AN ACT CONCERNING PROSECUTORIAL ACCOUNTABILITY.

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

Section 1. Subsection (h) of section 51-275a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2021):

(h) The commission shall be within the Division of Criminal Justice. Said division shall provide staff an autonomous body within the Executive Department. The Office of Policy and Management shall provide administrative support for the commission.

Sec. 2. Subsection (b) of section 51-278 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2021):

(b) (1) (A) The Criminal Justice Commission shall appoint (i) two deputy chief state's attorneys as assistant administrative heads of the Division of Criminal Justice, one of whom shall be deputy chief state's attorney for operations and one of whom shall be deputy chief state's attorney for personnel, finance and administration, who shall assist the...
Chief State's Attorney in his duties, and (ii) one deputy chief state's attorney who shall be nominated by the commission to serve as Inspector General in accordance with section 51-277e. The term of office of a deputy chief state's attorney shall be four years from July first in the year of appointment and until the appointment and qualification of a successor unless sooner removed by the Criminal Justice Commission.

The Criminal Justice Commission shall designate one deputy chief state's attorney appointed under subparagraph (A)(i) of this subsection who shall, in the absence or disqualification of the Chief State's Attorney, exercise the powers and duties of the Chief State's Attorney until such Chief State's Attorney resumes his duties. For the purposes of this subparagraph, the Criminal Justice Commission means the members of the commission other than the Chief State's Attorney. (B)

The Criminal Justice Commission shall appoint a state's attorney for each judicial district, who shall act therein as attorney on behalf of the state. The Criminal Justice Commission shall also appoint, from candidates recommended by the appropriate state's attorney and deemed qualified by the commission, as many assistant state's attorneys and deputy assistant state's attorneys on a full-time or part-time basis for each judicial district as the criminal business of the court, in the opinion of the Chief State's Attorney, may require, and the commission shall also appoint, from candidates recommended by the Chief State's Attorney and deemed qualified by the commission, as many assistant state's attorneys and deputy assistant state's attorneys as are necessary, in the opinion of the Chief State's Attorney, to assist the Chief State's Attorney. Assistant state's attorneys and deputy assistant state's attorneys, respectively, shall assist the state's attorneys for the judicial districts and the Chief State's Attorney in all criminal matters and, in the absence from the district or disability of the state's attorney or at his request, shall have and exercise all the powers and perform all the duties of state's attorney. At least three such assistant state's attorneys or deputy assistant state's attorneys shall be designated by the Chief State's Attorney to handle all prosecutions in the state of housing matters deemed to be criminal. Any assistant or deputy assistant state's attorney so designated should have a commitment to the maintenance of decent,
safe and sanitary housing and, to the extent practicable, shall handle housing matters on a full-time basis. At least one assistant state's attorney shall be designated by the Chief State's Attorney to handle all prosecutions in the state of environmental matters deemed to be criminal. Any assistant state's attorney so designated should have a commitment to protecting the environment and, to the extent practicable, shall handle environmental matters on a full-time basis. (C) The Chief State's Attorney may promote any assistant state's attorney, or deputy assistant state's attorney who assists him, and the appropriate state's attorney may promote any assistant state's attorney or deputy assistant state's attorney who assists such state's attorney in the judicial district.

(2) On and after July 1, 1985, the Chief State's Attorney, deputy chief state's attorneys, state's attorneys, assistant state's attorneys and deputy assistant state's attorneys shall receive salaries in accordance with a compensation plan approved by the Department of Administrative Services.

(3) Each state's attorney who, on June 30, 1973, was included in the provisions of sections 51-49, 51-287 and 51-288 may elect to continue to be so included and, each state's attorney, incumbent on July 1, 1978, who was an assistant state's attorney, chief prosecuting attorney or deputy chief prosecuting attorney on June 30, 1973, may elect to be included in sections 51-49, 51-287 and 51-288, and, in each such case, the Comptroller shall deduct from his salary five per cent thereof as contributions for the purposes of sections 51-49, 51-287 and 51-288, provided any person who has so elected may thereafter elect to participate in chapter 66 and thereupon his past contributions to the State's Attorneys' Retirement Fund shall be transferred to the State Employees Retirement Fund and he shall be credited with all prior service. All other persons appointed under the provisions of this section shall be subject to the provisions of chapter 66.

(4) Each Chief State's Attorney, deputy chief state's attorney or state's attorney who (A) is ineligible to elect under subdivision (3) of this
subsection, (B) is not subject to the provisions of chapter 66, and (C) had
vested under the State Employees Retirement Fund, prior to his
appointment to such office, shall vest under the State's Attorneys'
Retirement Fund upon reappointment to any such office by the Criminal
Justice Commission.

(5) The several state's attorneys shall each hold office for [eight] five
years from July first and until the appointment and qualification of a
successor unless sooner removed for just cause by the Criminal Justice
Commission. Beginning July 1, 2022, the commission shall biennially
evaluate the performance of each state's attorney in accordance with
section 51-280, as amended by this act.

(6) When any vacancy in the office of the Chief State's Attorney or the
office of a state's attorney is to be filled, the commission shall make its
appointment from the various recommendations of the Chief State's
Attorney or the appropriate state's attorney.

(7) Each deputy chief state's attorney and state's attorney incumbent
on the date of certification by the Secretary of the State of the
constitutional amendment concerning appointment of state's attorneys,
shall serve the term for which he had been appointed prior to said date.

Sec. 3. Section 51-279a of the general statutes is repealed and the
following is substituted in lieu thereof (Effective July 1, 2021):

(a) The Division of Criminal Justice Advisory Board is established,
comprised of the Chief State's Attorney or his designee and the state's
attorney for each judicial district or his designee. The board shall [meet
at least once a month to advise on state-wide prosecutorial standards
and guidelines and other policy matters, including peer review and
resolution of conflicts. The board shall adopt such rules as it deems
necessary for the conduct of its internal affairs.] develop uniform
written Division of Criminal Justice policies on or before December 31,
2021. The policies shall include, but not be limited to, standards
concerning the following subject areas:
(1) Charging decisions, concerning:

(A) Initiation of charges,

(B) Charging juveniles as adults,

(C) The standard of proof required to initiate and maintain charges,

(D) Investigatory and discovery materials to be reviewed before charging, and

(E) Diversionary program referrals;

(2) Pretrial release pursuant to section 54-63b, concerning:

(A) Pretrial release standards for specific offenses and offense categories,

(B) Criteria for determining the amount of security release requested for charged offenses,

(C) Review of pretrial release recommendations by supervisory staff within each judicial district, and

(D) Reevaluation of pretrial detention throughout the pretrial period;

(3) Pretrial discovery, concerning:

(A) Facilitation of prompt and complete initial discovery to the defense,

(B) Ongoing discovery to the defense when new evidence is made known to the state's attorney's office,

(C) Disclosure of complete file by law enforcement to the state's attorney's office, and

(D) Provision of discovery materials prior to entering into a plea agreement and prior to the beginning of a trial;
(4) Diversionary programs, concerning:

(A) Eligibility and criteria for referral, and

(B) Minimizing or eliminating costs to defendants;

(5) Plea agreements, concerning:

(A) Factors for consideration when evaluating a defendant for a plea agreement, such as offense categories, defendant characteristics and specific mitigating or aggravating factors, and

(B) The effect of a defendant's failure to enter into a plea agreement on future sentencing recommendations;

(6) Sentencing recommendations, including:

(A) Factors for recommendation of alternatives to incarceration,

(B) Factors for requesting imposition of fines and fees, including attorney fees for appointed counsel,

(C) Factors for sentencing recommendations (i) in excess of any applicable mandatory minimums, or (ii) at any applicable statutory maximum,

(D) The process for participating in presentencing reports, including making recommendations for sentencing variances contained in such reports, and

(E) Consideration and recording of projected expenditures of state or municipal funds associated with sentencing recommendations;

(7) Post-sentence recommendations, including:

(A) Factors for recommending termination of post-sentence supervised or conditional release,

(B) Factors for recommending pardons and other post-sentence relief, and
(C) The process for review of convictions and sentences challenged as unlawful;

(8) Victim engagement and involvement, including:

(A) Eligibility for victim involvement in charging decisions and other processes, and

(B) Working with the Victim Advocate to develop uniform processes for victim outreach and support;

(9) Case management and staffing, including transfer, continuance and staffing standards;

(10) Uniform prosecutorial ethics standards in addition to the ethical standards pertaining to all attorneys;

(11) The use of a grand jury for investigations;

(12) Circumstances and procedures for deviating from the policies created by the advisory board pursuant to this subsubsection;

(13) A uniform assessment tool for conducting annual performance evaluations for all deputy assistant state's attorneys, assistant state's attorneys, senior assistant state's attorneys, supervisory assistant state's attorneys and any other prosecuting attorneys; and

(14) Any other rules the advisory board deems necessary for the conduct of its internal affairs.

(b) Not later than sixty days after the advisory board has developed uniform policies in accordance with subsection (a) of this section, but in no event after March 1, 2022, the members of the Criminal Justice Commission shall review and approve the uniform policies developed by the advisory board, if such policies address each subdivision of subsection (a) of this section. If the commission determines that such policies do not address one or more subdivisions of subsection (a) of this section, the commission shall submit a written report to the advisory board.
board detailing which subdivisions of subsection (a) of this section need to be addressed in revised uniform policies. The advisory board shall revise the uniform policies to address each such subdivision and shall submit the revised uniform policies to the commission not later than ten days after receipt of such written report. Not later than thirty days after receipt of such revised uniform policies, the commission shall review and approve the revised uniform policies if such policies address each subdivision of subsection (a) of this section. If such revised uniform policies do not address each subdivision of subsection (a) of this section, the commission shall submit a written report to the advisory board and the advisory board shall further revise the uniform policies, in accordance with the provisions of this subsection.

(c) Upon approval of the policies by the Criminal Justice Commission pursuant to subsection (b) of this section, the advisory board shall vote to adopt the uniform policies on or before July 1, 2022. Upon adoption of the uniform policies and not later than July 1, 2022, the advisory board shall post the adopted uniform policies on the Division of Criminal Justice's Internet web site.

(d) (1) Not later than five years after the initial adoption of the policies approved pursuant to subsection (b) of this section, and every five years thereafter, the advisory board shall:

(A) Review the policies;

(B) Post on the Division of Criminal Justice's Internet web site notices concerning the time, date and place of any meeting of the advisory board for the purpose of making revisions to the uniform policies;

(C) Hold a public meeting with opportunity for public testimony regarding the review or revision of uniform policies; and

(D) Revise uniform policies, if necessary.

(2) Upon any such revisions, the advisory board shall submit such revised uniform policies to the Criminal Justice Commission, which
shall review the revised uniform policies and approve such revised
uniform policies in accordance with subsection (b) of this section. Not
later than thirty days after such approval by the commission, the
advisory board shall vote to adopt the uniform policies. Not later than
thirty days after the adoption of such revised uniform policies, the
advisory board shall post the adopted revised uniform policies on the
Division of Criminal Justice's Internet web site.

(e) The advisory board shall meet at least quarterly to review the
policies adopted pursuant to subsection (b) of this section and to advise
on other standards, guidelines and policy matters.

(f) Each state's attorney shall adopt and make available to the
prosecuting attorneys within the state's attorney's judicial district the
uniform policies adopted in accordance with subsection (c) of this
section not later than July 1, 2022. Each state's attorney shall implement
the policies within that judicial district and direct all prosecuting
attorneys within the judicial district to comply with such policies. All
state's attorneys shall adopt and implement any revision to the policies
adopted in accordance with subsection (d) of this section.

(g) The advisory board shall establish a methodology for the state's
attorney of each judicial district to monitor and track information
regarding compliance with the uniform or revised uniform policies
adopted in accordance with subsection (c) or (d) of this section.

Sec. 4. Section 51-279c of the general statutes is repealed and the
following is substituted in lieu thereof (Effective October 1, 2021):

The Chief State's Attorney shall establish a formal training program
for all newly-appointed prosecuting attorneys consisting of not less than
five days and an ongoing training program for all prosecuting attorneys
consisting of not less than two days each year. Such training programs
shall commence January 1, 1998. On and after July 1, 2022, all such
training programs shall include training on (1) racial bias, including
implicit bias; (2) systemic collateral consequences of arrest, charging and
incarceration; (3) available conviction and sentencing alternatives; (4)
victim interview techniques; (5) mental illness and trauma; and (6) reentry strategies for offenders released into the community. At least one day of each ongoing training program and of each training program for newly appointed prosecuting attorneys shall be held in a state correctional facility.

Sec. 5. Section 51-280 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2021):

(a) The [Chief State's Attorney and each state's attorney] Office of Policy and Management shall prepare a [merit and] performance [rating] report for each state's attorney [, assistant state's attorney and deputy assistant state's attorney and shall submit the merit and performance rating for each state's attorney to the Criminal Justice Commission for its consideration at the time for reappointing such attorneys to any new term or terms.] based upon data collected pursuant to section 51-286j, as amended by this act. The Office of Policy and Management shall provide the performance report for the state's attorneys for New Britain, Ansonia-Milford, Middlesex, Stamford-Norwalk, Hartford and Waterbury to the Criminal Justice Commission on or before July 1, 2022, and every two years thereafter. The Office of Policy and Management shall provide the performance report for the state's attorneys for Danbury, Fairfield, Litchfield, New Haven, New London, Tolland and Windham to the Criminal Justice Commission on or before July 1, 2023, and every two years thereafter. The commission shall provide each performance report to the state's attorney who is the subject of the performance report and to the Commission on Human Rights and Opportunities and post such report on the Internet web site for the Division of Criminal Justice on the same date that the performance report is provided to the commission.

(b) The performance report for each state's attorney required pursuant to subsection (a) of this section shall include, but need not be limited to, the following categories of data for the judicial district that the state's attorney oversees for the evaluation period:
(1) The disparity, if any, in outcomes for different demographic groups involved in the criminal justice process, in:

(A) Arrests, including citations, summonses, custody arrests, warrants and on-site arrests,

(B) Diversionary program applications, successful completions and failures to complete,

(C) Nonjudicial sanctions,

(D) Plea agreements, including agreements involving probation, agreements involving imprisonment, other agreements and prosecutors' last best offer,

(E) Trial dispositions, including dispositions involving probation, dispositions involving prison and other dispositions,

(F) Sentence lengths,

(G) Court fees or fines, and

(H) Restitution amounts ordered;

(2) The efficient, timely and consistent administration of criminal cases, as measured by the:

(A) Total number of cases dismissed, not prosecuted and nolled, and cases dismissed, not prosecuted and nolled as a percentage of total cases charged,

(B) Total number of cases resolved by plea agreement and cases resolved by plea agreement as a percentage of total cases charged,

(C) Total number of continuances granted, and

(D) Total number of cases resolved by plea agreement where the defendant pled guilty or by plea agreement where the defendant pled guilty or nolo contendere to a lesser charge than that initially charged as
a percentage of total cases resolved by plea agreement;

(3) The proportionality of criminal justice outcomes relative to both offenses and to the community needs, as measured by the:

(A) Total number of cases referred for diversionary programs and cases referred for diversionary programs as a percentage of overall number of cases,

(B) Total number of cases with a defendant under twenty-one years of age and the percentage of cases where the defendant was charged as an adult,

(C) Total number of median incarceration days for sentences in misdemeanor cases and for sentences in felony cases,

(D) Total number of case convictions with a sentence of probation or parole for misdemeanor cases and felony cases,

(E) Median probation time in misdemeanor cases and felony cases,

(F) Percentage of cases for which restitution was ordered as part of the sentence in misdemeanor cases and felony cases,

(G) Total number of sentence modification requests received and total number of sentence modification requests consented to, and

(H) Total number of prison admissions from the judicial district as a result of convictions;

(4) Internal management and functioning of the state's attorney's office, as measured by the:

(A) Existence of and compliance with a business plan for the judicial district,

(B) Compliance with the policies created pursuant to section 51-279a as amended by this act,
(C) Overall percentage of prosecuting attorneys within the state's attorney's judicial district by race, sex, ethnicity and age, along with percentage of prosecuting attorneys within leadership positions and within nonleadership positions by race, sex, ethnicity and age.

(D) Overall median number of cases per prosecuting attorney within the state's attorney's judicial district, along with the number of misdemeanors and felonies charged per prosecuting attorney.

(E) Percentage of all cases dismissed, not prosecuted and nolled that resulted from a lack of witness cooperation.

(F) Total number of meritorious ethics violations by prosecuting attorneys within the state's attorney's judicial district, and

(G) Median number of hours of professional and legal training completed by prosecuting attorneys within the state's attorney's judicial district, including median number of hours of training on the topics specified in section 51-279c, as amended by this act; and

(5) The health of communities impacted by prosecution, as measured by:

(A) Victim satisfaction as measured by section 51-279a, as amended by this act,

(B) Number of staff assigned to community-based subdivisions within state's attorney's judicial district,

(C) Percentage of defendants referred to diversionary programs who successfully complete such programs,

(D) Percentage of people who were released from incarceration within the preceding three years who are homeless or without permanent or stable dwellings within the state's attorney's judicial district,

(E) Percentage of felony cases dismissed, not prosecuted and nolled
in the highest crime zip code in the judicial district and the percentage of felony cases dismissed, not prosecuted and nolled in the lowest crime zip code in the judicial district, and

(F) Percentage of felony cases dismissed, not prosecuted and nolled in the highest median income zip code in the judicial district and the percentage of felony cases dismissed, not prosecuted and nolled in the lowest median income zip code in the judicial district.

(c) Using the performance report created by the Office of Policy and Management, the Criminal Justice Commission shall conduct a performance review of each state's attorney every two years after the Office of Policy and Management has filed performance reports for that year, with performance review for the state's attorneys for New Britain, Ansonia-Milford, Middlesex, Stamford-Norwalk, Hartford and Waterbury being conducted in even-numbered years and performance reviews for the state's attorneys for Danbury, Fairfield, Litchfield, New Haven, New London, Tolland and Windham being conducted in odd-numbered years. Each performance review shall occur at a regularly scheduled, duly noticed public meeting and shall include the opportunity for public comment. The commission shall review the performance report for each state's attorney, with the state's attorney given the opportunity to explain any discrepancies between the judicial districts or between past and present performance.

(d) When a state's attorney is being considered for reappointment, the performance reports created by the Office of Policy and Management and the performance reviews conducted by the Criminal Justice Commission may be considered by the Criminal Justice Commission.

Sec. 6. Section 51-286j of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2021):

(a) The Division of Criminal Justice, in consultation with the Judicial Branch, the Department of Correction and the Criminal Justice Information System Governing Board, established under section 54-142, shall collect for the purposes of section 4-68ff 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 under each of the categories described in subdivisions (1) to [(13)] (14), inclusive, of this subsection, as follows:

(1) Arrests, including data on citations, summonses, custody arrests, warrants and on-site arrests;

(2) Arraignments of individuals in custody;

(3) Continuances;

(4) Diversionary programs, including data on program applications, program diversions, successful completions by defendants of such programs, failures by defendants to complete such programs and people in diversion on the first of the month;

(5) Contact between victims and prosecutorial officials, including data on cases involving victims;

(6) Dispositions, including data on pending cases and cases disposed of;

(7) Nonjudicial sanctions, including data on nonjudicial sanctions applied, successful completion of nonjudicial sanctions, failure of nonjudicial sanctions and persons on nonjudicial sanction status on the first of the month;

(8) Plea agreements, including data on total plea agreements, agreements involving probation, agreements involving prison, other agreements and prosecutor's last best offer;

(9) Cases going to trial, including data on cases added per month, pending trial cases, plea offers accepted by the court per month, plea offers rejected by the court per month, disposition by trial, disposition involving probation, disposition involving prison and other dispositions;
(10) Demographics, including data on race, sex, ethnicity and age;

(11) Court fees or fines, including those imposed by the court at the disposition of the defendant's case and any outstanding balance the defendant may have on such fees or fines;

(12) Restitution amounts ordered pursuant to subsection (c) of section 53a-28, including any amount collected by the court and any amount paid to a victim; [and]

(13) The zip code of the defendant's primary residence; and

(14) Uses of force investigated by the Office of the Inspector General.

(b) No information collected under this section that personally identifies a victim may be disclosed under section 4-68ff.

Sec. 7. Section 51-277c of the general statutes is repealed. (Effective October 1, 2021)

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Statement of Purpose:
To (1) increase prosecutorial accountability by (A) providing that the Criminal Justice Commission be an autonomous body, (B) requiring biennial performance evaluations of state's attorneys, (C) requiring adoption and implementation of uniform policies, (D) amending training requirements for prosecutors, (E) outlining data upon which state's attorney performance ratings are based, (F) making policies and reports available online, and (G) adding use of force investigations as a category for which case level data is collected, and (2) repeal the requirement that in the investigation and prosecution of crime, priority
be given to crimes involving physical violence or the possession of a firearm.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]