sec. 4. Section 53a-28a of the general statutes is repealed and the

109 following substituted in lieu thereof (*Effective October 1, 2016*):

110 All financial obligations ordered pursuant to subsection (c) of
111 section 53a-28 may be enforced in the same manner as a judgment in a
112 civil action by the party or entity to whom the obligation is owed. Such
113 obligations may be enforced at any time during the [ten-year] twenty-
114 year period following the offender's release from confinement or
115 [within ten] not later than twenty years [of] after the entry of the order
116 and sentence, whichever is longer.

117 Sec. 5. Section 53a-40e of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2016*):

119 (a) If any person is convicted of (1) a violation of subdivision (1) or
120 (2) of subsection (a) of section 53-21, section 53a-59, 53a-59a, 53a-60,
121 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-
122 72a, 53a-72b, 53a-73a, 53a-181c, 53a-181d, 53a-181e, 53a-182b, 53a-183,
123 53a-223, 53a-223a or 53a-223b or attempt or conspiracy to violate any of
124 said sections or section 53a-54a, or (2) any crime that the court
125 determines constitutes a family violence crime, as defined in section
126 46b-38a, or attempt or conspiracy to commit any such crime, the court
127 may, in addition to imposing the sentence authorized for the crime
128 under section 53a-35a or 53a-36, if the court is of the opinion that the
129 history and character and the nature and circumstances of the criminal
130 conduct of such offender indicate that a standing criminal protective
131 order will best serve the interest of the victim and the public, issue a
132 standing criminal protective order which shall remain in effect for a
133 duration specified by the court until modified or revoked by the court
134 for good cause shown. If any person is convicted of any crime not
135 specified in subdivision (1) or (2) of this subsection, the court may, for
136 good cause shown, issue a standing criminal protective order pursuant
137 to this subsection.

138 (b) Such standing criminal protective order may include, but need
139 not be limited to, provisions enjoining the offender from (1) imposing
140 any restraint upon the person or liberty of the victim; (2) threatening,
141 harassing, assaulting, molesting, sexually assaulting or attacking the

142 victim; or (3) entering the family dwelling or the dwelling of the
143 victim.

144 (c) Such standing criminal protective order shall include the
145 following notice: "In accordance with section 53a-223a of the
146 Connecticut general statutes, violation of this order shall be punishable
147 by a term of imprisonment of not less than one year nor more than ten
148 years, a fine of not more than ten thousand dollars, or both."

149 (d) Notwithstanding subsection (a) of this section, the court may
150 issue a standing criminal protective order upon a dismissal of a case of
151 a person arrested for a violation described in subsection (a) of this
152 section or the entry of a nolle prosequi by the prosecuting authority in
153 any such case.

154 [(d)] (e) For the purposes of this section and any other provision of
155 the general statutes, "standing criminal protective order" means (1) a
156 standing criminal restraining order issued prior to October 1, 2010, or
157 (2) a standing criminal protective order issued on or after October 1,
158 2010.

159 Sec. 6. Section 53a-214 of the general statutes is repealed and the
160 following is substituted in lieu thereof (*Effective October 1, 2016*):

161 (a) A landlord or lessor of a [dwelling] residential or nonresidential
162 unit subject to the provisions of chapter 830 or 832, an owner of such a
163 unit, or the agent of such landlord, lessor or owner is guilty of criminal
164 lockout when, without benefit of a court order, he or she deprives a
165 tenant, as defined in subsection (l) of section 47a-1, or lessee of access
166 to [his dwelling] such unit or [his personal] possessions within or on
167 the property of such unit.

168 (b) Criminal lockout is a class [C] B misdemeanor.

169 Sec. 7. Subsection (a) of section 53a-123 of the general statutes is
170 repealed and the following is substituted in lieu thereof (*Effective*
171 *October 1, 2016*):

172 (a) A person is guilty of larceny in the second degree when he
173 commits larceny, as defined in section 53a-119, and: (1) The property
174 consists of a motor vehicle, the value of which exceeds ten thousand
175 dollars, (2) the value of the property or service exceeds ten thousand
176 dollars, (3) the property, regardless of its nature or value, is taken from
177 the person of another, (4) the property is obtained by defrauding a
178 public community, and the value of such property is two thousand
179 dollars or less, (5) the property, regardless of its nature or value, is
180 obtained by embezzlement, false pretenses or false promise and the
181 victim of such larceny is sixty years of age or older or is blind or
182 physically disabled, as defined in section 1-1f, or a conserved person,
183 as defined in section 45a-644, or (6) the property, regardless of its
184 value, consists of wire, cable or other equipment used in the provision
185 of telecommunications service and the taking of such property causes
186 an interruption in the provision of emergency telecommunications
187 service.

188 Sec. 8. Section 54-86d of the 2016 supplement to the general statutes
189 is repealed and the following is substituted in lieu thereof (*Effective*
190 *October 1, 2016*):

191 Any person who has been the victim of a sexual assault under
192 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a,
193 voyeurism under section 53a-189a, or injury or risk of injury, or
194 impairing of morals under section 53-21, or of an attempt thereof, or
195 family violence, as defined in section 46b-38a, shall not be required to
196 divulge his or her address or telephone number during any trial or
197 pretrial evidentiary hearing arising from the sexual assault, voyeurism
198 or injury or risk of injury to, or impairing of morals of, a child, or
199 family violence; provided the judge presiding over such legal
200 proceeding finds: (1) Such information is not material to the
201 proceeding, (2) the identity of the victim has been satisfactorily
202 established, and (3) the current address of the victim will be made
203 available to the defense in the same manner and time as such
204 information is made available to the defense for other criminal
205 offenses.

206 Sec. 9. Section 54-86e of the 2016 supplement to the general statutes
207 is repealed and the following is substituted in lieu thereof (*Effective*
208 *October 1, 2016*):

209 The name and address of the victim of a sexual assault under
210 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a,
211 voyeurism under section 53a-189a, or injury or risk of injury, or
212 impairing of morals under section 53-21, or of an attempt thereof, or
213 family violence, as defined in section 46b-38a and such other
214 identifying information pertaining to such victim as determined by the
215 court, shall be confidential and shall be disclosed only upon order of
216 the Superior Court, except that (1) such information shall be available
217 to the accused in the same manner and time as such information is
218 available to persons accused of other criminal offenses, and (2) if a
219 protective order is issued in a prosecution under any of said sections,
220 the name and address of the victim, in addition to the information
221 contained in and concerning the issuance of such order, shall be
222 entered in the registry of protective orders pursuant to section 51-5c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	19a-343(c)
Sec. 2	<i>October 1, 2016</i>	21a-283(b)
Sec. 3	<i>October 1, 2016</i>	53-39a
Sec. 4	<i>October 1, 2016</i>	53a-28a
Sec. 5	<i>October 1, 2016</i>	53a-40e
Sec. 6	<i>October 1, 2016</i>	53a-214
Sec. 7	<i>October 1, 2016</i>	53a-123(a)
Sec. 8	<i>October 1, 2016</i>	54-86d
Sec. 9	<i>October 1, 2016</i>	54-86e

Statement of Legislative Commissioners:

In Section 5(d), "or any other provision of the general statutes" was deleted for accuracy.

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 17 \$	FY 18 \$
Various State Agencies	Various - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund; Various=Various

Municipal Impact: None

Explanation

Section 3 results in a potential cost by extending indemnification coverage to all law enforcement unit members and inspectors of the Division of Criminal Justice, current law provides this coverage to all state, local, or State Capitol police. Any potential cost to the state would be for any economic loss, including legal representation, for a law enforcement member who is exonerated for the crime.

Section 6 expands criminal lockout laws and increases the penalty, resulting in a potential revenue gain from fines. However in FY 15 there were no fines collected under the existing statute.

Section 7 expands 2nd degree larceny and results in a potential revenue gain from fines. In FY 15 there was one case that resulted in a fine of \$10,000. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for incarceration or probation supervision in the community would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an

offender.

Sections 1, 2, 4, 5, 8, and 9 make various changes that do not result in a fiscal impact.

The Out Years

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

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sSB 363*****AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.*****SUMMARY:**

This bill makes the following unrelated changes to criminal laws and procedures, including:

1. expanding the type of activity that can be the basis for a state action to abate a public nuisance to include alcohol sales to minors;
2. allowing toxicologists, pathologists, and chemists to sign certain chemical analysis test reports electronically;
3. expanding the types of law enforcement officers who must be indemnified by their employers and adding Division of Criminal Justice inspectors to the list of professionals who must be indemnified;
4. extending the time period in which a person may enforce a court order that an offender provide financial restitution to a victim;
5. expanding when courts can issue criminal protective orders to include when charges are dismissed or nolle (i.e., a prosecutor officially declines to prosecute a charge);
6. increasing the penalty for the crime of criminal lockout and expanding the crime to cover lockouts of nonresidential property;
7. making it a form of 2nd degree larceny if someone takes property from a conserved person by embezzlement, false

pretenses, or false promise; and

8. extending to sexual assault victims in a spousal or cohabiting relationship two protections regarding their names and other identifying information.

EFFECTIVE DATE: October 1, 2016

§ 1 — STATE ACTION FOR PUBLIC NUISANCE

By law, the state can bring an action to abate a public nuisance on any real property if, within the past 365 days, there have been three or more (1) arrests made for certain crimes; (2) arrest warrants issued for certain crimes that are not isolated incidents, indicating a pattern of criminal activity; or (3) municipal citations for certain violations.

The bill adds to the list of activities that can be the basis for a nuisance abatement action the sale of alcohol to a minor by (1) an alcohol permit holder or his or her servant or agent or (2) anyone who sells, ships, delivers, or gives it to the minor, including through the Internet (CGS § 30-86(b)(1) and (2)).

Examples of activity that subject a property to an abatement action under current law include unauthorized sale of alcohol and disposing of alcohol without a license, prostitution-related offenses, child pornography crimes, drug crimes, certain firearms-related crimes, murder or assault, and municipal citations such as those for excessive noise on nonresidential property and having an excessive number of unrelated people living together.

The law authorizes various types of temporary and permanent relief to abate a public nuisance, including allowing a court to:

1. appoint a receiver to manage and operate the property while a nuisance action is pending;
2. order the closing of the property or some part of it;
3. authorize the state to bring the property into compliance with

state and local building, fire, health, housing, or similar codes and order the defendant to pay the costs; and

4. impose civil fines or imprisonment for certain intentional violations (CGS § 19a-343 et seq.).

§ 2 — ELECTRONIC SIGNATURE ON TEST REPORTS

The bill allows Division of Scientific Services analytical personnel or U.S. Bureau of Narcotics laboratory qualified toxicologists, pathologists, and chemists to electronically sign and date original reports of tests on controlled drugs or bodily fluids believed to contain alcohol for use in criminal cases. Currently, they must sign and date in writing.

§ 3 — INDEMNIFICATION

The bill expands the types of officers who are entitled to indemnification from their employers if they are prosecuted for a crime allegedly committed in the course of duty and (1) are found not guilty or (2) have the charges dismissed.

Currently, State Police, local police, Capitol Police, and certain other appointed special policemen for the Capitol complex are entitled to this indemnification. The bill expands the law to include the following:

1. officers of any other state, municipal, or other government entity with a primary function that includes enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime;
2. Mashantucket Pequot and Mohegan tribes police officers; and
3. Division of Criminal Justice Inspectors.

§ 4 — ENFORCING RESTITUTION ORDERS

The bill extends by 10 years the time period in which someone can enforce and collect a court order that an offender provide financial restitution to a victim. Currently, the order is enforceable for 10 years from the date of the order's entry or offender's release from prison,

whichever is longer. Under the bill, it is enforceable for 20 years from either of these dates, whichever is longer.

§ 5 — STANDING CRIMINAL PROTECTIVE ORDERS

The law allows the court to issue one of these orders when someone is convicted of any of the following crimes:

1. a family violence crime or certain other crimes when the history and character of the offender and the nature and circumstances of his or her conduct indicate that the order best serves the victim's and public's interests or
2. another crime, if the court finds good cause.

The bill allows the courts to issue such an order against someone after the charges are dismissed or nolle.

By law, the court (1) sets the order's duration and terms, such as prohibiting the offender from threatening or restraining the victim or entering the victim's dwelling, and (2) can modify or revoke an order for good cause.

§ 6 — PROPERTY LOCKOUTS

The bill expands the crime of criminal lockout to include when a lessor or owner, or an agent of either, deprives a lessee of access to a nonresidential unit or possessions in or on the property of the unit without a court order. Current law applies only to residential units. The bill extends the crime to apply to depriving a person of access to any possessions in or on the unit's property, rather than just the tenant's personal possessions.

The bill also increases the penalty for this crime from a class C misdemeanor (punishable by up to three months in prison, a fine of up to \$500, or both) to a class B misdemeanor (punishable by up to six months in prison, a fine of up to \$1,000, or both).

§ 7 — LARCENY OF A CONSERVED PERSON

By law, it is 2nd degree larceny to take property from someone who

is age 60 or over, blind, or physically disabled by embezzlement, false pretenses, or false promise. The bill extends this to taking property in the same manner from a conserved person, defined as someone for whom a probate court has appointed a conservator of the estate (to manage the person's financial affairs) or of the person (to manage the person's personal affairs).

By law, 2nd degree larceny is a class C felony, punishable by up to 10 years in prison, a fine of up to \$10,000, or both.

Currently, committing this conduct against a victim who is a conserved person is punishable under the larceny statutes with the penalty varying based on the amount of property taken, from a class C misdemeanor (punishable by up to three months in prison, a fine of up to \$500, or both) to a class B felony (punishable by up to 20 years in prison, a fine of up to \$15,000, or both).

§§ 8 & 9 — SEX ASSAULT VICTIMS' NAMES

The bill extends to sexual assault victims in a spousal or cohabiting relationship two protections the law gives to certain sexual assault and other victims regarding their names and other personal information.

First, the bill prohibits requiring such a victim to divulge his or her address or phone number during a trial or pretrial evidentiary hearing arising from the crime if the judge finds the (1) information is not material, (2) victim's identity is satisfactorily established, and (3) victim's current address will be given to the defense in the same way as with cases involving other offenses.

Second, the bill makes confidential the victim's name, address, and other information the court determines is identifying, but it allows the following:

1. a court to order disclosure;
2. the accused to have access to the information in the same way as for cases involving other offenses; and

3. the victim's name, address, and identifying information to be entered in the protective order registry (which makes the information available to certain officials and others but otherwise limits disclosure) if a protective order is issued in the prosecution.

By law, these two protections already apply to the names, addresses, and information of victims of:

1. 1st, 2nd, 3rd, or 4th degree sexual assault;
2. 1st degree aggravated sexual assault;
3. 3rd degree sexual assault with a firearm;
4. voyeurism;
5. risk of injury to a minor; or
6. an attempt to commit one of these crimes.

It also applies to family violence crimes.

BACKGROUND

Related Bill

sHB 5052, File 397, allows the court to impose a standing criminal protective order against someone convicted of committing certain types of human trafficking.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/28/2016)