

File No. 603

(Reprint of File No. 440)

Substitute House Bill No. 5698
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 24, 1998

AN ACT CONCERNING EMPLOYEES OF THE DEPARTMENT OF
CORRECTION.

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

1 Section 1. Section 53a-54b of the general
2 statutes is repealed and the following is
3 substituted in lieu thereof:

4 A person is guilty of a capital felony who is
5 convicted of any of the following: (1) Murder of a
6 member of the Division of State Police within the
7 Department of Public Safety or of any local police
8 department, a chief inspector or inspector in the
9 Division of Criminal Justice, a sheriff or deputy
10 sheriff, a constable who performs criminal law
11 enforcement duties, a special policeman appointed
12 under section 29-18, [an official of the
13 Department of Correction authorized by the
14 Commissioner of Correction to make arrests in a
15 correctional institution or facility] AN EMPLOYEE
16 OF THE DEPARTMENT OF CORRECTION OR A PERSON
17 PROVIDING SERVICES ON BEHALF OF SAID DEPARTMENT
18 WHEN SUCH EMPLOYEE OR PERSON IS ACTING WITHIN THE
19 SCOPE OF HIS EMPLOYMENT OR DUTIES IN A
20 CORRECTIONAL INSTITUTION OR FACILITY AND THE ACTOR
21 IS CONFINED IN SUCH INSTITUTION OR FACILITY, or

22 any fireman, while such victim was acting within
23 the scope of his duties; (2) murder committed by a
24 defendant who is hired to commit the same for
25 pecuniary gain or murder committed by one who is
26 hired by the defendant to commit the same for
27 pecuniary gain; (3) murder committed by one who
28 has previously been convicted of intentional
29 murder or of murder committed in the course of
30 commission of a felony; (4) murder committed by
31 one who was, at the time of commission of the
32 murder, under sentence of life imprisonment; (5)
33 murder by a kidnapper of a kidnapped person during
34 the course of the kidnapping or before such person
35 is able to return or be returned to safety; (6)
36 the illegal sale, for economic gain, of cocaine,
37 heroin or methadone to a person who dies as a
38 direct result of the use by him of such cocaine,
39 heroin or methadone; (7) murder committed in the
40 course of the commission of sexual assault in the
41 first degree; (8) murder of two or more persons at
42 the same time or in the course of a single
43 transaction; or (9) murder of a person under
44 sixteen years of age.

45 Sec. 2. Section 31-51g of the general statutes
46 is repealed and the following is substituted in
47 lieu thereof:

48 (a) For the purposes of this section
49 "polygraph" means any mechanical or electrical
50 instrument or device of any type used or allegedly
51 used to examine, test or question individuals for
52 the purpose of determining truthfulness.

53 (b) (1) No person, firm, corporation,
54 association or the state or any political
55 subdivision thereof shall request or require any
56 prospective employee or any employee to submit to,
57 or take, a polygraph examination as a condition of
58 obtaining employment or of continuing employment
59 with such employer or dismiss or discipline in any
60 manner an employee for failing, refusing or
61 declining to submit to or take a polygraph
62 examination. (2) No employment agency, as defined
63 in section 31-129, and no agent for an employer
64 shall require any person to submit to, or take, a
65 polygraph examination for any purposes whatsoever.

66 (c) Any person, firm, corporation or
67 association which violates any provision of this
68 section shall be fined not less than two hundred

69 fifty dollars nor more than one thousand dollars
70 for each violation.

71 (d) The provisions of this section shall not
72 apply to persons to be employed (1) by the state
73 or any local government or any political
74 subdivision thereof in any police department
75 except for civilian employees within the
76 department OR (2) BY THE DEPARTMENT OF CORRECTION,
77 but shall apply with respect to obtaining and
78 maintaining employment of other persons by the
79 state or any local government or political
80 subdivision thereof.

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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 5698

STATE IMPACT Minimal Absorbable Costs, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Correction

EXPLANATION OF ESTIMATES:

Passage of the bill modifies the definition of peace officer as it applies to Department of Correction (DOC) personnel and makes it a capital felony to murder any DOC official. Finally, the bill authorizes the department to give lie detector tests to prospective employees. It is not anticipated that such test will be necessary or used for every applicant and therefore, passage of the bill would result in minimal costs which are absorbable within existing resources.

House "A" eliminates the portions of the bill which (1) modifies the definition of peace officer and (2) allows the use of deadly force in preventing escapes. The amendment also makes it a capital felony to murder a person providing services on behalf of the Department of Correction in addition to employees of the department. Finally, the amendment makes technical changes to the portion of the bill regarding polygraph tests. The changes made by this amendment result in no additional fiscal impact.

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OLR AMENDED BILL ANALYSIS

sHB 5698 (as amended by House "A")*

AN ACT CONCERNING THE POWERS, DUTIES AND STATUS OF EMPLOYEES OF THE DEPARTMENT OF CORRECTION

SUMMARY: This bill makes it a capital felony, punishable by the death penalty, for an inmate to murder any Department of Correction (DOC) employee or someone providing services on behalf of DOC, not just an employee authorized to make arrests in a DOC facility. For this penalty to apply, the employee or person must have been acting within the scope of his duties or employment.

The bill also authorizes DOC to give lie detector tests to prospective employees.

*House Amendment "A" deletes provisions in the original bill that (1) altered the definition of peace officer and (2) changed the standard for when a correctional officer could use deadly force to prevent an escape. It also modifies the applicability of the death penalty provision and makes a technical change.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION**Death Penalty**

Under current law, a person is guilty of a capital felony if he murders a DOC official authorized by the commissioner to make arrests in a correctional facility while the official is acting within the scope of his duties. (Apparently, the DOC commissioner has not authorized any official to make arrests.)

The bill makes the death penalty applicable to any confined inmate who murders a DOC employee or someone providing services for the department. (Some DOC services are provided by private parties under contract with the department.) The employee or person must be acting within the scope of his employment or duties.

Polygraph Test Exemption

By law, public and private entities may not require or request that prospective or current employees take a lie detector test as a condition of obtaining or maintaining employment. This provision does not apply to state and local police employees, other than civilian employees. The bill allows DOC to require or request that prospective employees take such a test.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 36 Nay 1