

Senate, April 8, 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 THE BOARD OF PAROLE.

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

1 Section 1. Subdivision (9) of section 53a-3
2 of the general statutes is repealed and the
3 following is substituted in lieu thereof:

4 (9) "Peace officer" means a member of the
5 Division of State Police within the Department of
6 Public Safety or an organized local police
7 department, a chief inspector or inspector in the
8 Division of Criminal Justice, a sheriff, deputy
9 sheriff or special deputy sheriff, a conservation
10 officer or special conservation officer, as
11 defined in section 26-5, a constable who performs
12 criminal law enforcement duties, a special
13 policeman appointed under section 29-18, 29-18a or
14 29-19, an adult probation officer, appointed under
15 section 54-104, AN OFFICIAL OF THE BOARD OF PAROLE
16 DESIGNATED BY THE CHAIRMAN OF SAID BOARD, an
17 official of the Department of Correction
18 authorized by the Commissioner of Correction to
19 make arrests in a correctional institution or
20 facility, any investigator in the investigations
21 unit of the Office of the State Treasurer or any
22 special agent of the federal government authorized

23 to enforce the provisions of Title 21 of the
24 United States Code.

25 Sec. 2. Section 4-5 of the general statutes,
26 as amended by section 14 of public act 97-9 of the
27 June 18 special session, is repealed and the
28 following is substituted in lieu thereof:

29 As used in sections 4-6, 4-7 and 4-8, the
30 term "department head" means Secretary of the
31 Office of Policy and Management, Commissioner of
32 Administrative Services, Commissioner of Revenue
33 Services, Commissioner of Banking, Commissioner of
34 Children and Families, Commissioner of Consumer
35 Protection, Commissioner of Correction,
36 Commissioner of Economic and Community
37 Development, State Board of Education,
38 Commissioner of Environmental Protection,
39 Commissioner of Agriculture, Commissioner of
40 Public Health, Insurance Commissioner, Labor
41 Commissioner, Liquor Control Commission,
42 Commissioner of Mental Health and Addiction
43 Services, Commissioner of Public Safety,
44 Commissioner of Social Services, Commissioner of
45 Mental Retardation, Commissioner of Motor
46 Vehicles, Commissioner of Transportation,
47 Commissioner of Public Works, Commissioner of
48 Veterans' Affairs, Commissioner of Health Care
49 Access, Chief Information Officer, [and] the
50 chairperson of the Public Utilities Control
51 Authority AND THE CHAIRMAN OF THE BOARD OF PAROLE.

52 Sec. 3. Section 54-124a of the general
53 statutes is repealed and the following is
54 substituted in lieu thereof:

55 (a) There shall be a Board of Parole which,
56 on and after July 1, [1994] 1998, shall consist of
57 [thirteen] FIFTEEN members, including a chairman
58 AND TWO VICE-CHAIRMEN who shall be appointed by
59 the Governor with the advice and consent of either
60 house of the General Assembly. The chairman AND
61 VICE-CHAIRMEN shall be qualified by training,
62 experience or education in law, criminal justice,
63 parole matters or other related fields for the
64 consideration of the matters before [him] THEM and
65 the other members shall be qualified by training
66 and experience for the consideration of matters
67 before them. In the appointment of the members,
68 the Governor shall endeavor to reflect the racial
69 diversity of the state.

70 (b) The term of the chairman AND THE TERM OF
71 EACH VICE-CHAIRMAN of the board shall be
72 coterminous with the term of the Governor or until
73 a successor is chosen, whichever is later. The
74 terms of all members, except the chairman, shall
75 expire on July 1, 1994, and on or after July 1,
76 1994, members shall be appointed in accordance
77 with subsection (a) of this section as follows:
78 Six members shall be appointed for a term of two
79 years; and six members shall be appointed for a
80 term of four years. Thereafter, all members shall
81 serve for terms of four years. Any vacancy in the
82 membership of the board shall be filled for the
83 unexpired portion of the term by the Governor.

84 (c) The chairman AND VICE-CHAIRMEN shall
85 devote [his] THEIR entire time to the performance
86 of [his] THEIR duties hereunder and shall be
87 compensated therefor in such amount as the
88 Commissioner of Administrative Services
89 determines, subject to the provisions of section
90 4-40. The other members of said board shall
91 receive one hundred ten dollars for each day spent
92 in the performance of their duties and shall be
93 reimbursed for necessary expenses incurred in the
94 performance of such duties. The chairman or, in
95 his absence or inability to act, a member
96 designated by him to serve temporarily as
97 chairman, shall be present at all meetings of said
98 board and participate in all decisions thereof.

99 (d) Said chairman shall be the executive and
100 administrative head of said board and shall have
101 the authority and responsibility for (1) directing
102 and supervising all administrative affairs of the
103 board, (2) preparing the budget and annual
104 operation plan in consultation with the board, (3)
105 assigning staff to parole panels, regions and
106 supervision offices, (4) organizing parole hearing
107 calendars to facilitate the timely and efficient
108 processing of cases, (5) implementing a uniform
109 case filing and processing system, (6)
110 establishing policy in all areas of parole
111 including, but not limited to, decision making,
112 release criteria and supervision standards, (7)
113 establishing specialized parole units as deemed
114 necessary, (8) entering into contracts, in
115 consultation with the board, with service
116 providers, community programs and consultants for
117 the proper function of parole and community

118 supervision, (9) creating programs for staff and
119 board member development, training and education,
120 (10) establishing, developing and maintaining
121 noninstitutional, community-based service
122 programs, [and] (11) consulting with the
123 Department of Correction on shared issues
124 including, but not limited to, prison
125 overcrowding, AND (12) SIGNING AND ISSUING
126 SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY
127 OF WITNESSES AT PAROLE PROCEEDINGS. ANY SUCH
128 SUBPOENA SHALL BE ENFORCEABLE TO THE SAME EXTENT
129 AS SUBPOENAS ISSUED PURSUANT TO SECTION 52-143.

130 (e) The chairman shall have the authority and
131 responsibility for assigning members to panels,
132 each to be composed of two members and the
133 chairman or a member designated to serve
134 temporarily as chairman, for each correctional
135 institution. Such panels shall be the paroling
136 authority for the institutions to which they are
137 assigned and not less than two members shall be
138 present at each parole hearing.

139 (f) In the event of the temporary inability
140 of any member other than the chairman to perform
141 his or her duties, the Governor, at the request of
142 the board, may appoint a qualified person to serve
143 as a temporary member during such period of
144 inability.

145 (g) The Board of Parole shall: (1) Adopt an
146 annual budget and plan of operation, (2) adopt
147 such rules as deemed necessary for the internal
148 affairs of the board, (3) develop policy for and
149 administer the operation of the Interstate Parole
150 Compact, and (4) submit an annual report to the
151 Governor and General Assembly.

152 Sec. 4. Subsection (b) of section 53a-28 of
153 the general statutes is repealed and the following
154 is substituted in lieu thereof:

155 (b) Except as provided in section 53a-46a,
156 when a person is convicted of an offense, the
157 court shall impose one of the following sentences:
158 (1) A term of imprisonment; or (2) a sentence
159 authorized by section 18-65a or 18-73; or (3) a
160 fine; or (4) a term of imprisonment and a fine; or
161 (5) a term of imprisonment, with the execution of
162 such sentence of imprisonment suspended, entirely
163 or after a period set by the court, and a period
164 of probation or a period of conditional discharge;
165 or (6) a term of imprisonment, with the execution

166 of such sentence of imprisonment suspended,
167 entirely or after a period set by the court, and a
168 fine and a period of probation or a period of
169 conditional discharge; or (7) a fine and a
170 sentence authorized by section 18-65a or 18-73; or
171 (8) a sentence of unconditional discharge; OR (9)
172 A TERM OF IMPRISONMENT AND A PERIOD OF SPECIAL
173 PAROLE AS PROVIDED IN SECTION 5 OF THIS ACT.

174 Sec. 5. (NEW) (a) Any person convicted of a
175 crime committed on or after October 1, 1998, who
176 received a definite sentence of more than two
177 years followed by a period of special parole
178 shall, at the expiration of the maximum term or
179 terms of imprisonment imposed by the court, be
180 transferred from the custody of the Commissioner
181 of Correction to the jurisdiction of the Chairman
182 of the Board of Parole or, if such person has
183 previously been released on parole pursuant to
184 subsection (a) of section 54-125a or section
185 54-131a of the general statutes, remain under the
186 jurisdiction of said chairman until the expiration
187 of the period of special parole imposed by the
188 court.

189 (b) Any person sentenced to a period of
190 special parole shall be subject to such rules and
191 conditions as may be established by the Board of
192 Parole or its chairman pursuant to section 54-126
193 of the general statutes.

194 (c) The period of special parole shall be not
195 less than one year nor more than ten years except
196 that such period shall be not less than ten years
197 nor more than thirty-five years for a person
198 convicted of a violation of subdivision (2) of
199 section 53-21, section 53a-70, 53a-70a, 53a-70b,
200 53a-71, 53a-72a or 53a-72b of the general statutes
201 or sentenced as a persistent dangerous felony
202 offender pursuant to subsection (f) of section
203 53a-40 of the general statutes or as a persistent
204 serious felony offender pursuant to subsection (g)
205 of section 53a-40 of the general statutes.

206 Sec. 6. Section 54-128 of the general
207 statutes is repealed and the following is
208 substituted in lieu thereof:

209 (a) Any paroled convict or inmate who has
210 been returned to the custody of the Commissioner
211 of Correction or any institution of the Department
212 of Correction for violation of his parole may be
213 retained in the institution from which he was

214 paroled for a period equal to the unexpired
215 portion of the term of his sentence at the date of
216 the request or order for his return less any
217 commutation or diminution of his sentence earned
218 except that the Board of Parole may, in its
219 discretion, determine that he shall forfeit any or
220 all of such earned time, or may be again paroled
221 by said board.

222 (b) Each parolee or inmate, subject to the
223 provisions of section 18-7, shall be subject to
224 loss of all or any portion of time earned.

225 (c) ANY PERSON WHO, DURING THE SERVICE OF A
226 PERIOD OF SPECIAL PAROLE IMPOSED IN ACCORDANCE
227 WITH SUBDIVISION (9) OF SECTION 53a-28, AS AMENDED
228 BY SECTION 4 OF THIS ACT, HAS BEEN RETURNED TO THE
229 CUSTODY OF THE COMMISSIONER OF CORRECTION OR ANY
230 INSTITUTION OF THE DEPARTMENT OF CORRECTION FOR
231 VIOLATION OF HIS PAROLE, MAY BE RETAINED IN THE
232 INSTITUTION FROM WHICH HE WAS PAROLED FOR A PERIOD
233 EQUAL TO THE UNEXPIRED PORTION OF THE PERIOD OF
234 SPECIAL PAROLE. THE TOTAL LENGTH OF THE TERM OF
235 INCARCERATION AND TERM OF SPECIAL PAROLE COMBINED
236 SHALL NOT EXCEED THE MAXIMUM SENTENCE OF
237 INCARCERATION AUTHORIZED FOR THE OFFENSE FOR WHICH
238 THE PERSON WAS CONVICTED.

239 Sec. 7. This act shall take effect July 1,
240 1998, except that sections 1, 2, 4, 5 and 6 shall
241 take effect October 1, 1998.

242 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 sSB 568

STATE IMPACT	Potential Future Workload Increase, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Board of Parole, Department of Correction, Judicial Department

EXPLANATION OF ESTIMATES:

STATE IMPACT: Passage of the bill would result in potential future workload increase for the Board of Parole to the extent that the courts utilize the special parole option as described in section 6. It is anticipated that such an increase will be absorbable within existing budgetary resources.

In addition to various technical changes, the bill enlarges the Board from thirteen members to fifteen members by creating two vice-chairmen. This adjustment involves the elimination/replacement of two other supervisory position titles (Chiefs of Parole & Administration) and results in no additional fiscal impact to the state.

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OLR BILL ANALYSIS

sSB 568

AN ACT CONCERNING THE BOARD OF PAROLE

SUMMARY: This bill creates a new sentencing option that allows courts to sentence an individual convicted of any offense committed after September 30, 1998 to a term of imprisonment and a period of special parole, which requires post-release supervision by the Board of Parole and allows the individual to be returned to prison for a parole violation.

The bill also makes several changes to the power and composition of the Board of Parole.

1. It expands the definition of "peace officer" to include an official of the board of parole designated by the chairman of the board.
2. It gives the chairman the power to issue subpoenas to compel the attendance and testimony of witnesses at parole proceedings. The subpoenas are enforceable through the courts which may order the arrest of a witness who fails to appear.
3. It enlarges the Board of Parole from 13 to 15 members by creating two vice-chairmen, effective July 1, 1998. The bill requires the vice chairmen to have the same qualifications as the chairman, be appointed by the governor with consent of either house of the General Assembly, and have terms that are coterminous with the term of the governor, although they may remain in that position until a successor is chosen.
4. It designates the Chairman of the Board of Parole as a department head.

EFFECTIVE DATE: October 1, 1998 except that provisions regarding the vice-chairmen of the Board of Parole and the chairman's subpoena power are effective July 1, 1998.

FURTHER EXPLANATION

Special Parole

Special parole may be imposed for one to 10 years, but an individual who has been convicted of a felony sexual assault offense or sentenced as a persistent dangerous felony offender or persistent serious felony offender may be sentenced to 10 to 35 years of special parole. The combination of the term of imprisonment imposed and the term of special parole cannot exceed the maximum sentence that may be imposed for the offense.

An individual given a definite sentence of more than two years followed by a term of special parole is transferred to the jurisdiction of the Chairman of the Board of Parole at the end of the maximum term or terms of imprisonment imposed by the court. If the individual has already been released on parole, he remains under the chairman's jurisdiction. The Board of Parole or its chairman can set rules and conditions for special parole.

Violation of Special Parole

An individual returned to the custody of the Commissioner of Correction for violating parole may be retained in the institution from which he was paroled for a period equal to the unexpired portion of the period of special parole.

Peace Officer Status

Including parole officers in the definition of peace officers affects their status under several statutes. Parole officers currently have arrest power only over parolees. But peace officers can make warrantless arrests in their precinct of any person for any offense in their jurisdiction. They are justified in using physical force while effecting an arrest pursuant to a warrant or preventing an escape, and they may use deadly force in self-defense without the obligation of retreating. A person may not use physical force to resist arrest by a reasonably identifiable peace officer. It is an offense to interfere with a peace officer, and failing to assist a peace officer in the execution of his duties when commanded to do so is an offense. Several crimes carry stiffer penalties when peace officers are involved. Assault of a peace officer is a specific offense when causing injury or attempting

to cause injury to a reasonably identifiable peace officer while performing his duties. Arson, when subjecting a peace officer to the substantial risk of bodily harm at the scene of the fire, is punishable as a class A felony. The statutes make it a crime to kill an animal under the supervision of a peace officer. A peace officer is privileged and need not have a permit to purchase or receive a pistol or revolver. Peace officers also have access to criminal record searches.

BACKGROUND

Peace Officers

Peace officers are defined by statute as a member of the Division of State Police or an organized local police department, inspectors in the Division of Criminal Justice, sheriffs, conservation officers, constables performing criminal law enforcement duties, special policemen as defined by statute, adult probation officers, authorized officials of the Department of Correction, investigators in the Office of the State Treasurer, and any special agent of the federal government enforcing food and drug laws.

Persistent Dangerous Felony Offenders

A persistent dangerous felony offender is an individual who (1) stands convicted of manslaughter, arson, kidnapping, certain sexual assault felonies, robbery in the first and second degree, or first degree assault and (2) has previously been convicted and imprisoned under a sentence for more than one year for committing one of these crimes, murder, attempted murder, or a crime in another state that is substantially the same as one of these crimes. These individuals may be sentenced to imprisonment for up to 40 years and if previously convicted and imprisoned twice for one of these offenses, sentenced for up to life in prison when the court finds that the history and character of the individual and the nature and circumstances of the criminal conduct indicate that incarceration and lifetime supervision best serve the public interest.

Persistent Serious Felony Offenders

A persistent serious felony offender is an individual who (1) stands convicted of a felony and (2) has

previously been convicted of a felony and imprisoned under a sentence of more than one year. This classification only applies when the prior conviction was for certain specified felonies. An individual may be given a sentence for the next most serious degree felony when the court finds that the history and character of the individual along with the nature and circumstances of the criminal conduct indicate that incarceration and lifetime supervision best serve the public interest.

Powers of Department Heads

A department head acts as the executive officer of the governor for accomplishing the purposes of the department. He conducts comprehensive planning and coordinates the activities and programs of the department. He examines the administrative organization of the department and may organize it as necessary for the efficient conduct of business. The department head may appoint deputies who serve at his pleasure. He also has the power to make regulations for the conduct of the department and may enter into contractual agreements for the discharge of his duties. A department head may also create advisory boards as he deems necessary.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0