



STATE OF CONNECTICUT
Sentencing Commission
Annual Report

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INSTITUTE FOR MUNICIPAL AND
REGIONAL POLICY
Central Connecticut State University

Website: <http://www.ct.gov/opm/csc>



**STATE OF CONNECTICUT
SUPERIOR COURT**

**Chambers of
Hon. Joseph M. Shortall
Judge Trial Referee**

January 31, 2012

To: The Honorable Dannel P. Malloy, Governor
The Honorable Chase T. Rogers, Chief Justice
The Honorable Members of the Connecticut General Assembly

Public Act No. 10-129 requires the Connecticut Sentencing Commission to report to you annually upon its work and recommendations. Accordingly, I respectfully submit the Commission's first annual report, covering the year 2011.

This report describes the work of the Commission since its inception in February 2011 and includes four proposals for consideration at the 2012 legislative session.

I would like to express the Commission's gratitude to the Institute for Municipal and Regional Policy at Central Connecticut State University, and in particular its director, Andrew J. Clark, for their invaluable assistance to the Commission during this first year of its existence.

Respectfully,

Joseph M. Shortall
Chair, Connecticut Sentencing Commission

PREPARED BY:

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The Institute for Municipal and Regional Policy (IMRP) is a non-partisan, University-based organization dedicated to enriching the quality of local, state and national public policy. The IMRP tackles critical and often under addressed urban issues with the intent of ensuring the most positive outcomes for affected individuals and entities. In doing so, the IMRP bridges the divide between academia, policymakers, practitioners and the community.



Working for fair, effective and just public policy through applied research and community engagement, the IMRP utilizes the resources of CCSU students, staff and faculty to develop, shape and improve public policy on issues of municipal and regional concern. The IMRP accomplishes this through a variety of targeted approaches such as: public education and dialogue; published reports, articles and policy papers; pilot program design, implementation and oversight; and the facilitation of collaborations between the University, government, private organizations and the general community.

The IMRP aspires to be a respected and visible presence throughout the State of Connecticut, known for its ability to promote, develop and implement just, effective public policy. The IMRP adheres to non-partisan, evidence-based practices and conducts and disseminates its scientific research in accordance with strict, ethical standards.

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PART I: INTRODUCTION¹

Overview

This report is organized into five sections. The remainder of this introduction addresses the Commission's creation, membership and legislative mandate. The second section describes the Commission's genesis in the Sentencing Task Force created by the General Assembly in 2006 and the transition from a temporary task force to a standing commission with a statutory mandate to examine all aspects of sentencing in criminal cases in Connecticut. It also examines the movement to create similar commissions in many other states and in the federal judicial system.

Section three of the report outlines the Commission's organizational structure and its resources, and section four presents the work of the Commission's standing committees to date, including research questions identified by each committee for further attention by the Commission. Finally, in section five, the report describes four proposals for legislative consideration in the 2012 legislative session.

The Connecticut Sentencing Commission was created by Public Act 10-129, which was effective February 1, 2011.² Its mission, as stated in the statute, is as follows:

to review the existing criminal sentencing structure in the state and any proposed changes thereto, including existing statutes, proposed criminal justice legislation and existing and proposed sentencing policies and practices and make recommendations to the Governor, the General Assembly and appropriate criminal justice agencies.³

The commission consists of 23 members, who include judges, prosecutors, criminal defense counsel, the commissioners of the Departments of Correction, Public Safety and Mental Health and Addiction Services, the victim's advocate, the executive director of the court support services division of the Judicial Branch, a municipal police chief, the chairperson of the Board of Pardons and Paroles, the undersecretary of the criminal justice policy and planning division of the Office of Policy and Management and members of the public appointed by the Governor and the leaders of the General Assembly.⁴

Public Act 10-129 identifies 13 different tasks for the Commission in carrying out its mission, including facilitation of the development of a state-wide sentencing database, evaluation of existing and proposed statutes and programs, identification of potential areas of sentencing disparity and providing training regarding sentencing and related issues.⁵

The statute provides no funding for staff or research assistance to support the Commission in the performance of its tasks. It does permit the commission to accept grants of federal or private funds made available for any purposes consistent with the statute. The Commission meets quarterly or as the chair deems necessary to review the work of its committees.

¹ The Commission wishes to thank Jason DePatie, policy and research specialist at the Institute for Municipal and Regional Policy, for his invaluable assistance in the writing of this report.

² The provisions of the public act have been codified in General Statutes § 54-300.

³ See appendix A for the full text of P.A. 10-129.

⁴ See appendix B for a list of commission members as of January 1, 2012.

⁵ See appendix C for a complete list of the commission's statutory tasks.

PART II: TRANSITION FROM SENTENCING TASK FORCE

Sentencing Task Force

In December 2005, the Legislative Program Review and Investigations Committee first identified a desire for an interim Task Force in its *Mandatory Minimum Sentences* report. Accordingly, in June 2006, the legislature enacted Public Act No. 06-193, which created the Sentencing Task Force and charged it with “reviewing criminal justice and sentencing policies and laws in the state for the purpose of creating a more effective and efficient system of criminal sentencing.”⁶

The Task Force was established to achieve the following goals: (1) identify overarching criminal justice and sentencing goals and policies; (2) define current sentencing models including sentencing guidelines, criteria, exemptions and enhancements; (3) analyze sentencing trends by offense types and offender characteristics; (4) review the actual versus intended impact of sentencing policies; (5) determine the direct and indirect costs associated with sentencing policies; (6) review the fines and terms of imprisonment specified for violations of criminal statutes that are classified or unclassified felonies or misdemeanors; and (7) make any recommendations for the revision of criminal justice and sentencing policies as deemed necessary. The Task Force created four subcommittees that examined critical aspects of the state’s sentencing policies and practices detail. These subcommittees included: Offense Classification, Community Supervision and Alternative Sanctions, Sentencing Structure, and Sentencing Disparity.

Legislation was passed that extended the life of the Task Force to July 2009 and called for “a recommendation as to whether a permanent sentencing commission should be established [in Connecticut], and if so, to make recommendations concerning the mission, duties, membership and procedures of such a commission.” After meeting for a year, a working group of the Task Force finalized its recommendation in support of a Connecticut Sentencing Commission during a two-day retreat facilitated by the Vera Institute of Justice with the support of the Pew Charitable Trusts’ Public Safety Performance Project. In February of 2010, the recommendation was referred to the Joint Committee on Judiciary and passed by the House and Senate on June 21, 2010. The Connecticut Sentencing Commission was established in February 2011.

National Overview of Sentencing Commissions

There are 28 active state sentencing commissions (including the District of Columbia) in the United States. Sentencing commissions vary in terms of their structure, membership, duties and relationship with state government. For your reference, a catalog of sentencing commission structures can be found in Appendix D. In addition to variations in structure, the impetus for creating sentencing commissions has changed over time. Since sentencing commissions were first established three decades ago, three notable trends have emerged. First, the earliest sentencing commissions, established in the late 1970s, were charged primarily with promulgating sentencing guidelines.

Second, while commissions became more widespread in the late 1980s and 1990s, the impetus for their creation shifted. These shifts were mainly due to the enactment of the Federal Crime Bill of 1994, also known as the Violent Crime Control and Law Enforcement Act, and the allocation of federal VOI/TIS money (Violent Offender Incarceration and Truth-in-Sentencing). Moreover, states were moving from indeterminate to determinate sentencing in an effort to implement truth-in-sentencing policies. As a result,

⁶ http://www.ct.gov/opm/cwp/view.asp?a=2971&Q=383606&opmNav_GID=1797

these commissions were dealing with prison overcrowding crises caused by “get tough” sentencing policies of previous years and the shift to truth-in-sentencing.

Most recently, states have been creating commissions to examine criminal sentencing policies in broader terms. These commissions are not specifically focused on developing sentencing guidelines, but rather on issues of prison overcrowding, community sentencing alternatives and reentry strategies. Of the four states that established currently active sentencing commissions in the past eight years excluding Connecticut—New Jersey, Colorado, New York, and Illinois—only New Jersey’s was primarily charged with implementing sentencing guidelines.⁷

Colorado established its Commission to address mounting concerns about the rapidly increasing prison population, high recidivism rates and soaring prison expenditures. In 2007, the year the Commission was established; state correctional facilities housed 23,000 inmates and maintained supervision of over 10,000 parolees. One of every two released prisoners returned to prison within three years. The Colorado Department of Corrections’ budget had increased from \$57 million in 1985 to \$702 million in 2007, and the state’s prison population grew 400 percent—from 4,000 in 1985 to 20,000 in 2005. Official projections suggested that the prison population would increase by nearly 25 percent by 2013. The pressure to curtail prison spending and reduce the prison population spawned the passage of the Commission’s enacting legislation.

The Commission in New York was established to evaluate the efficacy of the state’s mandatory minimum laws for drug offenders. In Illinois, the Sentencing Commission was charged with ensuring that evidence-based practices are used in policy decisions and within the elements of the criminal justice system. To perform this function, the Commission is responsible for collecting and analyzing data, conducting correctional population projections based on simulation models, and producing fiscal impact statements for the legislature.

⁷ The New York State Sentencing Commission on Reform is a temporary Commission which recommended in its final report on January 30, 2009 the creation of a permanent Sentencing Commission.

PART III: ORGANIZATIONAL STRUCTURE

Committees

The first meeting of the Full Sentencing Commission was on February 24, 2011. At this meeting, the Chair asked the Commission for authorization to establish a Research Subcommittee for the purposes of exploring a research partnership between the Commission and Connecticut Institutions of Higher Education. Recognizing that the Sentencing Commission was unfunded and that the Commission had received offers for assistance from Central Connecticut State University, the University of New Haven, and various law schools, the Commission unanimously voted to create the Research Subcommittee to review such partnerships. The Commission heard from, Mark Bergstrom, Executive Director of the Pennsylvania Sentencing Commission, discussing Pennsylvania's research partnership model.

The second meeting of the Full Sentencing Commission was on April 28, 2011. At this meeting, the Chair asked the Commission for authorization to establish a Legislative Subcommittee to explore proposals for the 2012 legislative session. The Sentencing Commission approved the establishment of a Legislative Subcommittee by a unanimous vote. This decision was partially informed by the Legislative Working Group which identified possible subjects for 2012 legislative proposals. It was at this meeting that the Chair informed the Commission that he had sent letters to the chairs, and ranking members of the legislature's Judiciary and Appropriations Committees to solicit priorities for the Commission to explore. The Commission received a presentation from Brian Renstrom of Blum Shapiro addressing Connecticut's corrections, parole, and probation systems, which helped the Commission identify topics for future consideration.⁸ The Chair also decided that it would be helpful for Commission members to participate in a focus group process to identify areas of the criminal justice system the Commission should address and to discuss the structure of the Commission.

The third meeting of the Full Sentencing Commission was on June 27, 2011. This meeting was devoted to a focus group process to identify the priorities within the criminal justice system that should be addressed in light of the commission's statutory charge. Joseph D'Alesio, (Executive Director of Superior Court Operations and Executive Secretary of the Judicial Branch)—assisted by Alice Mastrony and Vicki Nichols, conducted a focus group to help the Commission identify priorities. The Sentencing Commission voted to create an Ad Hoc Steering Committee to continue the focus group process.

The Ad Hoc Steering Committee met on July 25, 2011 and August 16, 2011 for the purpose of continuing the focus group. At these meetings, members categorized the priorities identified by the Full Commission during the initial focus group and eventually recommended five permanent standing committees. These committees were formally approved by a unanimous vote at the September 1, 2011 meeting of the Full Sentencing Commission. To assist in the work of the permanent committees, chairs were authorized to establish ad hoc working groups. The Legislative Committee created the Classification Working Group to assist in making recommendations regarding unclassified misdemeanors.

⁸ Mr. Renstrom's presentation may be found on the Commission's website, <http://www.ct.gov/opm/csc>.

STANDING COMMITTEES

Steering

Chair: Mike Lawlor

Vivien Blackford
Justice Borden
Judge Carroll
Kevin Kane
Thomas Ullmann

Sentencing Structure, Policy and Practices

Chair: Judge Devlin

Reuben Bradford
Judge Carroll
Tracey Meares
Mark Palmer
David Shepack
Susan Storey
Judge White

Research, Measurement and Evaluation

Co-Chairs: Susan Pease, Thomas Ullmann

William Carbone
Pete Gioia
Patricia Rehmer
John Santa
Erika Tindill

Recidivism Reduction

Co-Chairs: Vivien Blackford, Maureen Price-Boreland

Leo Arnone
William Carbone
Pete Gioia
Patricia Rehmer
John Santa
Erika Tindill
Judge White

Legislative

Chair: Justice Borden

William Carbone
Michelle Cruz
Kevin Kane
Mike Lawlor
Mark Palmer
Susan Storey

Classification Working Group (Legislative Committee)

Chair: Bob Farr

Brian Austin
Deborah Del Prete Sullivan

Staff:

Chris Reinhart
Rick Taff
Jason DePatie

The University Partnership

The University Partnership was created to support the work of the Connecticut Sentencing Commission by conducting collaborative research projects. Connecticut's law schools (UConn, Yale, Quinnipiac) and universities (Central Connecticut State University, University of New Haven) have agreed to participate.

Resources

P.A. 10-129 provides no funding for staff or research assistance to support the Commission in the performance of its tasks. It does permit the Commission to accept grants of federal or private funds available for any purposes consistent with the statute. To date the Commission has received unfunded assistance from Central Connecticut State University and Quinnipiac Law School. State agencies, including OPM, LCO, OLR, Judicial, CSSD, BOPP, the Office of the Chief Public Defender and the Office of the Chief State's Attorney have assisted the Commission.

To assist the Commission in fulfilling its legislative mandate the Commission will submit a request for an appropriation for the upcoming fiscal year. A complete breakdown of the funding of Sentencing Commissions nationwide is available in Appendix D.

PART IV: WORK OF THE COMMITTEES

Steering

Overview: The Steering Committee is charged with establishing the formal policies and operating parameters of the Sentencing Commission, as well as developing the vision for the Commission.

Actions: The committee has discussed the role of a Sentencing Commission Executive Director. The committee agreed that the Executive Director should be full-time to ensure that he works solely for the Commission and is able to effectively coordinate its activities. The committee also decided that non-commission members could participate in the committees and vote in committee proceedings. It was agreed that inter-committee communications and public comment protocol would remain informal, and that a task for the Research Committee would be to develop a database for the Commission's use.

Sentencing Structure, Policy and Practices

Overview: This committee was created to evaluate the structure, policy, and practices of Connecticut's criminal justice system by utilizing evidence based data.

Actions: At the October 20, 2011 meeting, the committee addressed its three main functions: sentencing structure, policy, and practices. When discussing these functions, the committee agreed that its efforts should be guided by evidence-based data. Main topics of discussion included the penal code, end of sentence services, the disparate treatment of offenders, and descriptive statistics on inmates. The committee decided information should be collected on sex-offenders, as well as who is in jail, for what crimes, and for how long. Further discussion focused on employer liability protection and inmate work programs. Please see the attached section on "Questions for further Research" for more information on the research questions developed by the committee.

Research, Measurement and Evaluation

Overview: The mission of this committee is to accept research ideas, determine how to best conduct the research, and recommend research projects. Findings will then be presented to the Commission.

Actions: At the first meeting, the committee discussed how to best achieve its research priorities and decided that a university partnership would be helpful. Professional researchers would be necessary, and the committee decided that it was important to establish research review protocols. It was agreed that data would need to be collected on the present inmate population. This information could help identify individuals who may benefit from other types of diversion programs and help the committee to better understand recidivism. At the second meeting, it was recognized that an Executive Director would increase the research capacity of this committee. The committee decided that its first major research project will be an evaluation of Connecticut's mental health diversion program, which was a recommendation of the Sentencing Task Force. The November 4, 2011 meeting consisted of a presentation by Stephen Cox, Damon Mitchell, and Brian Hill on the evaluation of the mental health diversion program. At the final committee meeting, discussion focused on the organizational structure

needed for the committee to achieve its research goals and members explored the models utilized by Virginia and Pennsylvania's Sentencing Commissions.

Recidivism Reduction

Overview: The work of this committee is divided into six sections which emerged out of the focus group process: Greater use of alternative justice strategies; Creating an effective reentry system; Identifying and caring for mentally ill offenders and those at risk for offending; Identifying and implementing best practices in DOC; Encouraging and promoting interagency collaboration; and Educating the public and listening to the public about the criminal justice system.

Actions: At the first meeting, the committee agreed that is important to identify best practices and to collect both quantitative and qualitative data in order to develop evidence-based policy recommendations. It was agreed that a comprehensive evaluation of the current criminal justice system is necessary. It was further agreed that the evaluation include a section on the experiences of clients in the system and build from existing reports. These reports include: the Recidivism Report, the Reentry Strategy Report, IMRP data on the impact of incarceration, and DOC staff contributions. At the second meeting, the committee received a presentation from Ivan Kuzyk on the state's Recidivism Report which was later used to help guide the committee's research goals. These research goals are outlined in the "Questions for Further Research" section of this report.

Legislative

Overview: This committee was created to develop in the near term, legislative proposals to present to the Joint Judiciary Committee for consideration during the 2012 General Assembly and, on a continuing basis, to develop legislative proposals to implement recommendations of the Commission.

Actions: The committee developed three proposals to present to the General Assembly for consideration at its 2012 session. These include a statute aimed at making more effective the provisional pardon process created by the legislature in its 2006 session, a series of statutes to conform the classification of hundreds of presently unclassified misdemeanors to the offense classes in the Penal Code and two statutes to correct anomalies in the sections of the Penal Code covering sexual assault in the fourth degree and kidnapping in the first degree with a firearm.

Questions for Further Research

The committees on Sentencing Structure, Policy and Practices; Recidivism Reduction; and Research, Measurement and Evaluation identified questions deserving of research to assist the Commission in carrying out its mission. While reviewing these recommendations, the Steering Committee identified existing research results which may answer these questions, at least in part. Some of the recommendations have been returned to the committees for additional consideration in light of existing data

Sentencing Structure, Policy and Practices Committee

1. Who is in jail in Connecticut?

- a. What does our inmate population look like with respect to race, ethnicity, gender, age, zip code of residence and length of sentence;
- b. For each of the major crimes: how many persons are serving time for that charge and what is the average sentence;
- c. For each inmate: what is the charge of conviction and what was the original arrest charge

2. End of Sentence Services

- a. Connecticut does not permit parole for murder and some other serious offenses which complicates the ability to provide end of sentence services to persons convicted of these offenses. How many other states forbid parole in this fashion?
- b. Do states that forbid parole have a mechanism to assist offenders in the transition from prison to the community?

3. Penal Code

- a. How has Connecticut's codified criminal law changed since the adoption of the Model Penal Code in the 1970s? What new and or different crimes has the legislature added?
- b. What has been the historical development of mandatory minimum sentences in Connecticut – particularly since the adoption of the MPC?

4. Sex Offenders

- a. What is the evidence (if any) that some percentage of sex offenders continue to engage in illegal sexual misconduct after being prosecuted and punished for a sex offense?
- b. Are the rates of recidivism (or rates of continuing misconduct) different depending on whether the initial conviction involved (1) pedophilia, (2) acquaintance sexual assault or (3) violent sexual assault?

Recidivism Reduction Committee

For each of the research endeavors listed below, a careful review of existing research will inform any decision about whether to gather data. For each item below, important or even sufficient information may already exist. The objective of the proposed research is to enrich existing knowledge concerning policies,

practices and management of offenders, in order to maximize the likelihood that their encounters with the criminal justice system contribute to their transformations into law-abiding members of society.

The proposals below are listed in the order of the degree of support that they received within the committee. However, all of these proposals received broad support.

Proposal A

We need a deeper, more longitudinal understanding of offenders -- going well beyond the demographic and criminal justice data that we currently gather. We need to understand the pathways of offenders' lives as they have passed through institutional settings including schools, juvenile services, courts, prison and community supervision. Their histories in health, mental health and substance abuse, employment, income, housing and neighborhoods should be tracked, as well as and their social and family support. Their participation in and response to programs and services in and after prison, including community supervision, should be examined, as well as their juvenile histories and their adult charges, convictions and sentences.

This research should focus on offenders under age 30, because that is where recidivism is highest and interventions can have the most impact on outcomes. The analysis should include several groups of specific interest:

- A group of incarcerated first-time offenders.
- A similar group of first time offenders - who have not recidivated within three years post incarceration.
- A similar group of offenders who have re-offended more than once within three years.
- A group that that is similar to the incarcerated first-time offenders, but who were not sentenced to prison.
- A group of re-offenders who have served short sentences.

This analysis will seek to find factors, including specifically interactive factors, as well as important turning points, that associate with greater or lesser probability of recidivism as well as other indicators of degrees of harm and of success.

Proposal B

Assess the adult correctional system's strengths, achievements, gaps, and areas of weak impact. Include DOC facilities, community corrections, and the nonprofit sector. Focus on outcomes, execution, cost, and evidence base.

This would be a major undertaking with significant challenges – some stemming from the fact of crossing many organizational boundaries. This proposal's strong support within the committee derives from the fact that many clients and providers seem to believe that the "system" would be more effective if its coordination was improved, and the issue of coordination raises related issues of organizational effectiveness.

Proposal C

Study the impact of supportive social ties - including family ties - on recidivism and other indicators of harm and success. Compare social-tie effects of incarcerated vs non-incarcerated offenders, and trace the granular effects of incarceration on families and other sources of social support. Examine current DOC practices that support or weaken social ties, with a view toward security considerations. Also review the data of the impact of conjugal and full family visits on incarcerated offenders.

Proposal D

Study the relationship of current offender assessments to factors of success and failure. Can assessments be made more accurate and useful for program and release planning?

Research, Measurement and Evaluation Committee

As a result of recommendations made by the Sentencing Task Force in 2007, The General Assembly passed Public Act 08-01 in January of 2008, an act designed to increase public safety by incarcerating more serious offenders for longer periods of time and decreasing the likelihood of incarceration for less serious offenders. The act significantly enhanced community-based resources for less serious offenders, including the pretrial population and created a “Diversion Program for Offenders with Psychiatric Disabilities” (subsection 41) to be implemented by Court Support Services Division. The CCSD’s Supervised Diversionary Program (SDP) has been serving offenders with psychiatric disabilities since October 1, 2008. Data has been collected and a preliminary analysis of these data revealed that most courts have been receiving SDP application; appropriate clients have been accepted into the SDP; and the successful completion rate for offenders diverted to SDP has been 75%. The Research, Measurement and Evaluation Committee recommends the Sentencing Commission support a continuation of this study to include a larger number of clients and to determine its long term impact on offenders with psychiatric disabilities. In addition, the committee recommends that researchers talk to judges, defense attorneys, prosecutors, and other relevant court personnel to determine the extent to which they are aware of SDP and their perceptions of the program.

PART V: 2012 LEGISLATIVE PROPOSALS⁹

The Commission developed three proposals to present to the General Assembly for consideration at its 2012 session. These include a statute aimed at making more effective the provisional pardon process created by the legislature in its 2006 session, a series of statutes to conform the classification of hundreds of presently unclassified misdemeanors to the offense classes in the Penal Code and two statutes to correct anomalies in the sections of the Penal Code covering sexual assault in the fourth degree and kidnapping in the first degree with a firearm. Finally, the Commission continues to consider a specific legislative proposal to provide juvenile offenders with a meaningful opportunity to have the sentences imposed on them reconsidered after they have served a portion of those sentences.

1) Removing Barriers to Employment and Housing for Convicted Persons¹⁰

Overview

In 2006, the Connecticut Legislature created the provisional pardon program, which provides a mechanism for removing barriers that individuals face based on their prior criminal convictions. The proposed bill available in Appendix E would re-name provisional pardons “Certificates of Relief from Barriers” to better describe their purpose and legal effect. In addition, the bill would expedite the process for obtaining Certificates, provide greater guidance to licensing agencies and state employers about the effect of the Certificates, and expand the Certificates to remove barriers to public housing.

I. Expediting the Application Process

Provisional pardons are intended to help ex-offenders get back on their feet, and these individuals are often most in need of relief from barriers soon after sentencing or release from prison. The proposed bill would expedite the process for applicants to obtain relief by:

- Allowing Superior Court judges in less serious cases to grant Certificates of Relief from Barriers at the time of sentencing or during an offender’s probation period. This would align Connecticut with the practices of New York and Illinois, as well as the recommendations of the Uniform Collateral Consequences of Conviction Act, the Model Penal Code, and the American Bar Association.
- Allowing both the pardons panels and parole release panels of the Board of Pardons and Paroles to issue Certificates. If feasible, the Board may consider granting a Certificate before an offender is released on parole so as to facilitate successful reentry into the community. These clarifications provide flexibility to the Board and will allow it to expedite the process of issuing Certificates to qualified applicants.

⁹ The Commission wishes to thank the Legal Clinic at the Quinnipiac University School of Law, and in particular Prof. Sarah Russell and Prof. Linda Meyer, for their invaluable assistance in considering and drafting its legislative proposals.

¹⁰ “An Act Concerning Certificates of Relief from Barriers” is available in Appendix E.

II. Providing Guidance and Ensuring Efficacy

The proposed bill would provide greater guidance to licensing agencies and state employers in their consideration of applicants with Certificates of Relief from Barriers. The current statute states that a provisional pardon is “a form of relief from barriers or forfeitures to employment or the issuance of licenses” but provides no guidance to licensing agencies or state employers about how the presence of a provisional pardon should actually impact their decision-making process. Additionally, although access to public housing is a major challenge for ex-offenders, the current provisional pardon statutes do not appear to allow removal of barriers to public housing. To address these concerns, the proposed bill would:

- Allow Certificates of Relief from Barriers to apply to public housing, and authorize the issuing authority (either the BOPP or the Superior Court) to label each Certificate a “Certificate of Employability,” “Certificate of Suitability for License,” and/or a “Certificate of Suitability for Public Housing.”
- Provide that in the case of an ex-offender applying for state employment or licensing, a Certificate demonstrates a “presumed suitability” for employment or licensing. Such a presumption may be overcome if the prior conviction has a “direct relationship” to the employment or license sought.
- Provide that in the case of an ex-offender applying for public housing, a Certificate issued for that purpose demonstrates a “presumed eligibility for public housing.” Although such Certificate must be considered by housing authorities, each authority may use its own discretion when considering individual applications. Additionally, if an applicant is ineligible for public housing under federal law, the Certificate does not affect the applicant’s eligibility in any way.
- Ensure the safety of victims by providing that Certificates shall only be granted if they are consistent with “the safety of any victim of the offense.”

2) Reconsidering Sentences Imposed on Juveniles

Twice in the past six years the U.S. Supreme Court has found that, “because juveniles have lessened culpability, they are less deserving of the most severe punishments.”¹¹

¹¹ *Graham v. Florida*, ___ U.S. ___, 130 S.Ct. 2011 (2010)(U.S. Constitution forbids imposition of sentence of life imprisonment without parole on a juvenile for a non-homicide crime); *Roper v. Simmons*, 543 U.S. 551 (2005)(U.S. Constitution forbids imposition of death sentences on juveniles).

The Court based its conclusion on the results of scientific and sociological studies (as well as “what any parent knows”) and developments in psychology and brain science showing (1) a lack of maturity and an underdeveloped sense of responsibility in youth that often lead to impetuous and ill-considered actions and decisions, (2) a greater susceptibility to negative influences and outside pressures, including peer pressure, and (3) fundamental differences between juvenile and adult minds, particularly in the parts of the brain involved in behavior control.

Because the character of a juvenile is not as well formed as that of an adult and juveniles are more capable of change than are adults, the Court found in both cases that even a juvenile’s commission of a very serious crime cannot be considered evidence that he/she is of a permanent bad character and incapable of reform.

In the *Graham* case the Court held, based on its findings about the characteristics of juvenile offenders, that states must give them “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.”

Connecticut does not permit a court to impose on a juvenile a death sentence for capital felony or a sentence of life imprisonment without parole for a non-homicide crime. But, the Supreme Court’s findings in the *Graham* and *Roper* cases concerning the characteristics of juvenile offenders apply to Connecticut’s juveniles who receive lengthy sentences just as they do elsewhere.

Research conducted for the Commission indicates that, as of November 1, 2011, there were 191 prisoners serving sentences longer than ten years for crimes committed when they were juveniles. Over half (51%) of these prisoners are ineligible for parole. These prisoners are serving sentences of 20 years or more for crimes involving homicide and other serious offenses. Of the remaining prisoners 35% are not eligible for parole until they have served 85% of their sentences, and 6% are not eligible until they have served 50% of their sentences.

The Sentencing Commission recommends that legislation be enacted to create a procedure whereby a person sentenced to a lengthy term of imprisonment for a crime committed when he/she was under the age of 18 will have a meaningful opportunity, after service of a portion of the sentence, to obtain release before the end of that term by demonstrating increased maturity and rehabilitation.

The Commission continues to work on drafting a statute that will address the following issues:

1. *How long should the juvenile offender serve before being able to seek a review of the sentence imposed?*

The portion of the sentence served must be long enough to recognize the severity of the offender’s conduct and the harm done to the victim, yet not so long as to frustrate the basic purpose of allowing for review and potential shortening of the time served.

2. *Which governmental body should review and reconsider such sentences?*

The two obvious candidates are the court which originally imposed the sentence, aided by an investigation conducted by probation into the offender's circumstances at the time she/he applies to modify the sentence, and the board of pardons and paroles, aided by an investigation by parole officers.

3. *What should be the standard for modifying the original sentence?*

The Supreme Court's decision in *Graham v. Florida* requires that the offender be given a meaningful opportunity to show increased maturity and rehabilitation. Other criteria could be added; e.g., the offender's remorse, his/her efforts to atone, a demonstration of decreased risk to society and/or the victim, as well as the more generalized standard that the original sentence is more severe than necessary to achieve legitimate penological goals.

4. *What type of procedure should be employed to reexamine the sentence?*

The Supreme Court leaves this up to the individual states. While the right to assistance of counsel would seem to be a minimum standard, the possibilities range from a full-fledged adversarial hearing, with sworn testimony and written reports, to a more administrative hearing, with several combinations and permutations of procedures possible.

5. *Whether the offender should have one opportunity to seek such a reconsideration or more than one?*

A statute should recognize that the circumstances of offenders change over their time incarcerated. At the same time, if more than one opportunity were to be provided, there would have to be safeguards to prevent abuse of the victims of crime and inordinate demands on the resources of the courts or the board of pardons and paroles.

At a meeting scheduled for March 14, 2012 the members hope to reach consensus on a proposed bill to be considered by the General Assembly.

3) *Classifying Misdemeanors*¹²

Overview

The Classification Working Group was charged with classifying approximately 750 statutory misdemeanors that are not currently classified under Connecticut's penal code. The working group gathered data on initial charges for these crimes over the last 10 years and solicited comments from agencies responsible for enforcing them. The group considered which of these crimes might be obsolete, could be reduced from a crime to a fine-only violation, or could have its penalty adjusted to fit into the various misdemeanor classifications in the penal code.

The Commission believes several benefits will accrue to the criminal justice system from classifying these so far unclassified misdemeanors. First, classification will make it easier for law enforcement, the legislature and the public to understand the relative severity of each offense and answer the question, Does the penalty fit the crime. Second, it will make it simpler to target diversionary programs to the least

¹² "An Act Concerning the Classification of Misdemeanors" and "An Act Concerning the Period of Probation for Class D Misdemeanors and Unclassified Misdemeanors" is available in Appendix F.

serious offenses and to assign appropriate periods of probation. Finally, reducing some less serious statutory misdemeanors to violations, with fines payable by mail, will reduce the number of offenses requiring court appearances, allowing in-court time to be concentrated on more serious crimes.

Thus, the Commission suggests that its recommendations in this area will make the criminal laws in Connecticut more understandable, easier to enforce and less expensive to administer.

Members

The working group consisted of Executive Assistant State's Attorney Brian Austin, Attorney Bob Farr, and Legal Counsel/Executive Assistant Public Defender Deborah Del Prete Sullivan. The group was assisted by Jason DePatie, policy specialist at the Institute for Municipal and Regional Policy; Chris Reinhart from the Office of Legislative Research (OLR); and Richard Taff, legislative attorney from the Legislative Commissioners' Office.

Meetings

The group met on 14 occasions in 2011: July 20; August 12 and 23; September 8, 22, and 28; October 5, 12, 18, and 21; November 2 and 17; December 7; and January 12.

The group solicited comments from agencies involved with enforcing the unclassified misdemeanors that the group identified. Staff from 11 agencies attended meetings, submitted comments, and reviewed the working group's recommendations:

Department of Agriculture (DOAG), Department of Banking (DOB), Department of Consumer Protection (DCP), Department of Emergency Services and Public Protection (DESPP), Department of Energy and Environmental Protection (DEEP), Department of Labor (DOL), Department of Motor Vehicles (DMV), Department of Public Health (DPH), Department of Revenue Services (DRS), Department of Transportation (DOT), and Secretary of the State's Office (SOTS). The Judicial Branch and DESPP also assisted the working group by providing information on criminal records databases.

Recommendations

After reviewing each of these crimes, the working group makes the following recommendations¹³.

1. Repeal 14 obsolete statutes or criminal penalties.
2. Reduce 45 misdemeanor offenses to violations with fines payable by mail. This would (a) reduce the number of cases in our courts, (b) make enforcement of these statutes more convenient for our citizens by not requiring court appearances, and (c) reduce the cost to the state while bringing in more revenue, with no reduction in public safety.
3. Classify 61 crimes without changing the prison sentences each carries. Instead, the working group proposes increasing their maximum fines to match those of the appropriate classification
4. Classify an additional 40 crimes by increasing the maximum prison sentence for 10 and decreasing the maximum prison sentence for the remaining 30.

¹³ Tables of the laws affected by these recommendations, comments the working group received from agencies and the working group's recommendation can be found in Appendix G.

5. Classify 15 crimes by creating a new sentencing structure, with different penalties based on prior convictions for the crime.
6. Classify 30 crimes by making minor sentencing changes, such as classifying a crime punishable by up to 12 months in prison as a class A misdemeanor punishable by up to one year in prison. In some instances, the maximum fine for a crime would change but the group recommends that others remain as currently in statute.
7. Create a new class D misdemeanor, punishable by up to 30 days in prison, a fine of up to \$250, or both. Many unclassified misdemeanors currently punishable by up to 30 days in prison would become class D misdemeanors.
8. To avoid having to redraft many of these statutes, amend state law to require that any unclassified misdemeanor with a maximum penalty of incarceration equal to the penalty in one of the existing classes of misdemeanors be deemed to be included in that class of misdemeanor. The fines for crimes deemed classified would not change.

If the working group's proposals are adopted, the penalties for all misdemeanors, including currently unclassified and the proposed new class D misdemeanors, would be as shown in table 1 (The penalties for existing misdemeanor classifications are not changed).

Table 1: Penalties for Classified Misdemeanors

Misdemeanor	Prison Term	Fine
A	Up to one year	Up to \$2,000
B	Up to six months	Up to \$1,000
C	Up to three months	Up to \$500
D	Up to 30 days	Up to \$250

In order to implement the recommendation for a new class D misdemeanor, the working group recommends amending the probation statute to set the possible probation term for a class D misdemeanor at up to one year, the same as the law currently provides for a class B or C misdemeanor. The working group's recommendation reflects the need for a period that is long enough for offenders to participate in programs while under probation supervision.

With classification, the possible probation term for a number of the currently unclassified misdemeanors would change. Currently, unclassified misdemeanors can have a probation term of up to (1) one year if the crime is punishable by up to three months in prison or (2) two years if the crime is punishable by over three months in prison. Probation terms would change when some crimes are deemed classified. For example, maximum probation term would decrease from two years to one year if an unclassified misdemeanor currently punishable by up to six months in prison is deemed a B misdemeanor.

If the legislature creates new unclassified misdemeanors in the future, the working group recommends probation terms of up to (1) one year if the misdemeanor is punishable by up to six months in prison and (2) two years if the misdemeanor is punishable by more than six months.

Copies of draft legislation creating a class D misdemeanor and amending the probation statute can be found in Appendix F.

5) Removing Selected Anomalies in the Penal Code¹⁴

The Commission's initial examination of the Penal Code revealed two anomalies in the Code, each one of them susceptible of an easy "fix."

First, there is an internal redundancy, in the current version of General Statutes § 53a-73(a). The statute has eight subdivisions. Subdivision (1) provides that a person is guilty of the offense when he or she "*intentionally* subjects another person to sexual contact in various circumstances. (Emphasis added.) Subdivisions (2) through (8) each provides that a person is guilty of the offense if he or she "subjects another person to sexual contact" in different circumstances, without using the word "intentionally."

"Sexual contact" is defined by the Penal Code as "contact with the intimate parts of a person . . . for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person...." General Statutes § 53a-65 (3). Thus, the word "intentionally" in subdivision (1) is superfluous, because the notion of intentionality is inherent in the definition of "sexual contact." The proposed bill, therefore, simply eliminates the word "intentionally" in subdivision (1) to make it consistent with subdivisions (2) through (8). This will make the legal instructions to juries in such cases much easier to understand.

Second, there is an inconsistency, between the penalties for Kidnapping In The First Degree and Kidnapping In The First Degree With A Firearm. The former is a Class A felony, which carries a mandatory minimum penalty of ten years imprisonment pursuant to General Statutes § 53a-35a. The latter, however, which is a more serious crime than the former because it involves the aggravating factor of a firearm, under the current version of the statute carries a lower mandatory minimum sentence of three years imprisonment. The proposed bill eliminates this inconsistency by eliminating the specific three year mandatory minimum language from the statute, leaving it subject to the ten year mandatory minimum pursuant to § 53a-35a.

¹⁴ "An Act Concerning Sexual Assault in the Fourth Degree" and "An Act Concerning the Penalty for Kidnapping in the First Degree with a Firearm" is available in Appendix H.

PART VI: 2012 CONCLUSION

Although the Sentencing Commission's major task in 2011 was to create an organizational structure for its work and to set priorities among the many tasks assigned to it by Public Act 10-129, it also was able to reach consensus on several important legislative initiatives. This was due to the assistance it received from several voluntary sources, as well as the hard work of the Commission members themselves.

The future seems promising for the Commission. Its greatest need now is for funding for permanent staff and other resources to carry out the work assigned to it by the General Assembly.

Respectfully submitted,

Joseph M. Shortall
Judge Trial Referee
Chair, Connecticut Sentencing Commission

APPENDIX A:
PUBLIC ACT NO. 10-129



Substitute House Bill No. 5248

Public Act No. 10-129

AN ACT ESTABLISHING A SENTENCING COMMISSION.

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

Section 1. (NEW) (*Effective February 1, 2011*) (a) There is established, within existing budgetary resources, a Connecticut Sentencing Commission which shall be within the Office of Policy and Management for administrative purposes only.

(b) The mission of the commission shall be to review the existing criminal sentencing structure in the state and any proposed changes thereto, including existing statutes, proposed criminal justice legislation and existing and proposed sentencing policies and practices and make recommendations to the Governor, the General Assembly and appropriate criminal justice agencies.

(c) In fulfilling its mission, the commission shall recognize that: (1) The primary purpose of sentencing in the state is to enhance public safety while holding the offender accountable to the community, (2) sentencing should reflect the seriousness of the offense and be proportional to the harm to victims and the community, using the most appropriate sanctions available, including incarceration, community punishment and supervision, (3) sentencing should have as an overriding goal the reduction of criminal activity, the imposition of just punishment and the provision of meaningful and effective rehabilitation and reintegration of the offender, and (4) sentences should be fair, just and equitable while promoting respect for the law.

(d) The commission shall be composed of the following members:

(1) Eight persons appointed one each by: (A) The Governor, (B) the Chief Justice of the Supreme Court, (C) the president pro tempore of the Senate, (D) the speaker of the House of Representatives, (E) the majority leader of the Senate, (F) the majority leader of the House of Representatives, (G) the minority leader of the Senate, and (H) the minority leader of the House of Representatives, all of whom shall serve for a term of four years;

(2) Two judges appointed by the Chief Justice of the Supreme Court, one of whom shall serve for a term of one year and one of whom shall serve for a term of three years;

- (3) One representative of the Court Support Services Division of the Judicial Branch appointed by the Chief Justice of the Supreme Court, who shall serve for a term of two years;
 - (4) The Commissioner of Correction, who shall serve for a term coterminous with his or her term of office;
 - (5) The Chief State's Attorney, who shall serve for a term coterminous with his or her term of office;
 - (6) The Chief Public Defender, who shall serve for a term coterminous with his or her term of office;
 - (7) One state's attorney appointed by the Chief State's Attorney, who shall serve for a term of three years;
 - (8) One member of the criminal defense bar appointed by the president of the Connecticut Criminal Defense Lawyers Association, who shall serve for a term of three years;
 - (9) The Victim Advocate, who shall serve for a term coterminous with his or her term of office;
 - (10) The chairperson of the Board of Pardons and Paroles, who shall serve for a term coterminous with his or her term of office;
 - (11) The Commissioner of Public Safety, who shall serve for a term coterminous with his or her term of office;
 - (12) A municipal police chief appointed by the president of the Connecticut Police Chiefs Association, who shall serve for a term of two years;
 - (13) The Commissioner of Mental Health and Addiction Services, who shall serve for a term coterminous with his or her term of office;
 - (14) The undersecretary of the Criminal Justice Policy and Planning Division within the Office of Policy and Management, who shall serve for a term coterminous with his or her term of office; and
 - (15) An active or retired judge appointed by the Chief Justice of the Supreme Court, who shall serve as chairperson of the commission and serve for a term of four years.
- (e) The commission shall elect a vice-chairperson from among the membership. Appointed members of the commission shall serve for the term specified in subsection (d) of this section and may be reappointed. Any vacancy in the appointed membership of the commission shall be filled by the appointing authority for the unexpired portion of the term.
- (f) The commission shall:

- (1) Facilitate the development and maintenance of a state-wide sentencing database in collaboration with state and local agencies, using existing state databases or resources where appropriate;
 - (2) Evaluate existing sentencing statutes, policies and practices including conducting a cost-benefit analysis;
 - (3) Conduct sentencing trends analyses and studies and prepare offender profiles;
 - (4) Provide training regarding sentencing and related issues, policies and practices;
 - (5) Act as a sentencing policy resource for the state;
 - (6) Preserve judicial discretion and provide for individualized sentencing;
 - (7) Evaluate the impact of pre-trial, sentencing diversion, incarceration and post-release supervision programs;
 - (8) Perform fiscal impact analyses on selected proposed criminal justice legislation; and
 - (9) Identify potential areas of sentencing disparity related to racial, ethnic, gender and socioeconomic status.
- (g) Upon completing the development of the state-wide sentencing database pursuant to subdivision (1) of subsection (f) of this section, the commission shall review criminal justice legislation as requested and as resources allow.
- (h) The commission shall make recommendations concerning criminal justice legislation, including proposed modifications thereto, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary which shall hold a hearing thereon.
- (i) The commission shall have access to confidential information received by sentencing courts and the Board of Pardons and Paroles including, but not limited to, arrest data, criminal history records, medical records and other nonconviction information.
- (j) The commission shall obtain full and complete information with respect to programs and other activities and operations of the state that relate to the criminal sentencing structure in the state.
- (k) The commission may request any office, department, board, commission or other agency of the state or any political subdivision of the state to supply such records, information and assistance as may be necessary or appropriate in order for the commission to carry out its duties. Each officer or employee of such office, department, board, commission or other agency of the state or any political subdivision of the state is authorized and directed to cooperate with the commission and to furnish such records, information and assistance.

(l) The commission may accept, on behalf of the state, any grants of federal or private funds made available for any purposes consistent with the provisions of this section.

(m) Any records or information supplied to the commission that is confidential in accordance with any provision of the general statutes shall remain confidential while in the custody of the commission and shall not be disclosed. Any penalty for the disclosure of such records or information applicable to the officials, employees and authorized representatives of the office, department, board, commission or other agency of the state or any political subdivision of the state that supplied such records or information shall apply in the same manner and to the same extent to the members, staff and authorized representatives of the commission.

(n) The commission shall be deemed to be a criminal justice agency as defined in subsection (b) of section 54-142g of the general statutes.

(o) The commission shall meet at least once during each calendar quarter and at such other times as the chairperson deems necessary.

(p) Not later than January 15, 2012, and annually thereafter, the commission shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the Governor, the General Assembly and the Chief Justice of the Supreme Court.

APPENDIX B:
SENTENCING COMMISSION
MEMBERSHIP

CONNECTICUT SENTENCING COMMISSION MEMBERS

Chair:
(Term: February 2015)

The Honorable Joseph M. Shortall
J.D. and G.A. 15 Courthouse
20 Franklin Square
New Britain, CT 06051
(O) 860-515-5246
joseph.shortall@jud.ct.gov

Appointed By: Chief Justice of the Supreme Court

Vice Chair:
(Ex officio)

Mike Lawlor
Undersecretary of Criminal Justice
Policy and Planning Division
450 Capitol Ave
Hartford, CT 06106
(O) 860-418-6394
mike.lawlor@ct.gov

Ex officio: Undersecretary of Criminal Justice Policy and Planning Division

(Term: February 2012)

The Honorable Patrick L. Carroll, III
Deputy Chief Court Administrator
231 Capitol Avenue
Hartford, CT 06010
(O) 860-757-2100

*Appointed by: Chief Justice of the Supreme Court;
Qualification: Judge*

(Term: February 2015)

Vivien K. Blackford
Vivien Blackford & Associates
10 Hamburg Road
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(O) 860-434-5212
vivblackford@gmail.com

Appointed by: President Pro Tempore of the Senate

(Term: February 2014)

The Honorable Robert J. Devlin, Jr.
Chief Administrative Judge for
Criminal Matters
Judicial District Courthouse
1061 Main St.
Bridgeport, CT 06604
(O) 203-579-7250
robert.devlin@jud.ct.gov

*Appointed by: Chief Justice of the Supreme Court;
Qualification: Judge*

(Term: February 2015)

Susan E. Pease
Dean of the School of Arts
and Sciences
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Appointed by: Majority Leader of the Senate

(Term: February 2013)

William Carbone
Executive Director, Court Support
Services Division (CSSD)
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william.carbone@jud.ct.gov

*Appointed by: Chief Justice of the Supreme Court;
Qualification: Representative of Court Support Services Division*

(Term: February 2015)

The Honorable David M. Borden
Appellate Court
75 Elm Street
Hartford, CT
(O) 860-713-2192
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Appointed by: Speaker of the House of Representatives

(Term: February 2015)

The Honorable Gary White
Assistant Administrative Judge
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Appointed By: Chief Justice of the Supreme Court

(Term: February 2015)

Maureen Price-Boreland
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Appointed by: Majority Leader of the House of Representatives

(Term: February 2015)

Tracey L. Meares
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Hamilton Professor of Law
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Appointed by: The Governor

(Term: February 2015)

John Santa
Vice Chairman,
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Appointed by: Minority Leader of the Senate

CONNECTICUT SENTENCING COMMISSION MEMBERS

(Term: February 2015)

Peter M. Gioia

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Industry Association (CBIA)
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Appointed by: Minority Leader of the House of Representatives

(Ex officio)

Michelle Cruz

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Ex officio: State Victim Advocate

(Ex officio)

Leo C. Arnone

Commissioner of the
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Ex officio: Commissioner of the Department of Corrections

(Ex officio)

Erika M. Tindill

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Ex officio: Chairman of the Board of Pardons and Paroles

(Ex officio)

Kevin Kane

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Ex officio: Chief State's Attorney

(Ex officio)

Reuben Bradford

Commissioner of Emergency Services
and Public Protection
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Ex officio: Commissioner of Emergency Services and Public Protection

(Ex officio)

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Ex officio: Chief Public Defender

(Term: February 2013)

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*Appointed By: President of the CT Police Chiefs Association;
Qualification: Municipal Police Chief*

(Term: February 2014)

David Shepack

State's Attorney
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*Appointed by: Chief State's Attorney;
Qualification: State's Attorney*

(Ex officio)

Patricia Rehmer

Commissioner of Mental Health and
Addiction Services
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Ex officio: Commissioner of Mental Health and Addiction Services

(Term: February 2014)

Thomas J. Ullmann

Public Defender
Judicial District of New Haven
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*Appointed by: President of the Connecticut Criminal Defense
Lawyers Association;
Qualification: Member of Criminal Defense Bar*

APPENDIX C: STATUTORY TASKS

COMMISSION TASKS, PER P.A. 10-129

1. Review & evaluate existing criminal sentencing structure, including existing statutes.
(sec. 1(b) & 1(f)(2))
2. Review & evaluate existing sentencing policies and practices.
(sec. 1(b) & 1(f)(2))
3. Review proposed changes to statutes, policies and practices.
(sec. 1(b))
4. Facilitate development and maintenance of statewide sentencing database.
(sec. 1(f)(1))
5. Analyze and study sentencing trends and prepare offender profiles.
(sec. 1(f)(3))
6. Provide training regarding sentencing and related issues.
(sec. 1(f)(4))
7. Be a sentencing policy resource for the state.
(sec. 1(f)(5))
8. Evaluate the impact of pre-trial programs.
9. Evaluate the impact of sentencing diversion programs.
10. Evaluate the impact of incarceration.
11. Evaluate the impact of post-release supervision programs.
(sec. 1(f)(7))
12. Perform fiscal impact analyses on proposed legislation.
(sec. 1(f)(8))
13. Identify potential areas of sentencing disparity
(sec. 1(f)(9))

APPENDIX D:
NATIONAL SENTENCING
COMMISSIONS

NATIONAL SENTENCING COMMISSIONS

STATE	YR CREATED	AFFILIATION	MEMBERS	STAFF	BUDGET YR	BUDGET	FUNDING SOURCE
<i>Alabama</i>	2000	Judicial	16	3	2009	\$184,000	Federal Byrne Memorial Grant, VERA Institute
<i>Alaska</i>	1959	Judicial	7	7	2000	\$49,000	Legislature, Alaska Court System, D.O.C., Division of Juvenile Justice
<i>Arkansas</i>	1993	Independent	9	5	2011	\$390,830	Miscellaneous Agencies Fund: General Revenues
<i>Colorado</i>	2007	Executive	27	11	2009	\$92,657	JEHT Foundation
<i>Delaware</i>	1984	Executive	11				
<i>D.C.</i>	1988	Independent	20	6	2010	\$794,000	Locally Funded
<i>Illinois</i>	2009		23		2010	\$150,000 (seed)	ICJIA Grant, Justice Assistance Grant, D.O.C.
<i>Iowa</i>	1974	Human Rights Dep't	22	16	2009	\$200,000	CJIS Project: Stimulus Funds
<i>Kansas</i>	1989	Executive	23	12	2010	\$668,191	State General Fund
<i>Louisiana</i>	1987	Executive	21			Non- determinable	PEW Charitable Trusts
<i>Maryland</i>	1996	Executive	19	4	2011	\$301,133	State General Fund
<i>Massachusetts</i>	1995	Judicial	15	4	2009	\$232,000	Federal Byrne Memorial Grant, Justice Assistance Grant Program
<i>Michigan</i>	1994	Legislative	19	4	2000	\$250,000	
<i>Minnesota</i>	1978	Executive	11	9	2009-2011 (Biennial)	\$1,179,000	State General Fund
<i>Missouri</i>	1994	Independent	11	1	2009	\$95,000	Federal Byrne Memoria Grant
<i>Nevada</i>	2007	Judicial	17		2009	\$50,000	INACTIVE
<i>New Jersey</i>	2004	Executive	13	1	2009	\$100,000	PEW Charitable Trusts
<i>New Mexico</i>	2001	Executive	23	8	2010	\$754,800	IJIS Technical Assistance Grant, Local Funds
<i>New York</i>	2007	Executive	11	6			Department of Criminal Justice Services (DCJS), VERA Inst., State General Funds
<i>North Carolina</i>	1990	Judicial	30	9	2009	\$900,000	
<i>Ohio</i>	1991	Judicial	31	3	2011	\$200,000	

NATIONAL SENTENCING COMMISSIONS

STATE	YR CREATED	AFFILIATION	MEMBERS	STAFF	BUDGET YR	BUDGET	FUNDING SOURCE
<i>Oklahoma</i>	1997	Judicial	15		2000	\$664,000	
<i>Oregon</i>	1995	Independent	9	6	2009-2011 (Biennial)	\$1,343,900	Federal Byrne Memorial Justice Grant, Justice Assistance Grant Program
<i>Pennsylvania</i>	1978	Legislative	11	16	2009	\$2,258,940	Grant Funding, Appropriation, State General Funded Operation Budget
<i>South Carolina</i>	1989		17				
<i>Utah</i>	1993	Executive	27	1	2009	\$185,000	
<i>Virginia</i>	1995	Judicial	17	10	2011	\$1,039,254	State General Fund, Local Funding
<i>Washington</i>	1981	Legislative	20	9	2009-2011 (Biennial)	\$1,900,000	

APPENDIX E:
AN ACT CONCERNING
CERTIFICATES OF RELIEF
FROM BARRIERS

AN ACT CONCERNING CERTIFICATES OF RELIEF FROM BARRIERS

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

Section 1. Section 54-130a of the general statutes is repealed and the following substituted in lieu thereof:

- (a) Jurisdiction over the granting of, and the authority to grant, commutations of punishment or releases, conditioned or absolute, in the case of any person convicted of any offense against the state and commutations from the penalty of death shall be vested in the Board of Pardons and Paroles.
- (b) The board shall have authority to grant pardons, conditioned[, **provisional**] or absolute, as well as Certificates of Relief from Barriers, for any offense against the state at any time after the imposition and before or after the service of any sentence.
- (c) The board may accept an application for a pardon three years after an applicant's conviction of a misdemeanor or violation and five years after an applicant's conviction of a felony, except that the board, upon a finding of extraordinary circumstances, may accept an application for a pardon prior to such dates.
- (d) Whenever the board grants an absolute pardon to any person, the board shall cause notification of such pardon to be made in writing to the clerk of the court in which such person was convicted, or the Office of the Chief Court Administrator if such person was convicted in the Court of Common Pleas, the Circuit Court, a municipal court, or a trial justice court.
- (e) Whenever the board grants a [**provisional pardon**] Certificate of Relief from Barriers to any person, the board shall cause notification of such [**pardon**] Certificate to be made in writing to the clerk of the court in which such person was convicted. The granting of a [**provisional pardon**] Certificate does not entitle such person to erasure of the record of the conviction of the offense or relieve such person from disclosing the existence of such conviction as may be required.
- (f) In the case of any person convicted of a violation for which a sentence to a term of imprisonment may be imposed, the board shall have authority to grant a pardon, conditioned[, **provisional**] or absolute, as well as Certificates of Relief from Barriers, in the same manner as in the case of any person convicted of an offense against the state.

Section 2. Section 54-130e of the general statutes is repealed and the following substituted in lieu thereof:

(a) For the purposes of this section and sections 8-45a, 31-51i, 46a-80, and 54-130a:

(1) “Barrier” means a denial of employment, ~~[or]~~ a license, or public housing based on an eligible offender’s conviction of a crime without due consideration of whether the nature of the crime bears a direct relationship to such employment, ~~[or]~~ license, or public housing;

(2) “Direct relationship” means that the nature of criminal conduct for which the person was convicted has a direct bearing on his or her fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, housing, opportunity, or job in question.

(3) ~~[(2)]~~ “Eligible offender” means a person who has been convicted of a crime or crimes in this state or another jurisdiction and who is a resident of this state and is applying for a ~~[provisional pardon]~~ Certificate of Relief from Barriers or is under the jurisdiction of the Board of Pardons and Paroles;

(4) ~~[(3)]~~ “Employment” means any remunerative work, occupation or vocation or any form of vocational training, but does not include employment with a law enforcement agency;

(5) ~~[(4)]~~ “Forfeiture” means a disqualification or ineligibility for employment, ~~[or]~~ a license, or public housing by reason of law based on an eligible offender’s conviction of a crime;

(6) ~~[(5)]~~ “License” means any license, permit, certificate or registration that is required to be issued by the state or any of its agencies to pursue, practice or engage in an occupation, trade, vocation, profession or business; and

(7) ~~[(6)]~~ ~~“Provisional pardon”~~ “Certificate of Relief from Barriers” means a form of relief from barriers or forfeitures to employment, public housing, or the issuance of licenses granted to an eligible offender by the Board of Pardons and Paroles or the Superior Court of this state pursuant to subsections (b) to ~~[i](q)~~, inclusive, of this section. Such Certificate shall be labeled by the issuing authority a “Certificate of Employability,” “Certificate of Suitability for License,” or “Certificate of Suitability for Public Housing,” or any combination thereof deemed appropriate.

(8) “Public agency” means the state, or any state or local department, agency, board or commission.

(9) “Public housing” means housing corporations created by section 8-40 and defined in section 8-39(b).

(b) The Board of Pardons and Paroles may issue a ~~[provisional pardon]~~ Certificate of Relief from Barriers to relieve an eligible offender of barriers or forfeitures by reason of such person’s conviction of the crime or crimes specified in such ~~[provisional pardon]~~ Certificate. Such ~~[provisional pardon]~~ Certificate may be limited to one or more

enumerated barriers or forfeitures or may relieve the eligible offender of all barriers and forfeitures. No **[provisional pardon]** Certificate shall apply or be construed to apply to the right of such person to retain or be eligible for public office.

(c) The Board of Pardons and Paroles may, in its discretion, issue a **[provisional pardon]** Certificate of Relief from Barriers to an eligible offender upon verified application of such person. The board may issue a **[provisional pardon]** Certificate at any time after the sentencing of an eligible offender. Certificates may be issued by both pardons panels and parole release panels of the board. When an eligible offender applies for a Certificate at or before a parole hearing, the board may, if feasible, determine before the offender's release date whether to issue a Certificate.

(d) The board shall not issue a **[provisional pardon]** Certificate of Relief from Barriers unless the board is satisfied that:

(1) The person to whom the **[provisional pardon]** Certificate is to be issued is an eligible offender;

(2) The relief to be granted by the **[provisional pardon]** Certificate may promote the public policy of rehabilitation of ex-offenders; and

(3) The relief to be granted by the **[provisional pardon]** Certificate is consistent with the public interest in public safety, the safety of any victim of the offense, and the protection of property.

(e) In accordance with the provisions of subsection (d) of this section, the board may limit the applicability of the **[provisional pardon]** Certificate of Relief from Barriers to specified types of employment, [or] licenses, or public housing for which the eligible offender is otherwise qualified.

(f) The board may, for the purpose of determining whether such **[provisional pardon]** Certificate of Relief from Barriers should be issued, request its staff to conduct an investigation of the applicant and submit to the board a report of the investigation. Any written report submitted to the board pursuant to this subsection shall be confidential and not disclosed except to the applicant and where required or permitted by any provision of the general statutes or upon specific authorization of the board.

(g) If a **[provisional pardon]** Certificate of Relief from Barriers is issued by the board or the Superior Court before an eligible offender has completed his or her sentence of incarceration, probation, or parole, or any combination thereof, the **[while an eligible offender is on probation or parole, the provisional pardon]** Certificate shall be deemed to be temporary until the person completes such person's period of incarceration, probation or parole. During the period that such **[provisional pardon]** Certificate is temporary, the issuing authority may revoke such **[provisional pardon]** Certificate for violation of the conditions of such person's probation or parole. After the sentence is complete, the Certificate shall be permanent.

(h) The board may at any time issue a new **[provisional pardon]** Certificate of Relief from Barriers to enlarge the relief previously granted, and the provisions of subsections (b) to (f), inclusive, of this section shall apply to the issuance of any new **[provisional pardon]**

Certificate.

[(i) The application for a provisional pardon, the report of an investigation conducted pursuant to subsection (f) of this section, the provisional pardon and the revocation of a provisional pardon shall be in such form and contain such information as the Board of Pardons and Paroles shall prescribe.]

(i) The Superior Court of this state may, in its discretion, issue a Certificate of Relief from Barriers to an eligible offender for a conviction that occurred in such court, if the court either (1) imposed a sentence not requiring immediate incarceration or (2) imposed a sentence of incarceration of less than two years. The court may issue the certificate at the time of sentencing or thereafter during an offender's period of probation.

(j) A Certificate of Relief from Barriers shall not be issued by the court unless the court is satisfied that

(1) The relief to be granted by the Certificate may promote the public policy of rehabilitation of ex-offenders; and

(2) The relief to be granted by the Certificate is consistent with the public interest in public safety, the safety of any victim of the offense, and the protection of property.

(k) The court may, for the purpose of determining whether such Certificate should be issued, request its probation service to conduct an investigation of the applicant and submit to the court a report of the investigation. In conducting the investigation, probation services shall seek input from any victim of the offense. Any written report submitted to the court pursuant to this subsection shall be confidential and not disclosed except to the applicant and where required or permitted by any provision of the general statutes or upon specific authorization of the court.

(l) Upon application from an eligible offender, any court that has issued a Certificate of Relief from Barriers may at any time enlarge the relief previously granted, and the provisions of subdivision (i) to (k) shall apply to the issuance of any such new Certificate.

(m) If a Certificate of Relief from Barriers is deemed to be temporary and the Certificate is revoked, barriers and forfeitures thereby relieved shall be reinstated as of the date upon which the person to whom the Certificate was issued receives written notice of the revocation. Any such person shall upon receipt of the notice surrender the Certificate to the issuing court or the Board of Pardons and Paroles.

(n) The application for a Certificate of Relief from Barriers, the report of an investigation conducted pursuant to subsections (f) and (k) of this section, and the Certificate and the revocation of a Certificate, shall be in such form and contain such information as the Board of Pardons and Paroles shall prescribe.

(o) Any court issuing a Certificate under this section shall immediately file a copy of the Certificate with the Board of Pardons and Paroles. All bodies issuing Certificates of Relief from Barriers shall post on the Sentencing Commission website biannually beginning one year from the effective date of this section the number of applications that

are made, the number of applications that are denied, and the number of applications that are granted by each issuing authority.

(p) The Sentencing Commission or its designee shall have oversight over the evaluation of the Certificate of the Relief from Barriers program for a period of 3 years from the effective date of this section. The Commission shall report to the Judiciary Committee of the General Assembly annually during this period on the efficacy of the Certificate of Relief from Barriers program. This report shall include recommendations for program enhancement.

Section 3. Section 31-51i of the general statutes is repealed and the following substituted in lieu thereof:

- (a) For the purposes of this section “employer” means any person engaged in business who has one or more employees, including the state or any political subdivision of the state.
- (b) No employer or an employer's agent, representative or designee may require an employee or prospective employee to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a.
- (c) An employment application form that contains any question concerning the criminal history of the applicant shall contain a notice, in clear and conspicuous language:
 - (1) That the applicant is not required to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a,
 - (2) that criminal records subject to erasure pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to a finding of delinquency or that a child was a member of a family with service needs, an adjudication as a youthful offender, a criminal charge that has been dismissed or nolle, a criminal charge for which the person has been found not guilty or a conviction for which the person received an absolute pardon, and
 - (3) that any person whose criminal records have been erased pursuant to section 46b-146, 54-76o or 54-142a shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may so swear under oath.
- (d) No employer or an employer's agent, representative or designee shall deny employment to a prospective employee solely on the basis that the prospective employee had a prior arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the prospective employee had a prior conviction for which the prospective employee has received a [provisional pardon] Certificate of Relief from Barriers pursuant to section 54-130a.
- (e) No employer or an employer's agent, representative or designee shall discharge, or cause to be discharged, or in any manner discriminate against, any employee solely on the basis that the employee had, prior to being employed by such employer, an arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the employee had, prior to being employed by such employer, a prior conviction for which the employee has received a [provisional pardon] Certificate of Relief from Barriers pursuant to section 54-130a.
- (f) The portion of an employment application form which contains information concerning the criminal history record of an applicant or employee shall only be available to the members of the personnel department of the company, firm or corporation or, if the company, firm or corporation does not have a personnel department, the person in charge

of employment, and to any employee or member of the company, firm or corporation, or an agent of such employee or member, involved in the interviewing of the applicant.

(g) Notwithstanding the provisions of subsection (f) of this section, the portion of an employment application form which contains information concerning the criminal history record of an applicant or employee may be made available as necessary to persons other than those specified in said subsection (f) by:

(1) A broker-dealer or investment adviser registered under chapter 672a in connection with (A) the possible or actual filing of, or the collection or retention of information contained in, a form U-4 Uniform Application for Securities Industry Registration or Transfer, (B) the compliance responsibilities of such broker-dealer or investment adviser under state or federal law, or (C) the applicable rules of self-regulatory organizations promulgated in accordance with federal law;

(2) An insured depository institution in connection with (A) the management of risks related to safety and soundness, security or privacy of such institution, (B) any waiver that may possibly or actually be sought by such institution pursuant to section 19 of the Federal Deposit Insurance Act, 12 USC 1829(a) (C) the possible or actual obtaining by such institution of any security or fidelity bond, or (D) the compliance responsibilities of such institution under state or federal law; and

(3) An insurance producer licensed under chapter 701a in connection with (A) the management of risks related to security or privacy of such insurance producer, or (B) the compliance responsibilities of such insurance producer under state or federal law.

(h) (1) For the purposes of this subsection: (A) "Consumer reporting agency" means any person who regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a fee, which reports compile and report items of information on consumers that are matters of public record and are likely to have an adverse effect on a consumer's ability to obtain employment, but does not include any public agency; (B) "consumer report" means any written, oral or other communication of information bearing on an individual's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living; and (C) "criminal matters of public record" means information obtained from the Judicial Department relating to arrests, indictments, convictions, outstanding judgments, and any other conviction information, as defined in section 54-142g.

(2) Each consumer reporting agency that issues a consumer report that is used or is expected to be used for employment purposes and that includes in such report criminal matters of public record concerning the consumer shall:

(A) At the time the consumer reporting agency issues such consumer report to a person other than the consumer who is the subject of the report, provide the consumer who is the subject of the consumer report (i) notice that the consumer reporting agency is reporting criminal matters of public record, and (ii) the name and address of the person to whom such consumer report is being issued;

(B) Maintain procedures designed to ensure that any criminal matter of public record reported is complete and up-to-date as of the date the consumer report is issued, which procedures shall, at a minimum, conform to the requirements set forth in section 54-142e.

(3) This subsection shall not apply in the case of an agency or department of the United States government seeking to obtain and use a consumer report for employment purposes if the head of the agency or department makes a written finding pursuant to 15 USC 1681b(b)(4)(A).

Section 4. Section 46a-80 of the general statutes is repealed and the following substituted in lieu thereof:

(a) Except as provided in subsection (c) of this section, subsection (b) of section 46a-81 and section 36a-489, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state or any of its agencies solely because of a prior conviction of a crime.

(b) Except for a position for which any provision of the general statutes specifically disqualifies a person from employment by the state or any of its agencies because of a prior conviction of a crime, no employer, as defined in section 5-270, shall inquire about a prospective employee's past convictions until such prospective employee has been deemed otherwise qualified for the position.

(c) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state, or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought. In making a determination pursuant to this subsection, the state and any of its agencies shall also give consideration to a Certificate of Relief from Barriers, which shall demonstrate presumed suitability for employment or licensing, as specified in the Certificate. An application shall not be rejected under this subsection based on a prior conviction for which a person has received a Certificate of Relief from Barriers unless there is a direct relationship between the conviction and the specific employment, license, permit, certificate or registration sought by the individual.

(d) If a conviction of a crime is used as a basis for rejection of an applicant, such rejection shall be in writing and specifically state the evidence presented and reasons for rejection. A copy of such rejection shall be sent by registered mail to the applicant.

(e) In no case may records of arrest, which are not followed by a conviction, or records of convictions, which have been erased, be used, distributed or disseminated by the state or any of its agencies in connection with an application for employment or for a permit, license, certificate or registration.

Section 5. Section 8-45a of the general statutes is repealed and the following substituted in lieu thereof:

A housing authority, as defined in subsection (b) of section 8-39, in determining eligibility for the rental of public housing units may establish criteria and consider relevant information concerning (1) an applicant's or any proposed occupant's history of criminal activity involving: (A) Crimes of physical violence to persons or property, (B) crimes involving the illegal manufacture, sale, distribution or use of, or possession with intent to manufacture, sell, use or distribute, a controlled substance, as defined in section 21a-240, or (C) other criminal acts which would adversely affect the health, safety or welfare of other tenants, (2) an applicant's or any proposed occupant's abuse, or pattern of abuse, of alcohol when the housing authority has reasonable cause to believe that such applicant's or proposed occupant's abuse, or pattern of abuse, of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, and (3) an applicant or any proposed occupant who is subject to a lifetime registration requirement under section 54-252 on account of being convicted or found not guilty by reason of mental disease or defect of a sexually violent offense.

In evaluating any such information, the housing authority shall give consideration to the time, nature and extent of the applicant's or proposed occupant's conduct and to factors which might indicate a reasonable probability of favorable future conduct such as evidence of rehabilitation and evidence of the willingness of the applicant, the applicant's family or the proposed occupant to participate in social service or other appropriate counseling programs and the availability of such programs. The housing authority shall also give consideration to a Certificate of Relief from Barriers issued regarding housing, which shall demonstrate presumed eligibility for public housing; provided, however, that if an applicant is ineligible for public housing under federal law as a result of his or her prior criminal history, the Certificate shall not affect the applicant's eligibility.

APPENDIX F:
AN ACT CONCERNING THE
CLASSIFICATION OF
MISDEMEANORS

&

AN ACT CONCERNING THE
PERIOD OF PROBATION FOR
CLASS D MISDEMEANORS
AND UNCLASSIFIED
MISDEMEANORS

AN ACT CONCERNING THE CLASSIFICATION OF MISDEMEANORS.

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

Section 1. Section 53a-26 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) An offense for which a person may be sentenced to a term of imprisonment of not more than one year is a misdemeanor.

(b) Misdemeanors are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D and ~~[(4)]~~ (5) unclassified.

(c) The particular classification of each misdemeanor defined in this chapter is expressly designated in the section defining it.

(d) Any offense defined in any [other] section of the general statutes which, by virtue of an expressly specified sentence, is within the definition set forth in subsection (a) of this section, but for which a particular classification is not expressly designated, shall be deemed: (1) A class A misdemeanor if the maximum term of imprisonment specified is one year; (2) a class B misdemeanor if the maximum term of imprisonment specified is six months; (3) a class C misdemeanor if the maximum term of imprisonment specified is three months; (4) a class D misdemeanor if the maximum term of imprisonment specified is thirty days; and (5) an unclassified misdemeanor if the maximum term of imprisonment specified is a term other than a term set forth in subdivision (1), (2), (3) or (4) of this subsection.

Sec. 2. Section 53a-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

A sentence of imprisonment for a misdemeanor shall be a definite sentence and, unless the section of the general statutes that defines or provides the penalty for the crime specifically provides otherwise, the term shall be fixed by the court as follows: (1) For a class A misdemeanor, a term not to exceed one year; (2) for a class B misdemeanor, a term not to exceed six months; (3) for a class C misdemeanor, a term not to exceed three months; (4) for a class D misdemeanor,

a term not to exceed thirty days; and [(4)] (5) for an unclassified misdemeanor, a term in accordance with the sentence specified in the section of the general statutes that defines or provides the penalty for the crime.

Sec. 3. Section 53a-42 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

A fine for the conviction of a misdemeanor shall, unless the section of the general statutes that defines or provides the penalty for the crime specifically provides otherwise, be fixed by the court as follows: (1) For a class A misdemeanor, an amount not to exceed two thousand dollars; (2) for a class B misdemeanor, an amount not to exceed one thousand dollars; (3) for a class C misdemeanor, an amount not to exceed five hundred dollars; (4) for a class D misdemeanor, an amount not to exceed two hundred fifty dollars; and (5) for an unclassified misdemeanor, an amount in accordance with the fine specified in the section of the general statutes that defines or provides the penalty for the crime.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	53a-26
Sec. 2	<i>October 1, 2012</i>	53a-36
Sec. 3	<i>October 1, 2012</i>	53a-42

Statement of Purpose:

To classify certain unclassified misdemeanors and establish a class D misdemeanor.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

AN ACT CONCERNING THE PERIOD OF PROBATION FOR CLASS D MISDEMEANORS AND UNCLASSIFIED MISDEMEANORS.

Section 1. Subsection (d) of section 53a-29 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(d) Except as provided in subsection (f) of this section, the period of probation or conditional discharge, unless terminated sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a class B felony, not more than five years; (2) for a class C or D felony or an unclassified felony, not more than three years; (3) for a class A misdemeanor, not more than two years; (4) for a class B, or C or D misdemeanor, not more than one year; and (5) for an unclassified misdemeanor, not more than one year if the authorized sentence of imprisonment is ~~[three]~~ six months or less, or not more than two years if the authorized sentence of imprisonment is in excess of ~~[three]~~ six months, or where the defendant is charged with failure to provide subsistence for dependents, a determinate or indeterminate period.

APPENDIX G:
UNCLASSIFIED MISDEMEANOR
TABLES

The tables include comments the working group received from agencies and the working group's recommendation.

A crime shaded in the tables indicates that there were no initial charges for this crime from FY 02 to FY 10. In some instances, a crime has different penalties based on prior convictions for the offense. We indicate whether a penalty is for a 1st offense, 2nd offense, or subsequent offense (SBS). We also include a separate entry for a crime where the law doubles the fine if the crime is committed in a construction or utility zone (C/U).

The working group proposes that any unclassified misdemeanor with a penalty of incarceration equal to the penalty in one of the misdemeanor classifications be deemed to be included in that class. This report does not include any of the unclassified misdemeanors that would be deemed to be classified under this proposal without any change in prison term or fine.

Table 2: Misdemeanors Recommended for Repeal

Statute	Description	Current Prison Term				Current Fine		Agency Comments
		Min		Max		Min	Max	
7-46	FALSE ENTRY IN VITAL RECORDS	0	M	3	M	\$0	\$50	DPH-conduct is covered in another statute
7-313b	FAILURE TO LEAVE SCENE OF FIRE/EMERGENCY	0	D	7	D	\$0	\$50	DESPP-other statutes apply to this conduct DPH-
13b-346	DAMAGE TO RAILROAD SIGN	0	D	30	D	\$0	\$10	DOT-repeal, other statutes apply-see 53a-117k et seq
22-125	ILLEGAL ACTS ON FAIRGROUND	0	D	30	D	\$0	\$25	DOAG-repeal, statute is unnecessary
22-306	VIOLATE BRUCellosis CONTROL REGS	0	D	30	D	\$0	\$100	DOAG –repeal, agency uses CGS § 22-321 instead
22-319	VIOLATE SWINE SLAUGHTER REQS	0	D	30	D	\$0	\$100	DOAG- repeal, agency uses CGS § 22-321 instead
25-38	DEAD ANIMAL IN WATER SUPPLY	0	D	30	D	\$0	\$50	DPH-repeal
29-9	BRIBERY OF POLICE OFFICER	0	M	6	M	\$0	\$100	Same conduct is covered by CGS §§ 53a-147 and -148
31-28	FAIL TO REGISTER MANUFACTURING/MECHANICAL ESTABLISHMENT (2 nd and SBS) (1 st is fine only)	30	D	60	D	\$100	\$500	DOL-no longer uses these penalties, could reduce penalty or repeal the statute

Table 2 (continued)

31-33	VIOLATE INDUSTRIAL HOME WORK REQS	0	D	30	D	\$0	\$25	DOL- no longer uses these penalties, could reduce penalty or repeal the statute
31-89a	FAIL TO CONTRIBUTE TO WELFARE FUND	0	D	30	D	\$0	\$200	DOL-could reduce penalty or repeal- statutes is preempted by ERISA
38a-999a	ILLEGAL DISCLOSURE OF MEDICAL INFO (1 st)	0	M	3	M	\$0	\$500	DPH- conduct is covered in another statute
53-332	BURIAL TOO NEAR DWELLING	0	D	30	D	\$0	\$50	DPH- other statutes regulate this conduct but need additional information
53-333a	BURIAL TOO NEAR SURFACE	0	D	30	D	\$0	\$100	DPH- other statutes regulate this conduct but need additional information

Table 3: Misdemeanors Recommended For Reduction to Violations

(All Recommendations Are for Mail-In Violations Unless Noted)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation (Violation Fine)
		Min		Max		Min	Max		
8-12	WILLFUL VIOLATION ZONING REGULATIONS	0	D	10	D	\$100	\$250		Up to \$250
14-283(h)	OBSTRUCT EMERGENCY VEHICLE	0	D	7	D	\$0	\$200	DPH-need additional information DOT- prison penalty is unnecessary and other crimes likely apply	Up to \$250, subject to doubling in construction/utility zone
15-25	INJURY TO NAVIGATIONAL AID	0	D	60	D	\$250	\$500	DOT-can eliminate prison penalty, recommend doubling fine, other statutes apply to this conduct	Up to \$1,000
15-144(h)(2)	ILLEGAL USE VESSEL REG OR DECAL	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250
15-154(d)*	OPERATE VESSEL OBSTRUCT LAW ENFORCEMENT/FIRE VESSEL	0	D	7	D	\$0	\$200		Up to \$250
16-44	FAIL TO REPORT CHANGE OF NAME-PUBLIC UTILITY	0	D	60	D	\$0	\$200	DEEP-	Up to \$250
19a-113	VIOLATE SCUBA COMPRESSED AIR REQUIREMENTS	0	M	5	M	\$0	\$500	DPH-statute is unenforceable and can repeal	Up to \$500
20-249	ACT AS MASTER BARBER W/O LICENSE	0	D	30	D	\$0	\$100	DPH-can remove prison penalty but keep fine	Up to \$250

Table 3 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation (Violation Fine)
		Min		Max		Min	Max		
20-366	VIOLATE SANITARIAN REQUIREMENTS	0	M	3	M	\$0	\$300	DPH- can remove prison penalty but increase fine	Up to \$500
21-1	SELLING AT AUCTION WITHOUT LICENSE	0	D	60	D	\$0	\$50	Municipal-	Up to \$250
22-12b	VIOLATE FUR BREEDING REQS	0	D	30	D	\$0	\$100	DOAG-reduce to infraction	Up to \$250
22-167	VIOLATE LOCAL ORDER RE MILK SALES	0	D	30	D	\$0	\$100	DOAG-reduce to infraction	Up to \$250
22a-363	VIOLATE COASTAL WATER DREDGING REQ	10	D	30	D	\$15	\$50	DPH- can remove prison penalty but increase fine , statute may not be needed?	Up to \$250
25-43(a)	BATHING IN RESERVOIR	0	D	30	D	\$0	\$500	DPH- can remove prison penalty but keep fine	Up to \$500
25-45	VIOLATE LOCAL RESERVOIR ORDINANCES	0	M	6	M	\$0	\$50		Up to \$250
25-135, health code violation, see 19a-36(a)(7)	UNREGISTERED WELL DRILLING	0	M	3	M	\$0	\$100	DPH- can remove prison penalty but increase fine	Up to \$250
26-18	FALSE STATEMENT-APPLICATION FOR FISH/GAME	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250
26-42	DEAL IN RAW FURS WITHOUT LICENSE	0	D	10	D	\$100	\$250	DEEP-reduce to infraction	Up to \$250
26-43	ILLEGAL SALE RAW FURS TO DEALER	0	D	10	D	\$100	\$250	DEEP-reduce to infraction	Up to \$250
26-56	IMPORT RABBIT WITHOUT PERMIT	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250

Table 3 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation (Violation Fine)
		Min		Max		Min	Max		
26-58	TAXIDERMY WITHOUT LICENSE	0	D	30	D	\$1	\$100	DEEP-reduce to infraction	Up to \$250
26-87	HUNT RABBIT WITH FERRET	0	D	30	D	\$10	\$50	DEEP-reduce to infraction	Up to \$250
26-91	MIGRATORY BIRD HUNTING	0	D	30	D	\$0	\$50	DEEP-reduce to infraction	Up to \$250
26-94	SWAN HUNTING	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250
26-98	HUNTING NON-GAME BIRDS, ILLEGAL BIRD TRAPPING AND TRAP SHOOTING, FALSE STATEMENT-BIRD HUNTING PERMIT (see 26-92, -95, and -96)	0	D	30	D	\$10	\$200	DEEP-reduce to infraction	Up to \$250
26-104	HUNTING-BANTAM LAKE SANCTUARY	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250
26-105	ILLEGAL HUNTING-LAKE WONONSCOPOMUC	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250
26-217	ILLEGAL USE CHAIN BAGS-OYSTER BEDS	0	D	30	D	\$0	\$50	DEEP-reduce to infraction	Up to \$250
26-232	SHELLFISHING-RESTRICTED AREA-HOUSATONIC/SAUGATUCK	0	D	30	D	\$0	\$100	DEEP-reduce to infraction	Up to \$250
26-244	IMPROPER REDESIGNATION-OYSTER GROUNDS	0	M	6	M	\$0	\$300	DEEP-reduce to infraction	Up to \$300
26-257a	VIOLATE LOCAL SHELLFISH COMMISSION REGS	0	D	30	D	\$0	\$50	DEEP-reduce to infraction	Up to \$250
26-260	ILLEGAL CLAMMING-MILFORD/WEST HAVEN	0	D	30	D	\$0	\$7	DEEP-reduce to infraction	Up to \$250
26-276	ILLEGAL OYSTERING-HAMMONASSET RIVR	0	D	60	D	\$0	\$20	DEEP-reduce to infraction	Up to \$250

Table 3 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation (Violation Fine)
		Min		Max		Min	Max		
26-284	ILLEGAL OYSTER TAKING-THAMES RIVER	0	D	30	D	\$0	\$7	DEEP-reduce to infraction	Up to \$250
26-285	ILLEGAL OYSTER TAKING-OLD LYME	0	D	30	D	\$0	\$50	DEEP-reduce to infraction	Up to \$250
26-286	ILLEGAL OYSTERING-EAST LYME/WATERFORD	0	D	30	D	\$7	\$20	DEEP-reduce to infraction	Up to \$250
26-287	ILLEGAL SHELLFISHING-NIANTIC RIVER	0	D	10	D	\$0	\$200	DEEP-reduce to infraction	Up to \$250 (not mail-in)
26-288	VIOLATE ESCALLOP REGS	0	D	60	D	\$0	\$50	DEEP-	Up to \$250
26-290	ILLEGAL ESCALLOP TAKING-GROTON	0	D	60	D	\$0	\$50	DEEP-reduce to infraction	Up to \$250 (not mail-in)
26-291a	ILLEGAL SHELLFISHING-STONINGTON	0	D	30	D	\$0	\$25	DEEP-reduce to infraction	Up to \$250 (not mail-in)
26-292	ILLEGAL ESCALLOP TAKING-STONINGTON	0	D	60	D	\$0	\$50	DEEP-reduce to infraction	Up to \$250 (not mail-in)
29-25	FAIL TO REPORT STYLE LAUNDRY MARKS	0	M	3	M	\$0	\$100		Up to \$250
45a-283	EXECUTOR FAIL TO APPLY FOR PROBATE	0	D	30	D	\$0	\$100		Up to \$250
53-199	THEATER SEATING CAPACITY	0	D	30	D	\$0	\$50	DESPP or DCS	Up to \$250
53-280	OPERATE POOL ROOM W/O MUNICIPAL PERMIT	0	M	6	M	\$0	\$50		Up to \$250

* It is unclear whether there are any charges for this crime.

Table 4: Misdemeanors Recommended for Classification with No Change in Sentence Length but with Fines Increased to Match Their Classification

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
1-1h	ILLEGAL USE OF IDENTITY CARD	0	D	30	D	\$0	\$50		D misdemeanor
9-56	ILLEGAL ACT-UNAFFILIATED VOTER	0	D	30	D	\$0	\$200	SOTS-recommend D misdemeanor	D misdemeanor
9-64	FAIL TO REGISTRAR TO ERASE NAME	0	D	30	D	\$0	\$200	SOTS-recommend D misdemeanor	D misdemeanor
9-236	PROHIBITED ACTS NEAR POLLING PLACE	0	M	3	M	\$0	\$50	SOTS-agree to C misdemeanor	C misdemeanor
9-396	ILLEGAL ACT-BALLOT VOTE AT CAUCUS	0	D	30	D	\$0	\$200	SOTS-recommend D misdemeanor	D misdemeanor
9-625	FAIL TO APPEAR AS WITNESS-ELECTIONS	0	D	30	D	\$0	\$25	SEEC-	D misdemeanor
12-53-see (c)(4)	FAIL TO ANSWER TAX ASSESSOR QUESTION	0	D	30	D	\$0	\$100		D misdemeanor
14-36a(d)-penalty in (F)	VIOLEATE MOTOR VEHICLE LICENSE CLASS (2 nd and SBS) (1 st is infraction)	0	D	30	D	\$0	\$100	DOT- keep fines if make D misdemeanor DMV-ok with D misdemeanor	D misdemeanor

Table 4 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
14-37a(d), penalty in 14-147	VIOLEATE SPECIAL OPERATOR PERMIT	0	D	30	D	\$0	\$100	DMV-ok with D misdemeanor	D misdemeanor
14-40a(a)	OPERATE MOTORCYCLE WITHOUT ENDORSEMENT (2 nd and SBS) (1 st is infraction)	0	D	30	D	\$0	\$100	DOT- ok with D misdemeanor DMV-ok with D misdemeanor	D misdemeanor
14-40a(b)	MOTORCYCLE ENDORSEMENT PROVISIONS (2 nd and SBS) (1 st is infraction)	0	D	30	D	\$0	\$100		D misdemeanor
14-40a(d)	MISUSE LIMITED MOTORCYCLE ENDORSEMENT(2 nd and SBS) (1 st is infraction)	0	D	30	D	\$0	\$100	DOT-ok with D misdemeanor DMV-ok with D misdemeanor	D misdemeanor
14-44a-refers to 14-36a(f) penalty	OPERATING COMMERCIAL VEHICLE WITHOUT CDL (2 nd and SBS) (1 st is infraction)	0	D	30	D	\$0	\$100	DOT-ok with D misdemeanor DMV-ok with D misdemeanor	D misdemeanor
14-66c*	MINI-MOTORCYCLE VIOLATIONS (2 nd and SBS) (1 st is infraction)	0	D	30	D	\$50	\$100		D misdemeanor
14-67	OPERATE AUTOMOBILE CLUB WITHOUT LICENSE	0	D	30	D	\$0	\$100	DMV-ok with D misdemeanor	D misdemeanor

Table 4 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
14-103	OBSTRUCT MOTOR VEHICLE INSPECTION	0	D	30	D	\$0	\$50	DMV-keep penalty	D misdemeanor
14-112(h)	FORGERY-FINANCIAL RESPONSIBILITY	0	D	30	D	\$0	\$100	DMV- keep penalty	D misdemeanor
14-314b	DAMAGE TRAFFIC CONTROL DEVICE	0	D	30	D	\$0	\$100	DOT-ok with D misdemeanor DMV-	D misdemeanor
19a-36(a)(7)	VIOLATE PUBLIC HEALTH CODE	0	M	3	M	\$0	\$100	DPH-keep penalty	C misdemeanor
19a-180(e)	PROHIBITED ACT-EMERGENCY MEDICAL SERVICE	0	M	3	M	\$0	\$250	DPH-	C misdemeanor
19a-228	ILLEGAL ANCHORING OF HOUSEBOAT	0	D	30	D	\$0	\$50		D misdemeanor
19a-230	VIOLATE MUNICIPAL HEALTH REQS	0	M	3	M	\$0	\$100	DPH-keep penalty	C misdemeanor
20-278	VIOLATE ELECTROLOGIST REQS	0	D	30	D	\$0	\$100	DPH-need information on this statute	D misdemeanor
20-609	ILLEGAL USE OF PHARMACY TITLE	0	D	30	D	\$0	\$200	DCP-	D misdemeanor
21-13	JUNK DEALER VIOLATIONS	0	M	3	M	\$0	\$50		C misdemeanor
21a-11	REFUSE ACCESS TO RECORDS	0	D	30	D	\$0	\$25	DPH-need information on this statute DCP-agree with D misdemeanor	D misdemeanor
21a-25	VIOLATE IMPURE VINEGAR REQ (2 nd and SBS) (1 st is fine only)	0	D	30	D	\$0	\$100	DCP-keep penalty	Up to \$250

Table 4 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
21a-155	BREAD/PASTRY SALES VIOLATIONS	0	D	30	D	\$0	\$25	DCP-keep pema;tu	Up to \$250
22-277	INTERFERE WITH INSPECTIONS	0	D	30	D	\$0	\$200	DOAG—statute needs updating, recommend A misdemeanor	D misdemeanor
22-321	VIOLATE ANIMAL DISEASE CONTROL REQ OR OBSTRUCTS DOAG	0	D	30	D	\$0	\$100	DOAG-recommend D misdemeanor	D misdemeanor
22-329	OBSTRUCT CANINE CONTROL OFFICER	0	D	30	D	\$0	\$50	DOAG-recommend A misdemeanor.	D misdemeanor
22-332c	PENALTIES FOR MISUSE OF DOGS (violations of 22-332(a), -332a, and -332b)	0	D	30	D	\$0	\$100	DOAG—recommend class C misdemeanor DPH-	D misdemeanor
22-363	POSSESS VICIOUS/BARKING DOG (2 nd and SBS) (1 st is infraction)	0	D	30	D	\$0	\$100	DPH-need information on this statute DOAG—statute needs updating: recommend infraction for nuisance or barking dog and D misdemeanor for harboring dog that creates nuisance due to vicious nature	D misdemeanor
22-365	OBSTRUCT ANIMAL CONTROL OFFICER	0	M	3	M	\$0	\$100	DOAG—recommend A misdemeanor comparable to CGS § 53-167a.	C misdemeanor

Table 4 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
22-366	ILLEGAL CROP DOG'S EARS (2 nd and SBS) (1 st is fine only)	0	D	30	D	\$0	\$50	DOAG—recommend eliminating 1 st and SBS offenses and making an A misdemeanor	D misdemeanor
26-45	SALE OF BAIT WITHOUT LICENSE	0	D	30	D	\$10	\$100	DEEP-keep as a misdemeanor	D misdemeanor
26-74	HUNT WITH MOTOR VEHICLE/ATV/SNOWMOBILE	0	D	30	D	\$0	\$200	DEEP keep as a misdemeanor	D misdemeanor
26-127	ILLEGAL TRANSPORT OF BAIT SPECIES	0	D	30	D	\$50	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-149	COMMERCIAL HATCHERY W/O LICENSE	0	D	30	D	\$0	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-157a	VIOLATE LOBSTER TAKING REGS	0	D	30	D	\$25	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-213	ILLEGAL TAKE SHELLFISH W/O LICENSE-COMMERCIAL PURPOSES	0	D	30	D	\$0	\$100	DEEP-keep as a misdemeanor	D misdemeanor
26-215, penalty in 26-216	ILLEGAL USE OF POWER DREDGE (2 nd and SBS) (1 st is fine only)	0	D	30	D	\$50	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-219	TAKING CONCH WITHOUT LICENSE	0	D	30	D	\$0	\$200	DEEP-keep as a misdemeanor	D misdemeanor
31-4	DEFRAUD IMMIGRANT WORKERS OF WAGES	0	Y	1	Y	\$0	\$100	DOL-agree to A misdemeanor	A misdemeanor

Table 4 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
31-48b(b)-penalty is in (c)	EMPLOYER-ILLEGAL EAVESDROPPING (3 rd and SBS) (1 st and 2 nd are fine only)	30	D	30	D	\$0	\$0	DOL-agree with D misdemeanor as it increases fines	D misdemeanor with up to \$1,000 fine
43-9	IMPERSONATING WEIGHT AND MEASURES INSPECTOR	0	Y	1	Y	\$100	\$500	DCP-	A misdemeanor
46a-64	DISCRIMINATION-PUBLIC ACCOMMODATION	0	D	30	D	\$25	\$100		D misdemeanor
46a-64c	DISCRIMINATION-PUBLIC HOUSING	0	D	30	D	\$25	\$100		D misdemeanor
46a-81d	SEX ORIENTATION DISCRIMINATION-PUBLIC ACCOMMODATIONS	0	D	30	D	\$25	\$100		D misdemeanor
46a-81e	SEX ORIENTATION DISCRIMINATION-HOUSING	0	D	30	D	\$25	\$100		D misdemeanor
50-10	VIOLATE FINDER'S DUTY-LOST PROPERTY	0	D	30	D	\$0	\$100		D misdemeanor
52-571bb*	DISCRIMINATE AGAINST ARMED FORCES	0	D	30	D	\$25	\$100		D misdemeanor
53-37	RIDICULE-RACE/COLOR/CREED	0	D	30	D	\$0	\$50		D misdemeanor
53-132	SALE EQUIPMENT-DEFECTIVE ID	0	M	3	M	\$0	\$100		C misdemeanor
53-142a	ILLEGAL POSSESSION OF MASTER CAR KEY (1 st)	0	D	30	D	\$0	\$100		D misdemeanor
53-203	ILLEGAL DISCHARGE OF FIREARM	0	M	3	M	\$0	\$250		C misdemeanor
53-205	LOADED GUN IN MV/SNOWMOBILE	0	D	30	D	\$10	\$100		D misdemeanor
53-215	ABANDON REFRIGERATOR	0	D	30	D	\$0	\$100		D misdemeanor

Table 4 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
53-249	CRUELTY TO POULTRY	0	D	30	D	\$0	\$100	DOAG—recommend Class D misdemeanor	D misdemeanor
53-250	ILLEGAL USE OF ANIMALS	0	D	30	D	\$0	\$100	DPH-need information on this statute DOAG-recommend D misdemeanor as a deterrent	D misdemeanor
53-370	FRAUDULENT SALE LIQUID FUEL/OIL	0	D	30	D	\$0	\$200	DCP or DPS	D misdemeanor

* It is unclear whether there are any charges for this crime.

Table 5: Misdemeanors Recommended for Classification with Increased Sentences

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
13b-85	VIOLATE MOTOR BUS REGULATIONS	0	D	60	D	\$0	\$100	DOT-recommend B misdemeanor comparable to CGS § 13b-103(e) on liveries	B misdemeanor
15-41, penalty in 15-100	VIOLATE AERONAUTICS REGULATIONS	0	D	60	D	\$0	\$100	DOT-recommend 3 month prison term	C misdemeanor
15-52	OPERATE AIRCRAFT WITH SUSPENDED LICENSE	0	D	60	D	\$0	\$100	DOT-recommend 3 month prison term	C misdemeanor
15-71a, penalty in 15-100	FAIL TO REPORT AIRCRAFT ACCIDENT	0	D	60	D	\$0	\$100	DOT-recommend 3 month prison term	C misdemeanor
15-72, penalty in 15-100	RECKLESS FLYING	0	D	60	D	\$0	\$100	DOT-recommend 3 month prison term	C misdemeanor
19a-347	CRIMINAL CONTEMPT-VIOLATE INJUNCTION-HOUSE OF ASIGNATION	0	M	2	M	\$0	\$500	CSA-recommend C misdemeanor	C misdemeanor
26-78	POSSESSION/SALE OF ANIMALS	0	D	60	D	\$0	\$200	DEEP-keep as a misdemeanor	C misdemeanor
26-88, penalty in 26-90(b)	KILLING ANIMAL WITH EXPLOSIVE	0	D	60	D	\$25	\$200	DEEP-keep as a misdemeanor	C misdemeanor
47a-52	UNFIT SANITATION-RENTED DWELLINGS	0	D	60	D	\$0	\$200	CSA-keep as a misdemeanor	C misdemeanor

Table 5 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
51-88	ILLEGAL PRACTICE OF LAW	0	M	2	M	\$0	\$250		C misdemeanor

Table 6: Misdemeanors Recommended for Classification with Decreased Sentences

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
7-169, penalty in 7-169(k)(5)	BINGO GAME WITHOUT PERMIT	0	D	60	D	\$0	\$500	DCP-	D misdemeanor
7-169, penalty in 7-169(k)(5)	FALSE STATEMENT-BINGO GAME PERMIT	0	D	60	D	\$0	\$500	DCP-	D misdemeanor
7-169a, penalty in 7-169(k)(5)	FAIL TO REGISTER BINGO GAME PERMIT APPLICATION	0	D	60	D	\$0	\$500	DCP-	D misdemeanor
9-361 (subdivisions 3-6)	PRIMARY/ENROLMENT VIOLATIONS	0	D	60	D	\$0	\$100	SOTS-	D misdemeanor
12-6	HINDER STATE'S ATTORNEY AUDIT-MUNICIPAL ACCOUNTS	0	D	60	D	\$0	\$200	CSA-	D misdemeanor
14-146	THROW OBJECT AT VEHICLE (2 ND AND SBS) (1 st is fine only)	0	D	60	D	\$0	\$0	DOT-keep as a misdemeanor	D misdemeanor
15-15	OPERATE BOAT WITHOUT PILOT	0	D	60	D	\$500	\$1,000	DOT-keep as deterrent, recommend higher fine	D misdemeanor with \$2,000 fine
19a-109	VIOLATE HOME/OFFICE HEALTH REQS	0	D	60	D	\$0	\$100	DPH-	D misdemeanor

Table 6 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
19a-553	FAIL TO REPORT PATIENT CRIMES	0	D	60	D	\$0	\$200	DPH-need information on this statute	D misdemeanor
20-265	VIOLEATE HAIRDRESSER REQS (2 nd and SBS) (1 st is fine only)	0	D	60	D	\$0	\$100	DPH-conduct is covered in other statutes and prison penalty is not needed	D misdemeanor
21-33	FALSE STATEMENT-ITINERANT VENDOR	0	D	60	D	\$0	\$50	DPH-statute is unnecessary DCP-keep as a misdemeanor-will check for more information	D misdemeanor
21-35	ITINERANT VENDING WITHOUT LICENSE	0	D	60	D	\$0	\$50	DPH-increase fine but do not need prison term DCP-keep as a misdemeanor-will check for more information	D misdemeanor
22-319a	ILLEGAL SALE OF HOG CHOLERA SERUM	0	Y	1	Y	\$5,000	\$10,000	DOAG –recommend C misdemeanor	B misdemeanor but keep fine
22-342(d)	OPERATING KENNEL AFTER LICENSE REVOKED OR SUSPENDED	0	Y	1	Y	\$0	\$1,000	DOAG-recommend C misdemeanor	B misdemeanor
22-342(e)	KENNEL LICENSE/INSPECTION VIOLATIONS	0	Y	1	Y	\$0	\$1,000	DOAG–recommend D misdemeanor	B misdemeanor
22-344e	PROCURE DOG/CAT WITHOUT PET SHOP LICENSE	0	Y	1	Y	\$0	\$1,000	DOAG-recommend D misdemeanor	B misdemeanor
22-358(d)	PERMITTING DOG TO PURSUE DEER	0	D	60	D	\$25	\$200	DOAG-recommend C misdemeanor for all offenses including 22-358(h)	D misdemeanor
26-47	CONTROL NUISANCE WILDLIFE WITHOUT LICENSE	0	D	60	D	\$25	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-57	TRANSPORTING ANIMALS WITHOUT PERMIT	0	D	60	D	\$10	\$200	DEEP-keep as a misdemeanor	D misdemeanor

Table 6 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
26-61(d)	HUNT/FISH-LICENSE SUSPENSION (1 st)	0	D	60	D	\$200	-	DEEP-keep as a misdemeanor	D misdemeanor
26-71	VIOLATE WILD GAME HUNTING AND WILDLIFE MANAGEMENT REQS; TAKING OF CERTAIN WILDLIFE (SEE 26-66 AND 26-70(a) and (b))	0	D	60	D	\$0	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-72	WILD GAME TRAPPING VIOLATIONS	0	D	60	D	\$0	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-81	VIOLATE HUNT/FISH/TRAP REGS, SUNDAY HUNTING, AND USING SILENCER WHILE HUNTING (see 26-73 and -75)	0	D	60	D	\$10	\$200	DEEP-	D misdemeanor
26-90(b)	VIOLATE QUADRUPED HUNTING REQS, DEER HUNTING REQS, AND FALSE STATEMENT IN PERMIT (see 26-86b, -86e, -86f, and -90(a))	0	D	60	D	\$25	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-101	WILDLIFE REFUGE VIOLATIONS	0	D	60	D	\$0	\$200	DEEP-keep as a misdemeanor	D misdemeanor
26-159a	VIOLATE STRIPED BASS REG (3 rd and SBS) (1 st and 2 nd are fine only)	0	D	60	D	\$0	\$500	DEEP-keep as a misdemeanor	D misdemeanor
26-228	TAKING SHELLFISH AT NIGHT	0	D	60	D	\$100	\$500	DEEP-keep as a misdemeanor	D misdemeanor
26-229	DAMAGE SHELLFISH MONUMENT	0	D	90	D	\$0	\$150	DEEP-keep as a misdemeanor	D misdemeanor
29-243	VIOLATE STEAM BOILER REQ (2 nd and SBS) (1 st is fine only)	0	M	4	M	\$0	\$500	DCS	C misdemeanor
43-9	OBSTRUCT WEIGHT/MEASURE INSPECTOR	0	D	90	D	\$2	\$200	DCP-	D misdemeanor

Table 7: Misdemeanors Recommended for a New Sentencing Structure

Statute	Description		Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
			Min		Max		Min	Max		
15-77	OPERATE AIRCRAFT UNDER INFLUENCE	1 st	0	D	60	D	\$0	\$100	DOT-recommend 3 month prison term	1 st : C misdemeanor 2 nd and SBS: A misdemeanor
		2 nd and SBS	0	Y	1	Y	\$0	\$500	DOT-recommend A misdemeanor	
15-97	VIOLATE AIRPORT ZONING REQS		0	D	60	D	\$0	\$25	DOT-need information on this statute	1 st : Up to \$250 mail-in violation 2 nd and SBS: D misdemeanor
21a-19	VIOLATE OLEOMARGARINE REQS	1 st	0	D	60	D	\$0	\$100	DPH? DCP?	1 st : Up to \$250 mail-in violation 2 nd and SBS: C misdemeanor
		2 nd and SBS	0	M	4	M	\$0	\$200	DCP	
21a-159	VIOLATE BAKERY REQS	1 st	-	-	-	-	\$0	\$50	DCP-	1 st : Up to \$250 mail-in violation 2 nd and SBS: D misdemeanor
		2 nd	0	D	10	D	\$0	\$100	DCP-	
		3 rd and SBS	0	D	30	D	\$0	\$200	DCP-no objection to D misdemeanor	
22-362	PERMIT DOG ANNOYANCE ON HIGHWAY	1 st	0	D	30	D	\$25	\$50	DOAG –eliminate 1 st and SBS penalties and make all A misdemeanors	D misdemeanor for all offenses
		2 nd and SBS	0	D	60	D	\$50	\$100		

Table 7 (continued)

Statute	Description		Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
			Min		Max		Min	Max		
23-65(c)	ILLEGAL ADVERTISEMENT DISTRIBUTION		0	M	6	M	\$0	\$50		1 st : Up to \$250 mail-in violation 2 nd and SBS: C misdemeanor
26-76	POSSESS GAME OVER LIMIT		0	D	60	D	\$0	\$200	DEEP-keep as a misdemeanor	1 st : Up to \$250 mail-in violation 2 nd and SBS: D misdemeanor
26-80a*	ILLEGALLY TAKING A MOOSE OR BEAR	1 st	0	D	90	D	\$500	-		1 st : D misdemeanor with current fine
		2 nd	0	D	120	D	\$750	-		2 nd : C misdemeanor with current fine
		3 rd	0	D	180	D	\$1,000	-		3 rd and SBS: B misdemeanor with current fine
26-186	VIOLATE COMMERCIAL FISHERIES REGS (Violations of 26-158, -166, -169 to -171, -174 to -175, and -177 to -185)		0	D	30	D	\$0	\$250	DEEP-keep as a misdemeanor	1 st : Up to \$250 mail-in violation 2 nd and SBS: D misdemeanor
26-226	DAMAGE OYSTER ENCLOSURE	1 st	0	D	30	D	\$0	\$50	DEEP-reduce to an infraction	1 st : Up to \$250 mail-in violation
		2 nd	30	D	90	D	\$50	\$100	DEEP-keep as a misdemeanor	2 nd and SBS: C misdemeanor with no minimum sentence
		3 rd and SBS	0	M	6	M	\$0	\$150	DEEP-keep as a misdemeanor	
26-231	TOWING DREDGE NEAR SHELLFISH	1 st	0	D	30	D	\$0	\$50	DEEP-reduce to an infraction	Up to \$250 mail-in violation

Table 7 (continued)

Statute	Description		Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
			Min		Max		Min	Max		
		2 nd and SBS	0	D	60	D	\$0	\$100	DEEP-reduce to an infraction	
29-198	VIOLATE ELEVATOR/ESCALATOR REQUIREMENTS	1 st	-	-	-	-	\$25	\$100		1st offense: Up to \$250 mail-in violation
		2 nd and SBS	30	D	180	D	\$100	\$500		2 nd and SBS: B misdemeanor
35-20	USE FILED DEVICE/NAME/MARK	1 st	0	D	30	D	\$0	\$5	DCP-	1 st : Up to \$250 mail-in violation
		2 nd and SBS	0	Y	1	Y	\$0	\$10	DCP-	2 nd and SBS: C misdemeanor
43-9	<ul style="list-style-type: none"> • ILLEGAL USE FALSE WEIGHING DEVICE • 43-43 SUBJECTS LIQUEFIED PETROLEUM GAS PROVISIONS UNDER 43-37 to -42 TO THESE PENALTIES • THREAD PROVISIONS UNDER 43-45 SUBJECT TO THESE PENALTIES • 43-52 SUBJECTS WEIGHT DEALER PROVISIONS UNDER 43-46 TO -50 TO THESE PENALTIES 	1 st	0	M	3	M	\$50	\$300	DCP-	1 st : C misdemeanor
		2 nd and SBS	0	Y	1	Y	\$100	\$1,000	DCP-	2 nd and SBS: B misdemeanor
43-34	VIOLATE PETROLEUM PRODUCT WEIGHING, DELIVERY TICKET, AND TARE WEIGHT OF VEHICLE REQUIREMENTS (violations of 43-31, -32, and -33)	1 st	0	M	3	M	\$20	\$200	DCP-	1 st : C misdemeanor
		2 nd and SBS	0	Y	1	Y	\$50	\$500	DCP-	2 nd and SBS: B misdemeanor

* It is unclear whether there have been any charges for this crime.

Table 8: Misdemeanors Recommended for Minor Sentencing Changes to Fit into Classifications

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
2-46	FAIL TO COMPLY WITH LEGISLATIVE INVESTIGATION	1	M	12	M	\$100	\$1,000		A misdemeanor
4-151(e)- refers to 2-46 for its penalty	FAIL TO ANSWER SUBPOENA-CLAIMS COMMISSIONER	1	M	12	M	\$100	\$1,000		A misdemeanor
9-365	THREAT BY EMPLOYER OF VOTER	6	M	12	M	\$100	\$500	SOTS- ok with A misdemeanor, keep as a deterrent	A misdemeanor
10a-224(g)	ILLEGAL FINANCIAL INTEREST-CHESLA	0	M	1	M	\$50	\$1,000		D misdemeanor, keep fine
14-35a	MOTOR CARRIER OPERATING VEHICLE WITH SUSPENDED OR REVOKED REGISTRATION OR OPERATING WITHOUT AUTHORITY (1 ST)	0	D	90	D	\$500	\$1,000		C misdemeanor, keep fine
14-67v	MOTOR VEHICLE RECYCLER VIOLATIONS (violations of 14-67i et seq.)	0	D	90	D	\$0	\$100	DOT-recommend no change DMV-ok with C misdemeanor	C misdemeanor
14-215(a)-see additional penalty	OPERATE MOTOR VEHICLE UNDER SUSPENSION (1 st)	0	D	90	D	\$150	\$200	DOT-recommend no change DMV-	Class C, Keep fines same
14-215(a)-see additional penalty	OPERATE MOTOR VEHICLE UNDER SUSPENSION-C/U (1 st)	0	D	90	D	\$300	\$400	DOT-recommend no change DMV-	Class C, Keep fines same

Table 8 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
14-215a	OPERATE MV UNDER 14-140 SUSPENSION (1 st _	0	D	90	D	\$150	\$200	DOT-recommend no change DMV-ok with C misdemeanor	Class C, Keep fines same
14-299a(e)	VIOL TRAF SIG PREEMP DEV REQS	0	D	90	D	\$0	\$5,000	DOT-C misdemeanor, ok with lower fine	C misdemeanor, Keep fines same
15-7	VIOLATE BRIDGEPORT HARBORMASTER ORD	0	D	90	D	\$0	\$1,000		C misdemeanor
15-115(b)	FALSE STATEMENT-REPORT OF AIRCRAFT ACCIDENT	0	D	90	D	\$100	\$1,000	DOT-conduct is probably federal violation but keep as a deterrent with 3 month prison penalty	C misdemeanor
15-156(b)	OPERATE BOAT WHILE CERT REV/SUSP (1 st)	0	D	90	D	\$150	\$200	DEEP-keep as a misdemeanor	C misdemeanor, keep fine
19a-92a	ILLEGAL TATTOOING OF PERSON	0	D	90	D	\$0	\$100		C misdemeanor
20-407	VIOLATE HEARING AID DEALER REQS	0	D	90	D	\$0	\$500		C misdemeanor
21-35h	VIOLATE CLOSING-OUT SALE REGS	0	D	90	D	\$0	\$500	DCP-keep as a misdemeanor	C misdemeanor
22-272a	USE ILLEGAL SLAUGHTER METHODS	0	D	90	D	\$0	\$500	DOAG –make a D misdemeanor	C misdemeanor
22a-45c	OBSTRUCT MOSQUITO CONTROL	0	D	90	D	\$0	\$100		C misdemeanor
26-6b	FAIL TO OBEY CONSERVATION OFFICER	0	D	90	D	\$50	\$500	DEEP-keep as a misdemeanor	C misdemeanor
26-192e- penalty is in 26-192f	SHELLFISHING-CLOSED AREA	0	M	12	M	\$0	\$1,000 +	DEEP-keep as a misdemeanor	A misdemeanor
26-235(d)	TAKE CLAMS FROM CLOSED AREA	0	M	12	M	\$75	\$1,000	DEEP-keep as a misdemeanor	A misdemeanor
29-357	SALE FIREWORKS W/O PERMIT	0	D	90	D	\$0	\$100	DESP-	C misdemeanor
29-366	FAIL TO COMPLY WITH FIREWORKS REQS	0	D	90	D	\$0	\$100	DESP-	C misdemeanor

Table 8 (continued)

Statute	Description	Current Prison Term				Current Fine		Agency Comments	Working Group Recommendation
		Min		Max		Min	Max		
38a-734	INS CONSULTANT-RECEIVE ILLEGAL FEE	30	D	90	D	\$250	\$2,500		C misdemeanor
42-115u	VIOLATE UNFAIR SALES PRACTICES REQ	0	D	90	D	\$0	\$500	DCP-	C misdemeanor
42-141	VIOLATE HOME SOLICITATION SALE ACT (see 42-135a and -138(a))	0	D	90	D	\$0	\$500	DCP-	C misdemeanor
43-16q(a)	SOLICIT FALSE WEIGHT CERT (2 nd and SBS) (1 st is fine only)	30	D	90	D	\$100	\$500	DCP-	C misdemeanor
43-16q(b)	ILLEGAL ACT-LICENSED PUBLIC WEIGHER	30	D	90	D	\$50	\$500	DCP-	C misdemeanor
53-329	ILLEGAL SALE PRISONER PRODUCTS	0	D	90	D	\$0	\$1,000		C misdemeanor
PA 11-213, § 43(c), penalty in (d)*	FALSE STATEMENT OF INSPECTING VEHICLE (1 st)	0	D	90	D	\$0	\$1,000		C misdemeanor, keep fine

* It is unclear whether there are any charges for this crime.

APPENDIX H:

**AN ACT CONCERNING
SEXUAL ASSAULT IN THE
FOURTH DEGREE**

&

**AN ACT CONCERNING THE
PENALTY FOR KIDNAPPING
IN THE FIRST DEGREE WITH
A FIREARM**

General Assembly

February Session, 2012

Raised Bill No.

LCO No. 1

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Referred to Committee on

Introduced by:

AN ACT CONCERNING SEXUAL ASSAULT IN THE FOURTH DEGREE.

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

Section 1. Section 53a-73a of the general statutes, as amended by section 2 of public act 11-113, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person [intentionally] subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally defective or mentally incapacitated to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact

occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or (9) such person subjects another person to sexual contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	53a-73a

Statement of Purpose:

To make subdivision (1) consistent with subdivisions (2) to (9), inclusive, by deleting "intentionally" since the notion of intentionality is inherent in the definition of "sexual contact".

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

General Assembly

February Session, 2012

Raised Bill No.

LCO No. 3

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Referred to Committee on

Introduced by:

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AN ACT CONCERNING THE PENALTY FOR KIDNAPPING IN THE FIRST DEGREE WITH A FIREARM.

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

Section 1. Section 53a-92a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) A person is guilty of kidnapping in the first degree with a firearm when [he] such person commits kidnapping in the first degree as provided in section 53a-92, and in the commission of said crime [he] such person uses or is armed with and threatens the use of or displays or represents by [his] such person's words or conduct that [he] such person possesses a pistol, revolver, machine gun, shotgun, rifle or other firearm. No person shall be convicted of kidnapping in the first degree and kidnapping in the first degree with a firearm upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) Kidnapping in the first degree with a firearm is a class A felony. [for which one year of the sentence imposed may not be suspended or reduced by the court.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	53a-92a

Statement of Purpose:

To resolve an irreconcilable conflict in the mandatory minimum sentences prescribed for kidnapping in the first degree and kidnapping in the first degree with a firearm.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]