

Senate, March 30, 1998. The Committee on Judiciary reported through SEN. WILLIAMS, 29th DIST., Chairman of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CRIMES AGAINST PERSONS WITH MENTAL RETARDATION.

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

1 Section 1. Section 53a-59a of the general
2 statutes is repealed and the following is
3 substituted in lieu thereof:

4 (a) A person is guilty of assault of a victim
5 sixty or older in the first degree, when he
6 commits assault in the first degree under section
7 53a-59(a)(2), 53a-59(a)(3) or 53a-59(a)(5) and the
8 victim of such assault has attained at least sixty
9 years of age or is blind or physically disabled,
10 as defined in section 1-1f, OR IS MENTALLY
11 RETARDED.

12 (b) No person shall be found guilty of
13 assault in the first degree and assault of a
14 victim sixty or older in the first degree upon the
15 same incident of assault but such person may be
16 charged and prosecuted for both such offenses upon
17 the same information.

18 (c) Assault of a victim sixty or older in the
19 first degree is a class B felony and any person
20 found guilty under this section shall be sentenced
21 to a term of imprisonment of which five years of
22 the sentence imposed may not be suspended or
23 reduced by the court.

24 Sec. 2. Section 53a-60b of the general
25 statutes is repealed and the following is
26 substituted in lieu thereof:

27 (a) A person is guilty of assault of a victim
28 sixty or older in the second degree when he
29 commits assault in the second degree under section
30 53a-60 or larceny in the second degree under
31 section 53a-123(a)(3) and the victim of such
32 assault or larceny has attained at least sixty
33 years of age or is blind or physically disabled,
34 as defined in section 1-1f, OR IS MENTALLY
35 RETARDED.

36 (b) No person shall be found guilty of
37 assault in the second degree or larceny in the
38 second degree under section 53a-123(a)(3) and
39 assault of a victim sixty or older in the second
40 degree upon the same incident of assault or
41 larceny, as the case may be, but such person may
42 be charged and prosecuted for all such offenses
43 upon the same information.

44 (c) Assault of a victim sixty or older in the
45 second degree is a class D felony and any person
46 found guilty under this section shall be sentenced
47 to a term of imprisonment of which two years of
48 the sentence imposed may not be suspended or
49 reduced by the court.

50 Sec. 3. Section 53a-60c of the general
51 statutes is repealed and the following is
52 substituted in lieu thereof:

53 (a) A person is guilty of assault of a victim
54 sixty or older in the second degree with a firearm
55 when he commits assault in the second degree with
56 a firearm under section 53a-60a and the victim of
57 such assault has attained at least sixty years of
58 age or is blind or physically disabled, as defined
59 in section 1-1f, OR IS MENTALLY RETARDED.

60 (b) No person shall be found guilty of
61 assault in the second degree or assault in the
62 second degree with a firearm and assault of a
63 victim sixty or older in the second degree with a
64 firearm upon the same incident of assault but such
65 person may be charged and prosecuted for all of
66 such offenses upon the same information.

67 (c) Assault of a victim sixty or older in the
68 second degree with a firearm is a class D felony
69 and any person found guilty under this section
70 shall be sentenced to a term of imprisonment of

71 which three years of the sentence imposed may not
72 be suspended or reduced by the court.

73 Sec. 4. Section 53a-61a of the general
74 statutes is repealed and the following is
75 substituted in lieu thereof:

76 (a) A person is guilty of assault of a victim
77 sixty or older in the third degree when he commits
78 assault in the third degree under section 53a-61
79 and the victim of such assault has attained at
80 least sixty years of age or is blind or physically
81 disabled, as defined in section 1-1f, OR IS
82 MENTALLY RETARDED.

83 (b) No person shall be found guilty of
84 assault in the third degree and assault of a
85 victim sixty or older in the third degree upon the
86 same incident of assault but such person may be
87 charged and prosecuted for both such offenses upon
88 the same information.

89 (c) Assault of a victim sixty or older in the
90 third degree is a class A misdemeanor and any
91 person found guilty under this section shall be
92 sentenced to a term of imprisonment of one year
93 which shall not be suspended or reduced.

94 Sec. 5. Subsection (a) of section 1-1g of the
95 general statutes is repealed and the following is
96 substituted in lieu thereof:

97 (a) For the purposes of sections 4a-60,
98 17a-274, 17a-281, 38a-816, 45a-668 to 45a-684,
99 inclusive, [and] section 46a-51, SECTION 53a-59a,
100 AS AMENDED BY SECTION 1 OF THIS ACT, SECTION
101 53a-60b, AS AMENDED BY SECTION 2 OF THIS ACT,
102 SECTION 53a-60c, AS AMENDED BY SECTION 3 OF THIS
103 ACT, AND SECTION 53a-61a, AS AMENDED BY SECTION 4
104 OF THIS ACT, mental retardation means a
105 significantly subaverage general intellectual
106 functioning existing concurrently with deficits in
107 adaptive behavior and manifested during the
108 developmental period.

109 JUD COMMITTEE VOTE: YEA 29 NAY 3 JF

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SB 578

STATE IMPACT Future Cost, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Criminal Justice Agencies

EXPLANATION OF ESTIMATES:

The bill's provisions concerning enhanced prison sentences would result in increased pressures on the criminal justice system. Over the long term, these pressures would lead to a need for increased criminal justice resources, especially for incarceration and community supervision.

Although direct cost quantification is problematic, it should be noted that sHB 5021 (the Revised Appropriations Act for FY 1998-99 as favorably reported by Appropriations) includes \$5.4 million to address overcrowding in the state's prisons and jails. In addition, the Public Defender Services Commission is currently under suit by the American Civil Liberties Union relating to the adequacy of funding for public defenders. Increases in criminal penalties, especially mandatory minimum sentences, will at some point require additional funds for criminal justice agencies in order to maintain adequate enforcement of other criminal laws.

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OLR BILL ANALYSIS

SB 578

AN ACT CONCERNING CRIMES AGAINST PERSONS WITH MENTAL RETARDATION

SUMMARY: This bill subjects anyone who assaults a person with mental retardation to the same enhanced penalty as those who assault people who are age 60 or older, blind, or disabled. The enhancement is a mandatory minimum term of imprisonment that may not be suspended or reduced. The length of the mandatory prison term varies depending on the degree of the assault, but in no case exceeds five years.

The bill reduces from a class C to a class D felony second-degree larceny where the victim is a person with mental retardation, but enhances the penalty to include a two-year mandatory minimum prison sentence. A class C felony is punishable by up to 10 years imprisonment, a \$10,000 fine, or both. A class D felony is punishable by up to five years imprisonment, a \$5,000 fine, or both. "Mentally retarded" means significantly subaverage general intellectual functioning with deficits in adaptive behavior manifested during the developmental period.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION**Penalties for Assaulting a Person with Mental Retardation**

<u>Crime</u>	<u>Current Penalty</u>	<u>New Penalty</u>
First-degree assault, except using a deadly weapon or dangerous instrument to intentionally cause serious physical injury	Up to 20 years imprisonment, a \$15,000 fine, or both. But if the victim is under age 10, 10 years may not be suspended or	Same penalty, except five years cannot be suspended or reduced. But if the victim is under age 10, a mandatory minimum of five or 10 years may be

	reduced	imposed
Second-degree assault	Up to five years imprisonment, a \$5,000 fine, or both	Same penalty, except two years cannot be suspended or reduced
Second-degree assault with a firearm	Up to five years imprisonment, a \$5,000 fine, or both	Same penalty, except three years cannot be suspended or reduced
Third-degree assault	Up to one year imprisonment, a \$2,000 fine, or both. But if a dangerous instrument or deadly or electronic defense weapon was used, one year cannot be suspended or reduced	Same penalty, except one year cannot be suspended or reduced regardless of whether a dangerous instrument or deadly or electronic defense weapon was used

First-Degree Assault with a Weapon

By law, a person who uses a deadly weapon or dangerous instrument to intentionally cause serious physical injury to another person is subject to an enhanced penalty because of the nature of the offense rather than the victim's age or condition. The enhanced penalty is a five-year mandatory minimum sentence.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 29 Nay 3