

House of Representatives, April 7, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING VIOLATION OF PROBATION.

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

1 Section 53a-32 of the general statutes is
2 repealed and the following is substituted in lieu
3 thereof:

4 (a) At any time during the period of
5 probation or conditional discharge, the court or
6 any judge thereof may issue a warrant for the
7 arrest of a defendant for violation of any of the
8 conditions of probation or conditional discharge,
9 or may issue a notice to appear to answer to a
10 charge of such violation, which notice shall be
11 personally served upon the defendant. Any such
12 warrant shall authorize all officers named therein
13 to return the defendant to the custody of the
14 court or to any suitable detention facility
15 designated by the court. Whenever a sexual
16 offender, as defined in section 54-102s, has
17 violated the conditions of his probation by
18 failing to notify his probation officer of any
19 change of his residence address, as required by
20 said section, such probation officer may notify
21 any police officer that such person has, in his
22 judgment, violated the conditions of his probation
23 and such notice shall be sufficient warrant for

24 the police officer to arrest such person and
25 return him to the custody of the court or to any
26 suitable detention facility designated by the
27 court. Any probation officer may arrest any
28 defendant on probation without a warrant or may
29 deputize any other officer with power to arrest to
30 do so by giving him a written statement setting
31 forth that the defendant has, in the judgment of
32 the probation officer, violated the conditions of
33 his probation. Such written statement, delivered
34 with the defendant by the arresting officer to the
35 official in charge of any correctional center or
36 other place of detention, shall be sufficient
37 warrant for the detention of the defendant. After
38 making such an arrest, such probation officer
39 shall present to the detaining authorities a
40 similar statement of the circumstances of
41 violation. Provisions regarding release on bail of
42 persons charged with a crime shall be applicable
43 to any defendant arrested under the provisions of
44 this section. Upon such arrest and detention, the
45 probation officer shall immediately so notify the
46 court or any judge thereof. Thereupon, or upon an
47 arrest by warrant as herein provided, the court
48 shall cause the defendant to be brought before it
49 without unnecessary delay for a hearing on the
50 violation charges. At such hearing the defendant
51 shall be informed of the manner in which he is
52 alleged to have violated the conditions of his
53 probation or conditional discharge, shall be
54 advised by the court that he has the right to
55 retain counsel and, if indigent, shall be entitled
56 to the services of the public defender, and shall
57 have the right to cross-examine witnesses and to
58 present evidence in his own behalf.

59 (b) If such violation is established, the
60 court may: (1) Continue the sentence of probation
61 or conditional discharge; (2) modify or enlarge
62 the conditions of probation or conditional
63 discharge; (3) extend the period of probation or
64 conditional discharge, provided the original
65 period with any extensions shall not exceed the
66 periods authorized by section 53a-29; or (4)
67 revoke the sentence of probation or conditional
68 discharge. If such sentence is revoked, the court
69 shall require the defendant to serve the sentence
70 imposed or impose any lesser sentence. ANY SUCH
71 LESSER SENTENCE MAY INCLUDE A TERM OF

72 IMPRISONMENT, ALL OR A PORTION OF WHICH MAY BE
73 SUSPENDED ENTIRELY OR AFTER A PERIOD SET BY THE
74 COURT, FOLLOWED BY A PERIOD OF PROBATION WITH SUCH
75 CONDITIONS AS THE COURT MAY ESTABLISH. No such
76 revocation shall be ordered, except upon
77 consideration of the whole record and unless such
78 violation is established by the introduction of
79 reliable and probative evidence and by a
80 preponderance of the evidence.

81 JUD COMMITTEE VOTE: YEA 39 NAY 0 JFS

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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 sHB 5728

STATE IMPACT See Explanation Below

MUNICIPAL IMPACT None

STATE AGENCY(S) Judicial Department

EXPLANATION OF ESTIMATES:

The bill would result in an indeterminate impact on the total level of incarceration and adult probation supervision. Having additional flexibility in addressing violations of probation could lead to additional lengths of probation with shorter terms of imprisonment (net savings) or to additional probation only (cost). Although the exact impact cannot be determined, the overall net change is anticipated to be minimal and can be absorbed within current budgetary resources of the criminal justice system.

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OLR BILL ANALYSIS

sHB 5728

AN ACT CONCERNING VIOLATION OF PROBATION

SUMMARY: This bill allows courts, after revoking probation, to impose a lesser sentence that includes a term of imprisonment, which may be suspended in all or part, followed by a period of probation with conditions set by the court. The length of time a defendant can be required to serve in prison and on probation is limited by the time remaining on the original sentence.

EFFECTIVE DATE: October 1, 1998

BACKGROUND**Options on Revoking Probation**

A court's current options, after finding that an individual has violated probation, are to (1) continue the sentence of probation or conditional discharge; (2) modify or enlarge the conditions of probation or conditional discharge; (3) extend the period of probation or conditional discharge, but not past the statutory limits; or (4) revoke the sentence of probation or conditional discharge and require the defendant to serve the remainder of the original sentence or impose any lesser sentence. Courts have interpreted current law as preventing a court from including a period of probation when imposing a lesser sentence.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0