

Senate, April 7, 1998. The Committee on Judiciary reported through SEN. WILLIAMS, 29th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ACCESS TO RECORDS FOR VICTIMS OF ALCOHOL-RELATED ACCIDENTS.

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

1 Section 54-56g of the general statutes, as
2 amended by section 14 of public act 97-309 and
3 section 32 of public act 97-8 of the June 18
4 special session, is repealed and the following is
5 substituted in lieu thereof:

6 (a) There shall be a pretrial alcohol
7 education system for persons charged with a
8 violation of section 14-227a. Upon application by
9 any such person for participation in such system
10 and payment to the court of an application fee of
11 fifty dollars, the court shall, but only as to the
12 public, order such information or complaint to be
13 filed as a sealed information or complaint, EXCEPT
14 AS PROVIDED IN SUBSECTION (e) OF THIS SECTION,
15 provided such person states under oath, in open
16 court or before any person designated by the clerk
17 and duly authorized to administer oaths, under
18 penalties of perjury that he has never had such
19 system invoked in his behalf and that he has not
20 been convicted of a violation of section 53a-56b
21 or 53a-60d, a violation of subsection (a) of
22 section 14-227a before or after October 1, 1981,

23 or a violation of subdivision (1) or (2) of
24 subsection (a) of section 14-227a on or after
25 October 1, 1985, and that he has not been
26 convicted in any other state at any time of an
27 offense the essential elements of which are
28 substantially the same as section 53a-56b or
29 53a-60d or subdivision (1) or (2) of subsection
30 (a) of section 14-227a. Unless good cause is
31 shown, a person shall be ineligible for
32 participation in such pretrial alcohol education
33 system if his alleged violation of section 14-227a
34 caused the serious physical injury, as defined in
35 section 53a-3, of another person. The fee imposed
36 by this subsection shall be credited to the
37 Criminal Injuries Compensation Fund established by
38 section 54-215.

39 (b) The court, after consideration of the
40 recommendation of the state's attorney, assistant
41 state's attorney or deputy assistant state's
42 attorney in charge of the case, may, in its
43 discretion, grant such application. If the court
44 grants such application, it shall refer such
45 person to the Bail Commission for assessment and
46 confirmation of the eligibility of the applicant.
47 The Bail Commission, in making its assessment and
48 confirmation, may rely on the representations made
49 by the applicant under oath in open court with
50 respect to convictions in other states of offenses
51 specified in subsection (a) of this section. Upon
52 confirmation of eligibility, the defendant shall
53 be referred to the Department of Mental Health and
54 Addiction Services by the Bail Commission for
55 evaluation and placement in an appropriate alcohol
56 program for one year. Any person who enters the
57 system shall agree: (1) To the tolling of the
58 statute of limitations with respect to such crime,
59 (2) to a waiver of his right to a speedy trial,
60 (3) to participate in at least ten counseling
61 sessions in an alcohol program pursuant to this
62 section and complete the assigned program, and (4)
63 to accept placement in a treatment program upon
64 recommendation of a provider under contract with
65 the Department of Mental Health and Addiction
66 Services pursuant to subsection (d) of this
67 section or placement in a treatment program which
68 has standards substantially similar to, or higher
69 than, a program of a provider under contract with
70 the Department of Mental Health and Addiction

71 Services if the Bail Commission deems it
72 appropriate. The suspension of the motor vehicle
73 operator's license of any such person pursuant to
74 section 14-227b shall be effective during the
75 period such person is participating in such
76 program, provided such person shall have the
77 option of not commencing the participation in such
78 program until the period of such suspension is
79 completed. If the Bail Commission informs the
80 court that the defendant is ineligible for the
81 system and the court makes a determination of
82 ineligibility or if the program provider certifies
83 to the court that the defendant did not
84 successfully complete the assigned program or is
85 no longer amenable to treatment, the court shall
86 order the information or complaint to be unsealed,
87 enter a plea of not guilty for such defendant and
88 immediately place the case on the trial list. If
89 such defendant satisfactorily completes the
90 assigned program he may apply for dismissal of the
91 charges against him and the court, on reviewing
92 the record of his participation in such program
93 submitted by the Bail Commission and on finding
94 such satisfactory completion, shall dismiss the
95 charges. If the defendant does not apply for
96 dismissal of the charges against him after
97 satisfactorily completing the assigned program the
98 court, upon receipt of the record of his
99 participation in such program submitted by the
100 Bail Commission, may on its own motion make a
101 finding of such satisfactory completion and
102 dismiss the charges. Upon motion of the defendant
103 and a showing of good cause, the court may extend
104 the one-year placement period for a reasonable
105 period for the defendant to complete the assigned
106 program. A record of participation in such program
107 shall be retained by the Bail Commission for a
108 period of seven years from the date of
109 application. The Bail Commission shall transmit to
110 the Department of Motor Vehicles a record of
111 participation in such program for each person who
112 satisfactorily completes such program. The
113 Department of Motor Vehicles shall maintain for a
114 period of seven years the record of a person's
115 participation in such program as part of such
116 person's driving record.

117 (c) At the time the court grants the
118 application for participation in the pretrial

119 alcohol education system, such person shall also
120 pay to the court a nonrefundable program fee of
121 four hundred twenty-five dollars, except that no
122 person may be excluded from such program for
123 inability to pay such fee, provided (1) such
124 person files with the court an affidavit of
125 indigency or inability to pay, (2) such indigency
126 is confirmed by the Bail Commission, and (3) the
127 court enters a finding thereof. If the court
128 denies the application, such person shall not be
129 required to pay the program fee. If the court
130 grants the application, and such person is later
131 determined to be ineligible for participation in
132 such pretrial alcohol education system or fails to
133 complete the assigned program, the
134 four-hundred-twenty-five-dollar program fee shall
135 not be refunded. All such program fees shall be
136 credited to the General Fund.

137 (d) The Department of Mental Health and
138 Addiction Services shall contract with service
139 providers, develop standards and oversee
140 appropriate alcohol programs to meet the
141 requirements of this section. Said department
142 shall adopt regulations in accordance with chapter
143 54 to establish standards for such alcohol
144 programs. Any defendant whose employment or
145 residence makes it unreasonable to attend an
146 alcohol program in this state may attend a program
147 in another state which has standards substantially
148 similar to, or higher than, those of this state,
149 subject to the approval of the court and payment
150 of the application and program fees as provided in
151 this section.

152 (e) UPON MOTION, THE COURT SHALL DISCLOSE THE
153 RECORDS OF ANY PERSON PARTICIPATING IN THE
154 PRETRIAL ALCOHOL EDUCATION SYSTEM TO A VICTIM OF
155 THE ALLEGED VIOLATION OF SECTION 14-227a BY SUCH
156 PERSON OR TO A REPRESENTATIVE OF ANY SUCH VICTIM.

157 (f) THE STATE'S ATTORNEY AND THE
158 INVESTIGATING POLICE DEPARTMENT SHALL MAINTAIN ANY
159 RECORD CONSTITUTING EVIDENCE OF INTOXICATION OF A
160 DEFENDANT FOR A PERIOD OF NOT LESS THAN TWO YEARS
161 FROM THE DATE SUCH DEFENDANT WAS CHARGED WITH A
162 VIOLATION OF SECTION 14-227a.

163 (g) ANY PERSON WHO CLAIMS PHYSICAL INJURY, AS
164 DEFINED IN SECTION 53a-3, SERIOUS PHYSICAL INJURY,
165 AS DEFINED IN SECTION 53a-3, OR DEATH, CAUSED BY
166 AN ALLEGED VIOLATION OF SECTION 14-227a BY SUCH

167 DEFENDANT, OR A REPRESENTATIVE ON BEHALF OF SUCH
168 PERSON, MAY REVIEW AND OBTAIN REGULAR OR CERTIFIED
169 COPIES OF ANY RECORD CONSTITUTING EVIDENCE OF
170 INTOXICATION OF SUCH DEFENDANT RELATING TO (1) THE
171 INCIDENT IN WHICH ANY SUCH PERSON'S CLAIM FOR
172 PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR DEATH
173 PERTAINS, OR (2) ANY PREVIOUS INCIDENT IN WHICH
174 SUCH DEFENDANT WAS CHARGED WITH A VIOLATION OF
175 SECTION 14-227a, BY MAKING A WRITTEN REQUEST TO
176 THE STATE'S ATTORNEY OR THE INVESTIGATING POLICE
177 DEPARTMENT, AS THE CASE MAY BE. THE STATE'S
178 ATTORNEY OR THE INVESTIGATING POLICE DEPARTMENT,
179 AS THE CASE MAY BE, SHALL (A) FURNISH REGULAR OR
180 CERTIFIED COPIES OF ANY SUCH RECORD TO SUCH PERSON
181 OR HIS REPRESENTATIVE NOT LATER THAN TWENTY-ONE
182 DAYS FOLLOWING RECEIPT OF SUCH REQUEST, AND (B)
183 CHARGE NOT MORE THAN ONE DOLLAR PER PAGE,
184 INCLUDING ANY RESEARCH FEES, HANDLING FEES OR
185 RELATED COSTS, AND THE COST OF FIRST-CLASS
186 POSTAGE, IF APPLICABLE, FOR FURNISHING COPIES OF
187 ANY SUCH RECORD PURSUANT TO THIS SUBSECTION.

188 JUD COMMITTEE VOTE: YEA 33 NAY 2 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 sSB 611

STATE IMPACT	Potential Significant Cost, see explanation below
MUNICIPAL IMPACT	No Net Fiscal Impact, see explanation below
STATE AGENCY(S)	Department of Public Safety, Division of Criminal Justice, Judicial Department

EXPLANATION OF ESTIMATES:

STATE AND MUNICIPAL IMPACT: The passage of this bill would result in no net fiscal impact to State or municipal police departments. The bill requires the investigative police department to maintain any record constituting evidence of intoxication of a defendant for not less than two years from the offense. It also requires the department to provide copies of these records to the defendant within 21 days of the request. The department can charge up to one dollar per page for furnishing copies of the records. It is estimated that the costs of maintaining and providing the records would be offset by the fees collected.

The bill, however, could result in a potential significant cost for the Division of Criminal Justice related to the maintenance and provision of these records. Since the states' attorneys do not maintain substantive files in these cases but instead utilize the records maintained by the court clerks, the agency would have to develop a new records maintenance system in order to be able to provide records that are inclusive of those maintained by the court system. However, if the bill refers only to the provision of

records that are currently maintained by the Division of Criminal Justice, the impact would be similar to that described for police departments above.

In addition, the bill would increase the level of litigation associated with cases of driving under the influence. This would result in an increase in the caseload of the Judicial Department. Although these cases can be handled within existing resources in the short term, in the long term caseload pressures lead to the need for additional court staff and space. It should be noted that sHB 5021, (the revised Appropriations Act for FY 1998-99, as favorably reported by the Appropriations Committee) includes \$870,000 in partial-year funding for the addition of five judges, associated staff, expenses and sheriffs to more properly address civil case backlogs. This funding is the first phase of an anticipated three year phase-in of 15 more judges for this effort at a cumulative cost of \$7.8 million at the end of three years.

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OLR BILL ANALYSIS

SSB 611

AN ACT CONCERNING ACCESS TO RECORDS FOR VICTIMS OF ALCOHOL-RELATED ACCIDENTS

SUMMARY: This bill requires the court to disclose the records of criminal defendants who are charged with driving under the influence (DUI) and who participate in the pre-trial alcohol system to their alleged victims or the victims' representatives if they file a motion requesting the records.

It also requires prosecutors and police departments to provide regular or certified copies of the defendant's records to the victims or their authorized representatives within 21 days after they request them. This requirement applies to records relating to the incident in which a victim claims to have suffered physical or serious physical, injury or death. It also applies to any record of a previous incident in which the defendant was charged with driving while

intoxicated. The charge for these records cannot exceed \$1 per page, including research fees, handling fees or related costs, and the cost of any applicable first-class postage.

The bill requires prosecutors and police departments that investigate DUI charges to maintain records of a defendant's intoxication for at least two years from the date he was charged.

EFFECTIVE DATE: October 1, 1998

BACKGROUND

Pretrial Alcohol Education

The pre-trial alcohol education system is designed for first offenders of DUI who have not previously participated. An alleged offender can participate in the system if he has not had been previously convicted of a number of other offenses, including second-degree manslaughter with a motor vehicle, second-degree assault with a motor vehicle, or offenses similar to these in other states. The court must keep the applicant's record confidential if he paid the \$50 application fee (unless waived) and states under oath that he has not been previously convicted of the specified offenses.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 33 Nay 2