

Judiciary Committee

SENATE FAVORABLE REPORT

Bill No.: SB-880

AN ACT INCREASING FAIRNESS AND TRANSPARENCY IN THE CRIMINAL

Title: JUSTICE SYSTEM.

Vote Date: 4/9/2019

Vote Action: Joint Favorable Substitute

PH Date: 3/25/2019

File No.: 836

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SPONSORS OF BILL:

Judiciary Committee, SEN. LOONEY, 11th Dist., SEN. DUFF, 25th Dist., REP. ARESIMOWICZ, 30th Dist., REP. RITTER M., 1st Dist.

REASONS FOR BILL:

This bill is intended to improve data-driven criminal justice system policy and practice to promote fairness and transparency in the criminal justice system. The bill is broken into various sections which take aim at different issues. Sections 1 and 2 concern the collection and presentation of prosecutorial data. The purpose of these sections is to create a process for collecting, analyzing, and presenting information on prosecutorial decision-making. Section 3 charges the Chief Public Defender with establishing a pilot program to provide representation to indigent persons awaiting parole revocation hearings. Section 4 requires that the Board of Pardons and Paroles report to the Secretary of the Office of Policy and Management certain figures involved in the criminal justice process including the outcomes of preliminary hearings, the number of individuals remanded to the custody of the Department of Corrections, outcomes of final parole revocation hearings, and case level data on demographics.

SUBSTITUTE LANGUAGE:

See LCO No. 6918. In Lines 4-5, the word “existing” is added in exchange for “relating to the previous calendar year.” In Line 5-9, the requirement to report data presentations “in accordance with the provisions of section 11-4a of the general statutes to the chairpersons and ranking members of the joint standing committee of the General Assembly” In Lines 23-26, “. . . disaggregated, case level data by docket number pertaining to defendants who are eighteen years of age or older at the time of the commission of an alleged offense” is added. In lines 26-27, the number (4) is increased to (12). In Lines 28-60, the subdivisions

referred to in Section 2 are edited. In Lines 72-90, Section 4 replaces the former subsections of Section 3 in the original version of the bill.

RESPONSE FROM ADMINISTRATION/AGENCY:

Office of Policy and Management, Marc Pelka, Under Secretary, Criminal Justice Policy and Planning:

SB 880 is a two-part bill that would improve data-driven criminal justice system policy and practice at the front and back end of the system. Part 1 would create a process for collecting, analyzing, and presenting information on prosecutorial decision-making. Despite the crucial role that prosecutors play, few data points are available on prosecutorial decision-making. This bill would help provide key stakeholders and policymakers increased knowledge of State's Attorney office outputs and outcomes across the state. Part 2 would create a pilot system for representation of indigent persons awaiting parole revocation hearings. Many parolees facing revocation are at a significant disadvantage due in part to a lack of adequate information and resources to understand and navigate the process. Appointed counsel could provide valuable guidance to parolees to help them understand their rights and to navigate the process. The pilot's requirement of the Office of the Chief Public Defender and the Board of Pardon and Parole to collect and report information on outputs and outcomes from cases will help increase system transparency and our empirical understanding of parole violation hearing in Connecticut.

Chief Public Defender Christine Perra Rapillo:

This bill will continue the good work of the Legislature and this Committee by providing accountability for the criminal justice system and expanding the right to counsel. The bill mandates that the justice system collect data so that outcomes for both the accused and the community can be tracked. Fairness to the accused and the victim, sentences that ensure successful reentry of convicted individuals into the community, and public safety all need to be the goals of the criminal justice system. This proposal will help ensure that the system is accomplishing those goals.

Division of Criminal Justice:

This bill deals with the collection of data concerning the processing of cases through the criminal justice system and in many ways represents something of a culmination of years of effort on behalf of the Division of Criminal Justice to gain the capability to collect and analyze much of the information referenced in this bill. In many ways, it could be the Division of Criminal Justice itself that is most interested in much of the data that would be collected from S.B. No. 880. We have historically been forced to rely on anecdotal evidence or statistical information compiled by other agencies for much of the data we need to track and analyze arrests and other information critical to the operation of our own agency. The collection of data as proposed in S.B. No. 880 will not only assist the Division of Criminal Justice and prosecutors in better carrying out their constitutionally mandated responsibilities, but also assist the criminal justice system as a whole and the agencies and bodies that fund and oversee the system.

Board of Pardons and Paroles

SB 880's pilot program to provide representation to indigent parolees charged with violation of parole will increase efficiencies and provide invaluable services and resources in a cost-effective and resource targeted manner. The Office of the Chief Public Defender is uniquely

positioned within our criminal justice system to provide legal services to parolees with the proposed additional resources.

SB 880's data reporting requirements simply codify our commitment to transparency and evidence-based practices. As an agency we have and will continue to develop our ability to report and analyze data. This is evidenced by the recent expansion of our Planning, Research, and Development Division; our continued collaboration with the Criminal Justice Policy and Planning Division of the Office of Policy and Management; and the regular reporting available on our website.

Therefore, the Board respectfully recommends the Committee's Joint Favorable report on Senate Bill 880.

PUBLIC OFFICIALS (SUPPORT):

None expressed.

PUBLIC OFFICIALS (OPPOSITION):

None expressed.

RESPONSE FROM PUBLIC (SUPPORT):

City of Hartford, Court of Common Council Member, Larry Deutsch, M.D., M.P.H.:

These days there is much talk of justice and second chances, particularly regarding our State's young people. Today and the next few weeks may be the last chance for officials this term to rectify a persistent known wrong, and as Dr. Martin Luther King, Jr. has said, "justice delayed is justice denied."

Connecticut Coalition Against Domestic Violence:

We urge your support of SB 880. This bill is extremely important to understanding and strengthening the state's response to domestic violence as it relates to the criminal justice system. There are over 20,000 arrests for domestic violence annually in Connecticut, comprising approximately one third of Connecticut's criminal court docket. Having access to court and prosecutorial data related to these cases and their outcomes will help inform improved policies and practices.

One area of criminal justice transparency of particular importance to survivors of domestic violence is data related to nolle and dismissals. Nolle and dismissals in domestic violence cases are not necessarily bad, but knowing the reason for the nolle or dismissal is critical to understanding where the state's response to domestic violence can be improved.

Connecticut Association of Prosecutors:

The Connecticut Association of Prosecutors (CAP) is the bargaining unit representing 248 Deputy Assistant, Senior Assistant and Supervisory Assistant State's Attorneys within the Division of Criminal Justice. Charged with the responsibility for their investigation and prosecution of criminal matters in the State of Connecticut under the supervision of the Chief State's Attorney and the thirteen state's attorneys, Connecticut's prosecutors handle thousands of cases per annum. The Connecticut Association of Prosecutors strongly

supports the concept of S.B. No. 880, and respectfully recommends the Committee incorporate revised language drafted by the Office of Policy and Management. CAP has worked with DCJ management, legislative leaders, OPM, the ACLU and Governor Lamont's office to bring front line input to this legislation. It is CAP's hope that if this legislation is enacted, that significant funding will be provided to the DCJ for the staff and equipment necessary.

ACLU of Connecticut:

As an organization that believes government transparency and accountability are imperative to a democracy and that fights for fair and equal justice for everyone in the criminal justice system, the ACLU-CT supports efforts to increase access to data about the work of prosecutors. We therefore support Senate Bill 880, which would require the collection, reporting, and publication of important data about Connecticut's criminal justice system. This would allow lawmakers and the public to better evaluate the criminal justice system, and, should it be necessary, propose evidence-based reforms to improve the system for the betterment of Connecticut residents.

One Standard of Justice, Inc.:

The data proposed in this bill can only improve the understanding of how the laws of the State of Connecticut impact the people of Connecticut. This in turn will enable fact based reforms to make ours a safer state, a more humane state, a more just state, and improve the outcomes not only for those persons who are incarcerated, but the whole state.

Connecticut Voices for Children:

S.B. 880 would mandate that Connecticut's Division of Criminal Justice collect and publically report on prosecutorial data including defendant demographics such as race, age, residence, and gender; defendants' alleged offense; pretrial determinations; sentencing decisions; diversionary offerings; plea deal offerings; and defendant financial responsibilities including court fees and restitution. Connecticut Voices for Children supports public reporting on this data because it will allow Connecticut to detect points of racial bias within our justice system, and transparent data reporting will strengthen the procedural justice of our justice system. Additionally, we urge the committee to expand the bill's language to include reporting on the race of the victim and to mandate the collection of this information within the juvenile proceedings and to mandate the reporting of this data using responsible practices to protect the identities of juveniles.

Monroe Congregational Church, Monroe, CT, Debra Mastroni-Kenyon, Director of Faith Formation;

Connecticut Conference, United Church of Christ, Michelle Mudrick, Legislative Advocate;

Prosecutors in Connecticut hold substantial power in the criminal justice system and we are asking the state to publish data so that lawmakers and the public can better evaluate fairness and functionality of the criminal justice system in Connecticut. According to Connecticut prosecutors, the Division of Criminal Justice currently has funding to create a digital case management system and is in the process of completing the system.

All of God's children deserve government transparency; it is critical for our democracy. The Division of Criminal Justice, the agency that includes Connecticut's state prosecutors is generally not considered a public agency under the Connecticut Freedom of Information Act,

making it almost impossible to obtain information about its work. S.B. 880 will help Connecticut residents obtain that transparency and government accountability they deserve.

Connecticut Juvenile Justice Alliance:

We strongly support this bill, though we are urging amending language to include aggregate data collection and reporting on the prosecutorial decision points in the juvenile court as well as the adult court. That is not currently included in this version of the bill If prosecutors are not required to also collect juvenile data at the beginning of this process, it sends a message that juvenile cases and the impact that prosecutors' decisions have on children's lives is not important as what is happening with adults. We don't believe that anyone intends to send that message.

The Jerome N. Frank Legal Services Organization, Yale Law School

SB 880's parole reforms will improve the parole revocation system by providing parolees with a fairer process and by creating more transparency in outcomes. The Samuel Jacobs Criminal Justice Clinic of the Jerome Frank Legal Services Organization at Yale Law School urges the Committee to continue to advance parole reform in Connecticut by enacting SB 880.

Civil Justice Clinic, Quinnipiac University School of Law

A major recommendation of the Criminal Justice Policy Committee was to increase the transparency of the criminal justice system in Connecticut by passing legislation requiring broad collection of data relating to the state's prosecutorial work. Quinnipiac's Civil Justice Clinic supports the transparency concepts contained in SB 880 and appreciates the efforts of the Judiciary Committee and Governor regarding this legislation. We hope that the final version of this bill will also require collection of data relating to bail/pretrial release recommendations and determinations. In addition, we hope the bill will require that data be collected regarding the mandatory and discretionary transfer of juvenile cases to adult court. We recognize that confidentiality concerns that exist with respect to juvenile cases but believe that general data can be reported while safeguarding confidentiality. These two issues – bail and the treatment of juveniles as adults – are areas of concern to many people in our state and have been the focus of recent reform efforts in numerous states nationwide. Good data will help us make the most effective and evidence-driven policies on these issues in Connecticut.

SB 880 [also] provides that the Chief Public Defender shall, within available appropriations, establish a pilot program to provide representation to individuals at parole revocation hearings. The bill also requires collection of data regarding, *inter alia*, the outcomes of preliminary hearings and final parole revocation hearings, and the number of people remanded to custody for criminal and technical violations. The remand of someone on parole to prison – even for a short period of time – can have a devastating impact on a person's efforts to reintegrate into society. Incarceration for only a few days can result in the loss of a job and can lead to loss of housing and the inability to complete education or treatment programs. The Board of Pardons and Paroles (BPP) has recently undertaken important steps to reform the parole revocation system. However, more work can be done to prevent unnecessary incarceration. Providing counsel at parole revocation hearings would play a critical role in ensuring that the BPP has before it as much information as possible to inform its decision regarding whether a parole violation has occurred and whether re-incarceration is a necessary sanction.

Children With Incarcerated Parents Initiative:

The CT Children with Incarcerated Parents Initiative provided impact statements for the Committee. Various members collectively expressed their personal strife and experiences with the Criminal Justice System to convey their support for SB 880.

Noemi Soto:

Four of the Bills being discussed today are due to the fact that the people’s voice has been silenced, and the integrity of our government has been marred, because of unjust legal remedies and the biased application of Judicial Power.

As evidence to support this claim, I submit pre-trial vs. current case details on the 10 state employees being criminally prosecuted regarding the Whiting Forensic Hospital Abuse Case. The abuse in this case is literally a crime against humanity when “more than 40 out of 200 staff at Whiting are implicated in an abuse scandal; [with] such an absence of accountability that staff felt free to abuse a [elderly-disabled] patient knowing there is a camera in the room.”

For all these reasons I am in support of SB 990, SB 996, SB 1008, and SB 1098. But I would ask that emphasis on generating disaggregated data also include a record of initial charges presented before an accused. I also believe that a written record of prosecutor rational needs to be a procedural mandate in order to deter the biased application of Judicial Power and that such data needs to be made available to the public.

RESPONSE FROM PUBLIC (OPPOSITION):

None expressed.

Support	Opposed
Karen Ravenelle-Bloom (Willington, CT)	
Kenneth Speyer (New Britain, CT)	
Dan Garrett (Hamden, CT)	
Marianne Fitchell (New Canaan, CT)	
JoAnne Bauer (Hartford, CT)	

Reported by: Michael Holler

Date: April 25, 2019