

STATE OF CONNECTICUT

# SENTENCING COMMISSION

2013 ANNUAL REPORT



185 Main Street, Room 212  
New Britain, CT 06051  
860-832-1853



# CONNECTICUT SENTENCING COMMISSION



January 28, 2015

Hon. David M. Borden  
Chair

Undersecretary Mike Lawlor  
Vice Chair

Andrew Clark  
Acting Executive Director

Leland J. Moore,  
Program Administrator  
Research & Policy Associate

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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, which created the Connecticut Sentencing Commission, requires the Commission to report to you annually upon its work and any recommendations it may have concerning sentencing statutes, policies and practices. Accordingly, I submit the Commission's report for the year 2013.

This report describes the work of the Commission during the year 2013 and includes three proposals that were submitted for consideration at the 2014 legislative session, as well as administrative recommendations to the Department of Correction.

I would like to express the Commission's gratitude to the following entities for their assistance in fulfilling our mission: Institute for Municipal and Regional Policy at Central Connecticut State University, the Civil Justice Clinic at Quinnipiac University School of Law, and the Students and Faculty at Yale Law School.

Respectfully,

David M. Borden  
Chair,  
Connecticut Sentencing Commission

## PREPARED BY:

INSTITUTE FOR MUNICIPAL AND REGIONAL POLICY  
Central Connecticut State University

*Andrew J. Clark, Director*

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*Madonna Burns, Student Worker*

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 Mission of the IMRP is to effectively advance and ensure a just, equitable, and inclusive Connecticut through nonpartisan research, public policy analysis and development, and community engagement.



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.

The IMRP is responsive to social and community concerns by initiating projects addressing specific needs and interests of the general public and policymakers, as well as sponsoring conferences, forums, and professional trainings. Access to state-of-the-art technology and multi-media enhances the IMRP's ability to advance best practices to improve the quality of public policy in the State of Connecticut and nationwide.

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# PART I: EXECUTIVE SUMMARY

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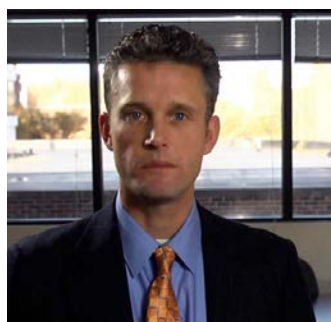
This report is organized into seven parts beginning with the Executive Summary. The second part addresses the Commission's creation, membership, and legislative mandate. The third part examines the national landscape of Sentencing Commissions and their funding mechanisms. Part four highlights the work of the Commission and its five standing committees. Part five provides an update on the Commission's 2013 legislative proposals. Part six describes three legislative proposals unanimously approved by the Commission for consideration by the General Assembly during the 2014 legislative session. Lastly, part seven serves as a conclusion.

## **Justice (Retired) David M. Borden** **Chair**



Justice Borden received his Bachelor of Arts degree, magna cum laude, in 1959 from Amherst College, where he was also a member of Phi Beta Kappa. He received his law degree, cum laude, from Harvard Law School in 1962. He conducted a private law practice in Hartford, Connecticut from 1962 until 1977. Prior to his appointment to the bench, Justice Borden was influential in reforming the Connecticut court system. He served as the executive director of the Commission to Revise the Criminal Statutes (1963- 1971), principal architect of the 1969 Connecticut Penal Code, and chief counsel to the General Assembly's Joint Committee on the Judiciary (1975-1976).

Justice Borden was judge of the Court of Common Pleas (1977-1978), judge of the Superior Court (1978-1983), and one of the six original judges of the newly-organized Connecticut Appellate Court (1983-1990), before Governor William A. O'Neill nominated him to the Connecticut Supreme Court in 1990. Prior to his retirement from the Supreme Court in 2007 at the age of 70, he served as Acting Chief Justice (2006-2007). Since his retirement, he has served as a judge trial referee on the Connecticut Appellate Court.



## **Andrew Clark** **Acting Executive Director**

Andrew Clark is the Acting Executive Director of the Connecticut Sentencing Commission. He is also project director for a grant from the National Highway Traffic and Safety Administration that is being utilized to implement the state's Alvin W. Penn Racial Profiling law. Additionally, he is lead implementation coordinator for the Pew-McArthur Results First Initiative in Connecticut.

Mr. Clark is the Director of the Institute for Municipal and Regional Policy (IMRP) at Central Connecticut State University. As Director, Mr. Clark works to facilitate efficient and effective solutions to critical issues facing Connecticut policymakers. The IMRP brings together a dedicated team of CCSU faculty, staff, and students along with state and national experts to provide immediate and long-range policy solutions primarily in the areas of criminal and social justice.

Prior to coming to CCSU in 2005, Mr. Clark served as clerk of the Connecticut General Assembly's Appropriations Committee and aide to House Chair, former Representative William Dyson for five years, where he assisted in the development and passage of significant criminal justice system reform legislation. He also served as clerk of the Transportation Committee for one year, and deputy clerk of the Finance, Revenue and Bonding Committee for one session.

# PART II: THE COMMISSION

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## ORGANIZATIONAL INFORMATION

### Legislative Mandate

The Connecticut Sentencing Commission was created by Public Act 10-129, which was effective February 1, 2011.<sup>1</sup> Its mission, as stated in the statute, is 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.”<sup>2</sup>



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<sup>1</sup> The provisions of the public act have been codified in General Statutes § 54-300.

<sup>2</sup> See Appendix A for the full text of C.G.S. § 54-300.

### Duties of the Commission

Public Act 10-129 identifies 13 tasks for the Commission in carrying out its mission:

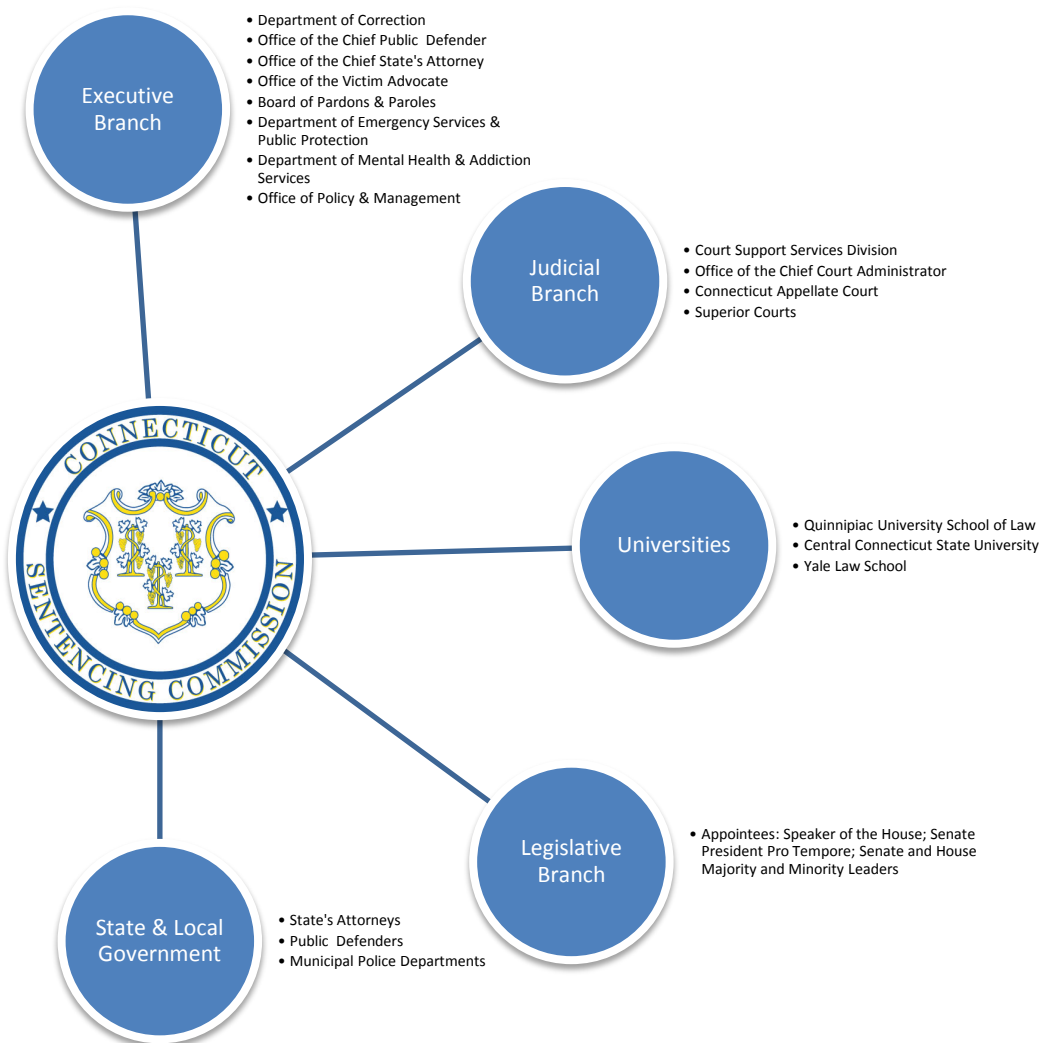
- ✓ Review & evaluate existing criminal sentencing structure, including existing statutes.
- ✓ Review & evaluate existing sentencing policies and practices.
- ✓ Review proposed changes to statutes, policies and practices.
- ✓ Facilitate development and maintenance of statewide sentencing database.
- ✓ Analyze and study sentencing trends and prepare offender profiles.
- ✓ Provide training regarding sentencing and related issues.
- ✓ Be a sentencing policy resource for the state.
- ✓ Evaluate the impact of pre-trial programs.
- ✓ Evaluate the impact of sentencing diversion programs.
- ✓ Evaluate the impact of incarceration.
- ✓ Evaluate the impact of post-release supervision programs.
- ✓ Perform fiscal impact analyses on proposed legislation.
- ✓ Identify potential areas of sentencing disparity



## Composition

The Commission consists of 23 members, including judges, prosecutors, criminal defense counsel, the commissioners of the Departments of Correction, Public Safety and Mental Health and Addiction Services, the victim 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.

The Commission meets quarterly or as the chair deems necessary to review the work of its committees.





## COMMISSIONERS

**Chair:**  
(Term: February 2015) **The Honorable David M. Borden**  
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*Appointed By: Chief Justice of the Supreme Court*

**Vice Chair:**  
(Ex officio) **Mike Lawlor**  
Undersecretary of Criminal Justice  
Policy and Planning Division  
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*Ex officio: Undersecretary of Criminal Justice Policy and Planning Division*

(Term: February 2014) **The Honorable Patrick L. Carroll, III**  
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*Appointed by: Chief Justice of the Supreme Court; Qualification: Judge*

(Term: February 2014) **The Honorable Robert J. Devlin, Jr.**  
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*Appointed by: Chief Justice of the Supreme Court; Qualification: Judge*

(Term: February 2015) **William Carbone**  
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(Term: February 2015) **The Honorable Gary White**  
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*Appointed By: Chief Justice of the Supreme Court*

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(Term: February 2015) **Susan E. Pease**  
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(Ex officio)

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(Ex officio)

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*Ex officio: Commissioner of the Department of Mental Health and Addiction Services*

## COMMITTEES & WORKING GROUPS

### Committees

#### Steering

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

**Members:** Mike Lawlor (Chair), Vivien Blackford, Justice Borden, Judge Carroll, Kevin Kane, Thomas Ullmann

#### Sentencing Structure, Policy and Practices

**Role:** The Sentencing Structure, Policy and Practices Committee is charged with evaluating the structure, policy, and practices of Connecticut's criminal justice system.

**Members:** Judge Devlin (Chair), Reuben Bradford, Judge Carroll, Tracey Meares, Mark Palmer, David Shepack, Susan Storey, Judge White.

#### Research, Measurement and Evaluation

**Role:** The charge of the Research, Measurement and Evaluation Committee is to solicit, coordinate, and present research proposals to the Commission.

**Members:** Susan Pease (Co-Chair), Thomas Ullmann (Co-Chair), William Carbone, Peter Gioia, Robert Farr, John Santa, Erika Tindill, Michael Norko, Linda Frisman.

#### Recidivism Reduction

**Role:** The work of the Recidivism Reduction Committee is divided into six categories: 1) greater use of alternative justice strategies; 2) creating an effective reentry system; 3) identifying and caring for mentally ill offenders

and those at risk for offending; 4) identifying and implementing best practices in DOC; 5) encouraging and promoting interagency collaboration; 6) educating and listening to the public about the criminal justice system.

**Members:** Vivien Blackford (co-chair), Maureen Price-Boreland (co-chair), Leo Arnone, William Carbone, Pete Gioia, Patricia Rehmer, John Santa, Erika Tindill, Judge White

#### Legislative

**Role:** The Legislative Committee is charged with developing proposals to submit to the Joint Judiciary Committee of the General Assembly for consideration during the legislative session.

**Members: Justice Borden (Chair), William Carbone, Michelle Cruz, Kevin Kane, Mike Lawlor Mark Palmer, Susan Storey**



## Working Groups

### Classification

(Reports to Sentence Structure Committee)

**Members:** Bob Farr (Chair), Brian Austin  
Deborah Del Prete Sullivan

**Staff:** Chris Reinhart, Louise Nadeau,  
Jason DePatie

### Drug-Free School Zone

(Reports to Legislative Committee)

**Members:** Len Boyle, Deborah Del Prete Sullivan,  
LaResse Harvey, Dr. Robert Painter, Alex Tsarkov

**Staff:** Andrew Clark, Chris Reinhart, Louise Nadeau, Jason  
DePatie

### Miller v. Alabama

(Reports to Legislative Committee)

**Members:** Justice Borden (Chair), Kevin Kane,  
Judge White, Thomas Ullmann, Sarah Russell,  
Linda Meyer

**Staff:**  
Jason DePatie

### Ad Hoc Juvenile Sentence Reconsideration

(Reports to full Commission)

**Members:** Erika Tindill, Michele Cruz, Kevin Kane, Bob Farr, Deborah Del Prete Sullivan, Thomas Ullmann

**Staff:** John DeFeo, Richard Sparaco, Jason DePatie

### Evidence-Based Sentencing

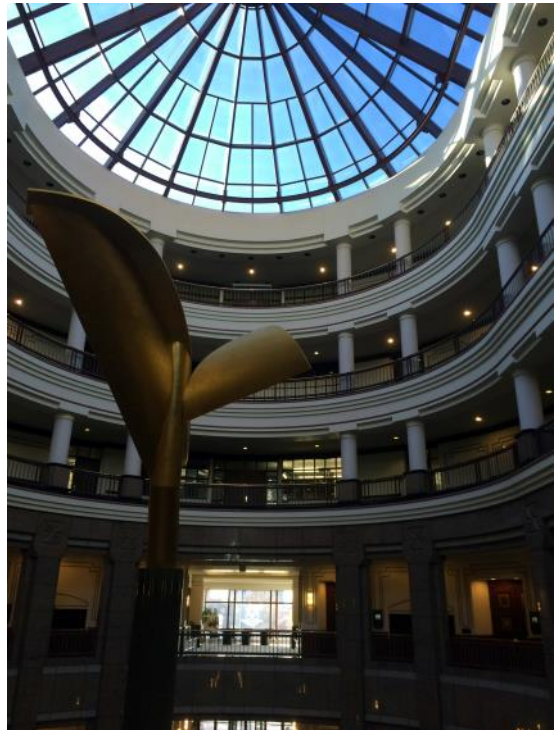
(Reports to Research Committee)

**Members:** Linda Frisman, Dave Rentler, Bill Anselmo, Brian Coco

### Certificates of Rehabilitation

(Reports to Legislative Committee)

**Members:** Andrew Clark, Sarah Russell,  
Jason DePatie



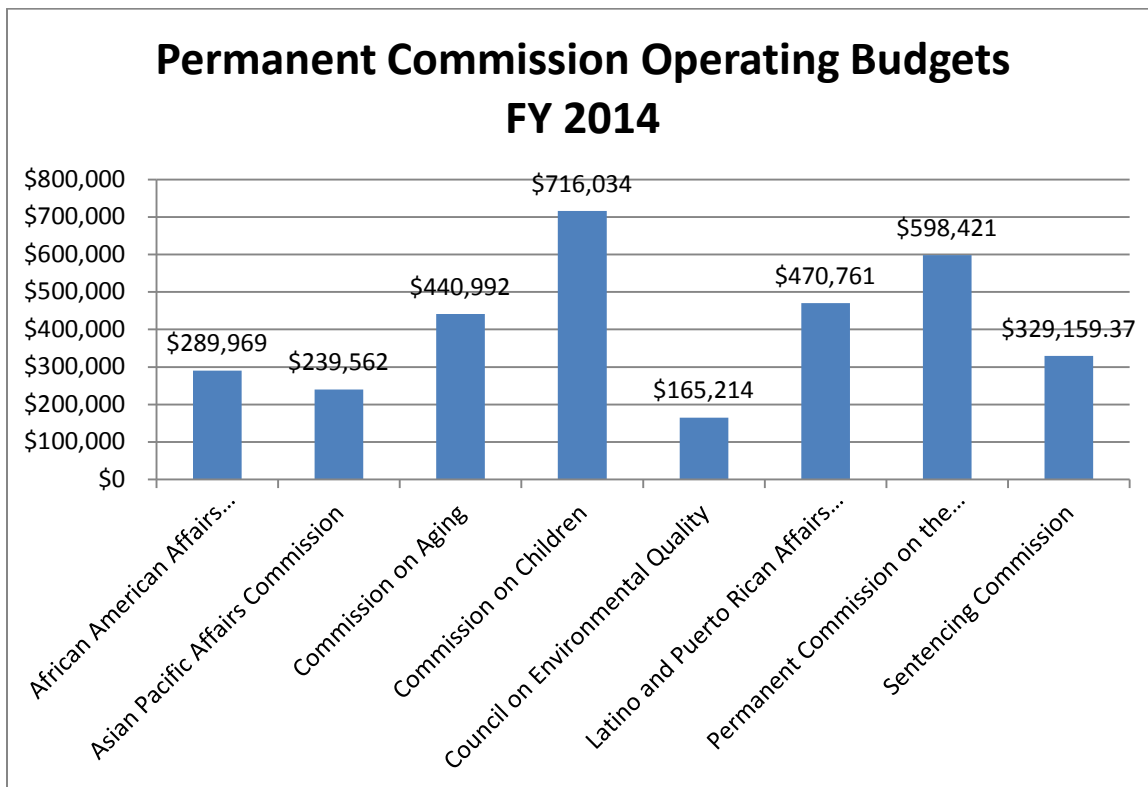
## BUDGET

The Commission's enabling legislation 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.

**FY 2013:** At the beginning of 2013, through appropriations provided by the CGA, the Connecticut Judicial Branch entered into an agreement with IMRP, whereby the Judicial Branch would provide \$100,000 to IMRP to assist in administrative support for the Commission and the Results First project. The allocation provided partial funding for the acting executive director, a manager, and a student worker.

**FY 2014:** In the fall of 2013, IMRP extended its agreement with the Judicial Branch to FY 2014 and FY 2015. Under this agreement the Judicial Branch will provide \$100,000 to IMRP to assist in administrative support for the Commission and the Results First project in both FY 2014 and FY 2015.

**FY 2015:** Although the Commission will receive a partial allocation of \$100,000 from the Judicial Branch in FY 2015, the Commission is seeking additional funds. The Commission's proposed budget for FY 2015 is \$329,159.37.<sup>3</sup> This increase is primarily due to the Commission's need for a full-time executive director and additional support staff.



<sup>3</sup> See Appendix B for FY 2015 Budget Proposal

# PART III: NATIONAL OVERVIEW OF SENTENCING COMMISSIONS

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## 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 and funding mechanisms can be found in Appendix C. 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, 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 ten years excluding Connecticut—New Jersey, Colorado, New York, and Illinois—only New Jersey’s was primarily charged with implementing sentencing guidelines.<sup>4</sup>

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

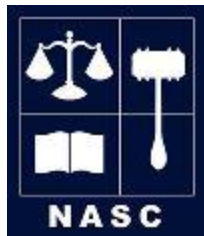
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<sup>4</sup> The New York State Sentencing Commission on Reform was a temporary Commission which recommended in its final report on January 30, 2009 the creation of a permanent Sentencing Commission.



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.

## NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS (NASC)



### **NASC:**

The mission of the National Association of Sentencing Commissions is “to facilitate the exchange and sharing of information, ideas, data, expertise, and experiences and to educate individuals on issues related to sentencing policies, sentencing guidelines, and sentencing commissions.”<sup>5</sup>

### **2013 Annual Conference:**

Pursuant to this mission, the 2013 NASC Annual Conference, “Merging Sentencing Research and Policy,” was hosted in August in Minneapolis, Minnesota. Alex Tsarkov and Kori Arsenault represented the Commission at the 2013 annual conference. Sessions included discussions on: the use of risk assessments in sentencing, justice reinvestment through policy analysis, juvenile transfers to adult courts, criminal history enhancements, and imposing and enforcing release conditions. Mr. Tsarkov and Ms. Arsenault provided a summary of the conference at the Commission’s September 19<sup>th</sup> meeting and noted that NASC had expressed an interest in hosting next year’s conference in Connecticut.



Image used under license from Paul Healey Photo

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<sup>5</sup> Additional information about the National Association of Sentencing Commissions (NASC) is available at: <http://thenasc.org/aboutnasc.html>.

# PART IV: THE WORK OF THE COMMISSION & ITS COMMITTEES

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Photo credit to Michelle Lee

## Commission Meetings

The Commission is required by statute to meet at least four times a year. During 2013, the Commission met five times. These meetings were held in the Legislative Office Building on March 21, June 20, September 19, October 24, and December 19.

## Legislative Proposals

On March 11th, 2013, the Commission presented at an informational forum for the CGA's Judiciary Committee. The forum provided an overview of the Commission's composition, purpose, legislative proposals, and decision-making policy. Commission representatives then testified on the Commission's 2013 legislative proposals and summarized the feedback received at the Commission's 2012 public hearing.<sup>6</sup>

## Administrative Recommendations

The Commission approved and submitted a series of recommendations to the Connecticut Department of Correction. The recommendations were prepared by the Recidivism Reduction Committee and aim to reduce recidivism by increasing offender's positive social relationships while incarcerated.<sup>7</sup>

## Presentations

Presentations given at Commission meetings during 2013:

- Presentation on Justice Reinvestment and Results First Initiatives
- Victim-Offender Dialogue & Restorative Justice
- Snapshot Data Presentation: Who is in Connecticut's Prisons?

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<sup>6</sup> See Appendix E for Forum Agenda.

<sup>7</sup> See Appendix F for Recommendations to the Connecticut Department of Correction.



## Committee Highlights

### Steering Committee

In 2013, the Steering Committee focused on creating a proposal and accompanying appropriations request that would adequately represent the Commission's staffing and budgetary needs.

The Committee determined that securing a team of well-qualified, full-time staff was necessary for the Commission to achieve its goals and provide the most effective research and data analysis. The Committee concluded that a minimum of three full-time employees are required for the Commission to carry-out its core duties in an effective manner. These positions included an executive director and two employees for administrative and research support.

The Committee's final FY 2014 budget request of \$329,159 was based on staffing needs and a comprehensive review of state sentencing commissions and Connecticut permanent commission operating budgets.

### Committee on Sentencing Structure, Policy and Practices

The Connecticut Sentencing Commission's committee on Sentencing Structure, Policy and Practices continued its ongoing efforts to identify areas where the criminal statutes in Connecticut can be simplified, strengthened, clarified and improved as well as be in full compliance with present constitutional law.

*1. Kidnapping.* On March 11, 2013, Judge Robert J. Devlin, Jr. testified before the General Assembly's Judiciary Committee regarding committee and Sentencing Commission proposals to amend Connecticut's kidnapping and sexual assault fourth degree statutes so as to eliminate anomalies in both of those statutory schemes. The proposed bills were passed by the legislature and signed by the Governor. The changes took effect on October 1, 2013.

*2. End of Sentence: Best Practices.* In May 2013, the committee circulated a comprehensive survey prepared by the Yale Law School's Criminal Justice Clinic in cooperation with the committee that examined best practices used by states to facilitate the successful transition of prisoners back into their communities. While Connecticut has adopted many of these practices, the approach of states like Oregon (which has a low recidivism rate) warrants further study by the committee and the entire Sentencing Commission.

*3. Suggestions.* In its meetings during the year, the committee discussed and is presently formulating proposals in the following areas:

- a. Revision to the persistent offender statutes – the objective is to simplify these complicated statutes;
- b. Use of probation as an alternative to special parole in sexual assault sentences – present law does not permit the use of long term probation as a component of the sentence imposed for violation of certain sexual assault statutes;
- c. Child pornography prosecutions involving videos – our law would benefit from identifying what constitutes a "unit of prosecution" in these cases;

d. Mandatory minimum sentences – under discussion is whether a statute should be proposed that would give judges (for good cause reasons stated on the record) the discretion to deviate from mandatory minimum sentences

e. Classification – the effort to propose sensible classification for the many unclassified felonies and misdemeanors in our law continues.

## **Committee on Research, Measurement and Evaluation**

In 2013, the Committee worked closely with Mary Lansing and Nancy Dittes of the Research Unit of the Department of Correction to prepare a very detailed and extensive snapshot of descriptive data related to the sentenced and pretrial prison population in Connecticut on May 1, 2013. The data included the prison, parole, and probation populations and looked at the length of sentences being served, gender, race, age, education levels, mental health history, substance abuse history, and more. The Committee identified four areas of interest for future research, created a working group, and appointed coordinators for each area. It is expected that the coordinators will invite other criminal justice professionals and academics to assist in the development of each of these areas.

1) *Risk Assessment Instruments – Linda Frisman, Coordinator.* Work in this area had begun last year with the goal of developing a research proposal designed to examine the possible role of risk assessment instruments on the practice of sentencing in Connecticut. The research is expected to compare risk and needs assessments already completed with sentencing outcomes.

2) *Substance abuse – John Santa, Coordinator.* A long-term project with the direction still to be determined.

3) *Mandatory Minimum Sentencing – Thomas Ullmann and Susan Pease, Co-Coordinators.* The work of this group will begin by gathering data on the current statutes that have mandatory minimum sentences and those prisoners serving such sentences. We will also try to gather existing research and reports. This work will be coordinated with other committees looking into this issue.

4) *Cognitive Behavioral Therapy and its use by Criminal Justice Professionals to impact behavioral change of offenders – Bob Farr.*

## **Committee on Recidivism Reduction**

The Recidivism Reduction Committee dedicated its efforts and resources to three key directions in 2013:

### *1. Report on Incarceration and Support Obligations.*

The Committee commissioned a report entitled, “Incarceration and Support Obligations-its Potential Correlation to Recidivism.” The Committee worked with students in Yale Law School’s Arthur Liman Public Interest Program to complete the report.<sup>8</sup>

### *2. Tackling Key Contributors to Recidivism.*

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<sup>8</sup> See Appendix G for the report.

The Committee explored directions for addressing two key contributors to recidivism: substance abuse and the absence of post incarceration employment. The Committee conducted a preliminary inquiry into these areas in 2013 and plans to expand this inquiry in 2014 and propose viable options to address these issues.

### *3. Implementing Evidence Based Re-entry Report Recommendations.*

On March 21, 2013, the Commission adopted the recommendations of the Committee's Evidence Based Re-entry white paper.<sup>9</sup> The paper examined the existing empirical literature on evidence-based approaches for improving recidivism rates based on attending more closely to approaches that strengthen familial and community networks. The paper also recommended several changes that the Department of Corrections could make in its policies and practices to strengthen the positive social ties of incarcerated offenders. The Committee worked with the Department of Corrections to implement these recommendations during the 2013 year and will continue to do so.<sup>10</sup>

### *4. Work Plan for 2014.*

Given the process and progress to date, the committee set the following items as its focus for 2014:

1. Seek avenues for getting additional targeted data on support enforcement and its impact on the incarcerated population
2. Continue, research and exploration on impact, resources and options for employment, training and substance abuse services for Connecticut's re-entry population
3. Following up with the Department of Correction on the Department's work in implementing the recommendations on Positive Social Relationships for inmates.

## **Legislative Committee**

The Committee developed three legislative proposals that were submitted to the General Assembly for consideration during its 2014 session. These include the following proposals: 1) Decrease the "drug-free school zone distances from 1500 feet to 200 feet from the perimeter and codify State v. Lewis to require a specific intent to commit a drug violation within that zone; 2) Comply with Miller v. Alabama by eliminating mandatory sentence of life imprisonment without release for juveniles convicted of capital felony or murder with special circumstances and provide that juvenile offenders serving sentences imposed in the adult criminal court would be eligible for parole after serving one-half of a sentence of 60 years or less and after serving 30 years of a sentence exceeding 60 years; 3) Create a "certificate of rehabilitation" which would have the same purpose and legal effect as a provisional pardon, expedite the process for obtaining relief, provide employers liability protection and would provide greater guidance to licensing agencies and state employers. More information on these proposals is available in Section VI.

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<sup>9</sup> See Appendix H: Report on Evidence-Based Reentry Initiatives

<sup>10</sup> See Appendix F: Recommendations to the Connecticut Department of Corrections

# PART V: UPDATE ON 2013 LEGISLATIVE PROPOSALS

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Photo credit to Sage Ross

## Summary

During 2012 the Commission developed nine proposals to present to the General Assembly for consideration at its 2013 session. These include recommendations to:

- 1) Amend the Commission's authorizing legislation to add the chairs and ranking minority members of the Judiciary Committee as members of the Commission.
- 2) Provide that juvenile offenders serving sentences imposed in the adult criminal court would be eligible for parole after serving one-half of a sentence of 60 years or less and after serving 30 years of a sentence exceeding 60 years.
- 3) Eliminate mandatory sentences of life imprisonment without release for juveniles convicted of capital felony or murder with special circumstances.
- 4) Increase the effectiveness of the existing provisional pardon statute by authorizing parole release panels to issue "certificates of rehabilitation" and allow probation officers to issue "certificates of rehabilitation" to probationers whose employment prospects would be enhanced by such a certificate.
- 5) Codify over 200 presently unclassified felonies to conform to the offense categories of the Penal Code.
- 6) Decrease the "drug-free school zone distances from 1500 feet to 200 feet from the perimeter and codify State v. Lewis to require a specific intent to commit a drug violation within that zone.
- 7) Clarify the existing false statement in the first degree statute, General Statutes § 53a-157a, and amend the false statement in the second degree statute, General Statutes § 53a-157b, to create model statutory language clarifying the elements of the crime of making a false statement.
- 8) Correct an inconsistency in the sentencing provisions of the kidnapping statutes and clarify the intent requirement for sexual assault in the fourth degree.
- 9) Exempt from the state contracting process institutions of higher education that provide courses to inmates of a correctional facility at no charge to the Department of Correction or the inmates.

Out of these nine proposals, three were passed into law, one was vetoed by the Governor, and the remaining five failed to gain the approval of both the Senate and the House.

## Proposals

### 1. Adding the chairs & ranking members of the Judiciary Committee to the Sentencing Commission



**Title:** H.B. No. 6509, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE MEMBERSHIP OF THE COMMISSION.

**Status:** Did not become law. This bill was vetoed by the governor after passing in both the House and Senate.

### 2. Reconsidering Sentences Imposed on Juveniles

**Title:** H.B. No. 6581, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH

**Status:** Did not become law. This bill was amended by the House and then passed as amended. The House amendments added provisions eliminating life sentences for juveniles, requiring courts to consider certain factors at sentencing, and regarding presentence investigations. These amendments served to combine what had previously been two separate legislative proposals. The amended bill was not considered by the Senate.

### 3. Complying with Miller v. Alabama

**Title:** S.B. No. 1062, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE SENTENCING OF A CHILD CONVICTED OF A FELONY OFFENSE.

**Status:** Did not become law. This bill did not get called in the Senate.

### 4. Drug-Free School Zones

**Title:** H.B. No. 6511, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE ENHANCED PENALTY FOR THE SALE OR POSSESSION OF DRUGS NEAR SCHOOLS, DAY CARE CENTERS AND PUBLIC HOUSING PROJECTS.

**Status:** Did not become law. This bill did not make it out of the House.

### 5. Removing Barriers to Employment for Convicted Persons

**Title:** H.B. No. 6582, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

**Status:** Did not become law. This bill was amended by the House and then passed as amended. The House amendments added a provision that required the revocation of a provisional pardon or certificate of rehabilitation if the person who received it was later convicted of a crime. The amended bill was not considered by the Senate.

## **6. Removing Selected Anomalies in the Penal Code**

**Title:** H.B. No. 6571, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO SEXUAL ASSAULT IN THE FOURTH DEGREE AND KIDNAPPING IN THE FIRST DEGREE WITH A FIREARM.

**Status:** Enacted by legislature and signed into law by the Governor as P.A. 13-28.<sup>11</sup>

## **7. Classifying Felonies**

**Title:** S.B. No. 983, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING UNCLASSIFIED FELONIES.

**Status:** Enacted by legislature and signed into law by the Governor as P.A.13-258.<sup>12</sup>

## **8. Clarifying False Statements Statutes**

**Title:** H.B. No. 6508, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING FALSE STATEMENT.

**Status:** Enacted by legislature and signed into law by the Governor as P.A. 13-144<sup>13</sup>

## **9. Exempting Institutions of Higher Education from State Contracting Requirements**

**Title:** H.B. No. 5602, AN ACT EXEMPTING INSTITUTIONS OF HIGHER EDUCATION THAT OFFER FREE COURSES TO INMATES FROM STATE CONTRACTING REQUIREMENTS

**Status:** Enacted by the legislature and signed into law by the Governor as P.A.13-68.<sup>14</sup> Identical legislation was proposed in the Senate but did not get called.<sup>15</sup>

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<sup>11</sup> See Appendix I

<sup>12</sup> See Appendix J for P.A. 13-258.

<sup>13</sup> See Appendix K for P.A. 13-144.

<sup>14</sup> See Appendix L for P.A. 13-68.

<sup>15</sup> S.B. No. 985

# PART VI: 2014 LEGISLATIVE PROPOSALS

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## Summary

During 2013, the Commission developed and submitted three proposals the General Assembly for consideration at its 2014 session. These included recommendations to:

- 1) Provide that juvenile offenders serving sentences imposed in the adult criminal court would be eligible for parole after serving one-half of a sentence of 60 years or less and after serving 30 years of a sentence exceeding 60 years and eliminate mandatory sentences of life imprisonment without release for juveniles convicted of capital felony or murder with special circumstances.
- 2) Increase the effectiveness of the existing provisional pardon statute by authorizing parole release panels to issue “certificates of rehabilitation” and allow probation officers to issue “certificates of rehabilitation” to probationers whose employment prospects would be enhanced by such a certificate.
- 3) Decrease the “drug-free school zone distances from 1500 feet to 200 feet from the perimeter and codify *State v. Lewis* to require a specific intent to commit a drug violation within that zone.

## Public Hearing

The Commission, recognizing the importance of public input, held a public hearing on November 21, 2013 at which it heard testimony addressing juvenile sentence reconsideration, certificates of



rehabilitation, and drug-free school zones. Prior to the hearing, the Commission had received the cooperation of the Department of Correction, the Victim Services Division of the Judicial Branch and the Office of the Victim Advocate in its efforts to ensure that victims of crime and others interested in the work of the Commission received notice of the hearing. Additional information concerning the Commission's public hearing and CT-N coverage from the event is available at: <http://www.ct.gov/opm/csc>.

## Proposals

### 1) Reconsidering Sentences Imposed on Juveniles

The Commission decided to submit a single juvenile proposal for the 2014 legislative session. The new proposal combines the two juvenile proposals from the previous year. This decision was based largely on the House amendments that consolidated the Commission's proposals during the 2013 legislative session.

#### Overview

Three times in the past seven years the United States Supreme Court has held that juvenile offenders cannot be sentenced as if they were adults.

In those decisions the Court held that, "because juveniles have lessened culpability, they are less deserving of the most severe punishments." See, e.g., *Graham v. Florida*, 560 U.S. \_\_\_, No. 08-7412, pp. 16-17 (2010). The Court based this conclusion on the results of scientific and sociological studies and developments in psychology and brain science that show (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 adults, the Supreme Court found 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 case of *Graham v. Florida* the Supreme Court held that the U.S. Constitution prohibits a sentence of life without parole for a child convicted of a non-homicide offense. The state must give the child a "meaningful opportunity" to obtain release before the maximum term of the sentence imposed, "based on demonstrated maturity and rehabilitation."

The *Graham* case applied only to non-homicide crimes, but in the case of *Miller v. Alabama*, decided just last year, the Court held, again based on the lessened culpability of children, that the Constitution forbids a mandatory sentence of life without parole even for children convicted of murder.

These decisions of the Supreme Court have prompted both courts and legislatures in several states to come up with differing responses. The Sentencing Commission has been of the opinion that in Connecticut a legislative response would be preferable to case-by-case decisions by different courts as to what these cases require.

Current law in Connecticut provides that individuals who are prosecuted as adults for crimes committed when they were under 18 are subject to the same parole rules as adults: they are ineligible for parole for certain crimes and eligible only after 85% of their sentences has been served for many other crimes. These decisions of the Supreme Court have made it necessary for the Commission to look into what changes are necessary in Connecticut's sentencing and parole laws to conform to the U.S. Constitution.

A working group of Commission members from diverse criminal justice backgrounds, was charged with and succeeded at coming up with a proposal that it believed balanced the interests of prisoners who were convicted of serious crimes when they were under 18, the state of Connecticut and the victims of these juveniles' crimes. This proposal was adopted by consensus at the Commission's meeting on December 20, 2012 and again adopted on December 19, 2013. It would apply to juveniles who receive sentences exceeding ten years in the adult criminal court.

Its provisions are as follows:

- Juvenile offenders serving sentences of sixty years or less will be eligible for parole after serving one-half of their sentence or ten years, whichever is greater. Only juvenile offenders serving sentences of more than ten years based on crimes committed under the age of eighteen will be eligible.
- Juvenile offenders serving sentences of more than 60 years will be eligible for parole after serving 30 years (one-half of a life sentence).
- Eligibility for release applies only with respect to offenses committed by a person before reaching the age of eighteen and for which the person received a sentence of more than ten years. If an inmate is serving a sentence in part based on an offense or offenses committed at the age of eighteen or above, the sentence for such offense or offenses is not subject to the parole eligibility rules of this proposal. In such instances, the Board may apply the parole eligibility rules of this proposal only with respect to the sentence for the offense or offenses committed under the age of eighteen. Any offense or offenses committed at the age of eighteen or above shall be subject to the parole eligibility rules provided in subsections (a) through (f) of 54-125a of the General Statutes.
- Counsel will be appointed to assist juvenile offenders in preparing for parole release hearings. At least twelve months prior to the hearing, the Board of Pardons and Paroles shall notify the Office of the Chief Public Defender and the appropriate state's attorney. The Office of the Chief Public Defender shall assign counsel for the person pursuant to section 51-296 of the General Statutes if the person is indigent. At the hearing, the board shall permit counsel for such person to submit reports and other documents. The state's attorney shall have the same opportunity. The person whose suitability for parole is being considered shall have an opportunity to make a personal statement on his or her own behalf. The board may, in its discretion, request testimony from mental health professionals or other relevant witnesses. The victim shall be permitted to make a statement pursuant to section 54-126a of the general statutes.
- The Board of Pardons and Paroles may allow a person serving a sentence for a crime committed while he or she was under the age of eighteen who is eligible for parole to go at large on parole if the Board finds that such release would adhere to the purposes of sentencing set forth in General Statutes Sec. 54-300(c) and if it appears from all available information, including any reports from the Commissioner of Correction, counsel for the offender, the state's attorney, or that the

Board may require, that (1) there is a reasonable probability that the offender, if released, will live and remain at liberty without violating the law; (2) the benefits to such offender and the public that would result from such release would substantially outweigh the benefits to the public that would result from the offender's continued incarceration; and (3) the offender has demonstrated substantial rehabilitation since the time of the offense, considering the offender's character, background and history, including but not limited to disciplinary record, the age at the time of the offense, whether the offender has demonstrated increased maturity since the time of the offense, remorse for the offense, contributions to the welfare of others through service, efforts to overcome substance abuse, addiction, trauma, lack of education or other obstacles that the offender may have faced as a youth in an adult prison environment, the opportunities for rehabilitation in an adult prison environment and the overall degree of rehabilitation in light of the nature of the offense.

- The Board shall use validated risk and needs assessments and its structured decision-making framework to assist in making its parole suitability decisions in such cases.

The following table illustrates the effect of these new parole eligibility provisions:

Age at the time of Offense:	Sentence (years):	Percent/ Years to Serve:	Eligible After Serving (years):	Age Eligible for Parole <sup>16</sup> :
14	25	50%	12.5	26.5
	40	50%	20	34
	50	50%	25	39
	61 +	30 years	30	44
15	25	50%	12.5	27.5
	40	50%	20	35
	50	50%	25	40
	61+	30 years	30	45
16	25	50%	12.5	28.5
	40	50%	20	36
	50	50%	25	41
	61+	30 years	30	46
17	25	50%	12.5	29.5
	40	50%	20	37
	50	50%	25	42
	61+	30 years	30	47

## 2) Removing Barriers to Employment for Convicted Persons

### Overview

In 2006, the Connecticut Legislature created the provisional pardon program, which provides a mechanism for removing barriers to employment and licensing, that individuals face based on their prior criminal convictions. In 2012, the Connecticut Sentencing Commission, recognizing that the two most

<sup>16</sup> Please note this column does not take into account the time from arrest until sentencing.

significant barriers to successful reentry are employment and housing, recommended legislation to amend the statutes governing provisional pardons. The legislation, “An Act Concerning Certificates of Relief from Barriers Resulting from Conviction of a Crime,” received a favorable report from the Judiciary Committee, but was ultimately not enacted.

After consideration of the 2013 legislation, the testimony received at the Commission’s November 21, 2013 public hearing, and follow-up with those who would be affected by the proposed changes, the full Commission recommended that the General Assembly consider the following proposal. The proposal would create a “certificate of rehabilitation” which would have the same purpose and legal effect as a provisional pardon. The provisional pardon/certificate of rehabilitation would expedite the process for obtaining relief, provide employers liability protection and would provide greater guidance to licensing agencies and state employers. Its provisions are as follows:

- Retain the authority of the Board of Pardons to issue provisional pardons. Revise current law so parole release panels may issue “certificates of rehabilitation,” which would have the same legal effect as provisional pardons.
- Revise current law to allow probation to issue “certificates of rehabilitation” during an offender’s probation period. Certificates of rehabilitation would be issued pursuant to the same standards used for granting provisional pardons<sup>17</sup> and they would have the same legal effect as provisional pardons.
- Ensure the safety of victims by providing that both provisional pardons and certificates of rehabilitation shall be granted only if consistent with the safety of any victim of the offense.
- Afford employers limited protection in negligent hiring suits. In an effort to provide an incentive for employers to hire individuals who have obtained certificates comparable to provisional pardons, at least three states—New York, Illinois, and Ohio—have enacted legislation that offers employers some form of legal protection in relation to these employees. Following New York’s approach<sup>18</sup>, Connecticut could create, in cases alleging that the employer has been negligent in hiring or retaining an employee with a prior conviction, a “rebuttable presumption” in favor of excluding from evidence the prior conviction if a provisional pardon/certificate of rehabilitation was issued to the employee and the employer knew about the provisional pardon/certificate at the time of the alleged negligence or other fault.
- The full Commission recommends that the Judiciary Committee consider whether legislation should be enacted preventing the denial of certain licenses based on prior felony convictions. Ohio recently enacted legislation that prevents the denial of applicants for hairdresser, cosmetician, and barber licenses based on prior criminal convictions.

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<sup>17</sup> The standards for issuing a provisional pardon as outlined in CGS §54-130e(d) include: (1) The person to whom the provisional pardon is to be issued is an eligible offender; (2) The relief to be granted by the provisional pardon may promote the public policy of rehabilitation of ex-offenders through employment; and (3) The relief to be granted by the provisional pardon is consistent with the public interest in public safety and the protection of property.

<sup>18</sup> N.Y. Executive Law § 296(15) (Consol. 2012).

### 3) Drug-Free School Zones

#### Overview

A working group of the Committee on Sentencing Structure, Policy and Practices was charged with evaluating the effectiveness of drug-free school zone statutes in response to a request from the co-chairs of the Judiciary Committee. In Connecticut there are three statutes which carry an enhanced penalty for the sale or possession of illegal drugs or drug paraphernalia within 1,500 feet of a (1) licensed child day care center, (2) public or private elementary or secondary school, or (3) public housing project.

	<b>Possession of drug paraphernalia 21a-267(c)</b>	<b>Possession of illegal drugs 21a-279(d)</b>	<b>Manufacturing, distributing, selling, prescribing, dispensing, compounding, transporting with the intent to sell or dispense illegal drugs 21a-278a(b)</b>
Distance	1,500 feet	1,500 feet	1,500 feet
Enhanced penalty applies to zones within	<ul style="list-style-type: none"><li>• Public or private elementary or secondary schools (applies to those who are not enrolled as students in such school)</li></ul>	<ul style="list-style-type: none"><li>• Public or private elementary or secondary schools (applies to those who are not enrolled as students in such school)</li><li>• Licensed child day care centers identified by a conspicuous sign</li></ul>	<ul style="list-style-type: none"><li>• Public or private elementary or secondary schools</li><li>• Licensed child day care centers identified by a conspicuous sign</li><li>• Public housing projects</li></ul>
Mandatory Minimum	One year	Two years	Three years

21a-283a allows the court, upon showing of a good cause by the defendant, to depart from the prescribed mandatory minimum sentence, provided that the defendant (1) did not use, attempt or threaten to use physical force; (2) was unarmed; (3) did not use, threaten to use, or suggest that he had a deadly weapon; and (4) did not benefit from this provision before.

#### Meetings

The working group consisted of Deputy Chief State's Attorney Len Boyle, Legal Counsel/Executive Assistant Public Defender Deborah Del Prete Sullivan, ABWF Policy Director LaResse Harvey, Dr. Robert Painter, M.D. and Legislative Aide/Judiciary Clerk Alex Tsarkov. The group was assisted by Andrew Clark, Sentencing Commission Acting Executive Director; Jason DePatie, Policy Specialist at the Institute for Municipal and Regional Policy (IMRP); Chris Reinhart from the Office of Legislative Research (OLR) and Louise Nadeau, Legislative Attorney from the Legislative Commissioners' Office.

## Recommendations

The working group unanimously recommended the following changes to Connecticut's drug-free school zone statutes to clarify and strengthen the perceived purpose of the original law as creating drug-free sanctuaries for school children.

1. Drug-free school zone distances: The working group agreed that the current distance encompassing school zones is not appropriate. Having entire urban areas or compact rural areas almost totally designated as drug-free zones eliminates the distinction between areas around schools and other locations, a distinction which the law intended. The law is also not clear whether the 1500' distance should be measured from the center of the school property, the edge of the property, or the address of the property. The typical drug free zone extends 1,000 feet in every direction from the property line of the school or other covered location. But 300 feet has been chosen by Minnesota, North Carolina, and Rhode Island. Alaska and Wyoming chose 500 feet and Hawaii set the distance as 750 feet. Therefore the working group recommends:
  - a. *That drug-free school zones be measured from the perimeter of the property.*
  - b. *The drug-free school zone should extend 200' from the perimeter.*
2. Codifying State v. Lewis<sup>19</sup>: The working group reviewed pertinent case law and recommended: *Amending 21a-267(c) and 21a-278a(b) with respect to school zone violations to require "intent to commit such violation" in a specific location, and to require proof that the specific location is in a school zone, in compliance with a decision of the Connecticut Supreme Court.*

The working group considered, but was unable to reach consensus on the following issues:

- Public Housing: Since areas around private housing are not treated as drug-free zones, and some public housing is strictly for the elderly and not children, there is debate as to whether this part of the law is discriminatory. Therefore the working group considered the following recommendation: *Eliminating the language establishing drug-free zones around public housing.* One concern was the legislative intent of this provision and the need to further research its origins and evaluate its effectiveness before making a recommendation.
- Types of Public Housing: The working group discussed the statutory definition of a public housing project, "dwelling accommodations operated as a state or federally subsidized multifamily housing project by a housing authority, nonprofit corporation or municipal developer, as defined in section 8-39, pursuant to chapter 128 or by the Connecticut Housing Authority pursuant to chapter 129," and the issue of Section 8 Housing Vouchers. Under this definition, the question was raised as **to whether private housing which is occupied by a tenant with a Section 8 Housing Voucher would establish a drug-free zone.** The working group would need to further research this issue before making a recommendation.
- Drug-free school bus stops: To follow the intent of 21a-267(c), 21a-279(d), and 21a-278a(b) in creating sanctuaries for school children free of drugs and drug paraphernalia, the following recommendation was considered: *To establish the areas immediately adjacent to school bus stops as drug-free zones.* In terms of practicality, the working group was concerned that due to the fluid nature of school bus routes and stops this recommendation may prove unworkable.

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<sup>19</sup> State v. Lewis, 303 Conn. 760, (2012)

- Drug-free zone signs: The working group recognized the importance of conspicuous signs demarcating drug-free zones and the following recommendation was considered: ***Providing schools, day care centers and public housing projects discretion to determine how best to inform the public of drug-free zones.***

While each of these ideas may have merit, the working group would need to conduct further research before making additional recommendations. For this reason, the Sentencing Commission is available to further evaluate the effectiveness of drug-free zones and to report back to the Judiciary Committee with relevant recommendations.



## PART VII: CONCLUSION

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During 2013, the Connecticut Sentencing Commission submitted three legislative proposals on a variety of subjects for consideration by the Judiciary Committee and the General Assembly in the 2014 Session. In addition, its committees initiated and pursued research into some important questions affecting sentencing policies and recidivism reduction.

This was achieved because of the hard work of Commission members, themselves, the outstanding support staff from Central Connecticut State University and volunteer assistance received from the law schools at Quinnipiac University and Yale University.

Since its establishment two years ago, the Commission has provided value to the state by creating a consensus driven platform for the deliberation of complex criminal justice policy among professionals in the field. Through this process, the Commission regularly addresses U.S. Supreme Court rulings, recommends best practices in recidivism reduction, and cleans up existing statutes while engaging the public and appropriate stakeholders. Given this is being accomplished without ongoing dedicated funding, the work of the Commission would be strengthened and expanded through an annualized appropriation.

**APPENDIX A:**  
**C.G.S. § 54-300**

## 54-300 Sentencing Commission

- (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 Emergency Services and Public Protection, 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 pretrial, 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.

(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, to the Governor, the General Assembly and the Chief Justice of the Supreme Court.

**APPENDIX B:**  
**FY 2015 BUDGET PROPOSAL**

# CONNECTICUT SENTENCING COMMISSION

## FY 2015 PROPOSED BUDGET ADJUSTMENTS

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## **FY 2015 Proposed Budget Adjustments**

### **Executive Summary**

The Connecticut Sentencing Commission is seeking to build upon its current foundation through the addition of dedicated full-time staff. As with any permanent commission, it is critical to have both qualified staff and adequate funding to successfully complete its designated tasks and duties. Effective sentencing commissions are often required to focus on multiple complex duties from database development to policy analysis to specific sentencing related research projects. A newly established commission is especially challenged to secure skilled, experienced staff and to prioritize competing tasks. Funding is often initially used to employ key personnel, including an Executive Director, research and administrative staff, and other necessary operational expenses. Developing a competent and qualified staff is necessary for the Commission to achieve its goals and provide the most effective research and data analysis. The most common factor contributing to an ineffective sentencing commission is inadequate staffing and funding.

Currently, the Sentencing Commission is assisted by staff at the Institute for Municipal and Regional Policy (IMRP) at Central Connecticut State University (CCSU). This relationship allows the Commission to operate in a cost-efficient manner and provides the Commission with the flexibility to hire student workers, faculty, and draw from current IMRP staff on specialized projects. It also allows the Commission to continue to tap into the vast physical resources of CCSU, such as meeting and conference space, as well as state-of-the-art-technology.

The Commission also draws upon the expertise of Connecticut's academic institutions to further maximize cost-efficiency. Over the past couple of years, both Quinnipiac University School of Law and Yale Law School have assisted the Commission with research. As the Commission grows, partnerships with academic institutions and other research organizations will continue to provide valuable resources to assist with priority duties and projects. Drawing on expertise within the state will move the Commission towards its goals while respecting the current budget constraints faced by the state.

### **Statutorily Designated Tasks**

Connecticut General Statutes § 54-300(f) requires that the Commission perform 9 tasks.

- (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 pretrial, 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.

### **Current Appropriation**

**FY 2013:** At the beginning of 2013, the Connecticut Judicial Branch entered into an agreement with IMRP, whereby the Judicial Branch would provide \$100,000 to IMRP to assist in administrative support for the Commission and the Results First project. The allocation provided partial funding for the acting executive director, a manager, and a student worker.

**FY 2014:** In the fall of 2013, IMRP extended its agreement with the Judicial Branch to FY 2014 and FY 2015. Under this agreement the Judicial Branch will provide \$100,000 to IMRP to assist in administrative support for the Commission and the Results First project in both FY 2014 and FY 2015.

**FY 2015:** Although the Commission will receive a partial allocation of \$100,000 from the Judicial Branch in FY 2015, the Commission is seeking additional funds. The Commission's proposed budget for FY 2015 is \$329,159.37.<sup>20</sup> This increase is primarily due to the Commission's need for a full-time executive director and additional support staff.

### **FY 2015 Request**

The Commission requests \$302,931.37 in FY 2015. The FY 2015 request will provide resources sufficient to adequately staff essential Commission activities, strengthen research capabilities, and allow the commission to better fulfill its mission. Similar to other state agencies, the Sentencing Commission requires personnel to perform its central functions. With the proposed funding, the Commission will be able to hire a full-time Executive Director in FY 2015 along with two additional full-time staff positions, two university assistant positions, two student worker positions, and other administrative expenses.

#### ***Executive Director***

Support for an executive director position is necessary to fulfill the Commission's need for research development, organizational support, project implementation, and advancement. The Executive Director will be responsible for supervising Commission activity and staff; with the ultimate responsibility of prioritizing and ensuring the Commission is carrying out its duties. The director will also forge collaborative partnerships and relationships with other state agencies and sentencing commissions throughout the country.

#### ***Dedicated Support Staff***

The Commission requests funding for two positions in order to permit it to perform the basic responsibilities identified in its enabling legislation along with the responsibilities delegated by P.A. 14-27. The creation of these positions will help fulfill the Commission's needs for research, policy planning,

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<sup>20</sup> See Appendix B for FY 2015 Budget Proposal

analysis, and administrative assistance. These positions could include a research director, administrative assistant, or research associate.

### ***University Assistants and Students Workers***

The employment of University Assistants and Student Workers allows the Commission to complete research and other projects at a low cost while supporting the university's educational mission. Modest funding for these positions will allow IMRP to utilize university funds to support overhead associated with housing Commission staff.

### **Conclusion**

The recommendation for the creation of a sentencing commission for the state provides an opportunity for the analysis of current sentencing policy as well as the future development of policies and practices that ensure public safety while utilizing limited resources in a cost effective manner by reducing recidivism and stopping the revolving door syndrome in the criminal justice system. Developing effective alternatives to incarceration for specific target populations and ensuring that the serious violent offenders are incarcerated for the appropriate length of time is the overriding goal of the Commission. It is imperative that the state has a thorough understanding of its criminal justice population before policy changes are enacted and the ability to measure the impact of future policy changes. Although the establishment of a Sentencing Commission may require some resource investment from the state, the long term benefit in both resources saved and public safety enhanced will prove to be an investment that the state cannot afford to pursue at this time.

# **APPENDIX C:**

## **NATIONAL SENTENCING COMMISSIONS**

## NATIONAL SENTENCING COMMISSIONS

STATE	YR CREATED	AFFILIATION	MEMBERS	STAFF	BUDGET YR	BUDGET	FUNDING SOURCE
<i>Alabama</i>	2000	Judicial	21	4	2009	\$184,000	Federal Byrne Memorial Grant, VERA Institute
<i>Alaska</i>	1959	Judicial	10	7	2011	\$1,096,000	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				Active – information unavailable
<i>D.C.</i>	1988	Independent	22	6	2011	\$768,000	General Funds
<i>Illinois</i>	2009		18		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	17	9	2012	\$8,284,734	State General Fund
<i>Louisiana</i>	1987	Executive	21	8		N/A	No Funding or External Financial Support
<i>Maryland</i>	1996	Executive	19	4	2011-2012	\$351,229	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	INACTIVE
<i>Minnesota</i>	1978	Executive	11	6	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	20	2	2010	\$754,800	IIIS Technical Assistance Grant, Local Funds
<i>New York</i>	2010	Executive	20	3			Department of Criminal Justice Services (DCJS), VERA Inst., State General Funds
<i>North Carolina</i>	1990	Judicial	28	9	2009	\$900,000	
<i>Ohio</i>	1991	Judicial	27	1	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	INACTIVE
<i>Oregon</i>	1995	Independent	9	6	2009-2011 (Biennial)	\$2,389,346	Federal Byrne Memorial Justice Grant, Justice Assistance Grant Program
<i>Pennsylvania</i>	1978	Legislative	11	15	2011	\$1,397,000	Grant Funding, Appropriation, State General Funded Operation Budget
<i>South Carolina</i>	2008	Legislative	10				
<i>Utah</i>	1993	Executive	25	1	2009	\$185,000	
<i>Virginia</i>	1995	Judicial	17	7	2011	\$1,039,254	State General Fund, Local Funding
<i>Washington</i>	1981	Legislative	12	9	2009-2011 (Biennial)	\$1,900,000	
<i>United States Sentencing Commission</i>	1984	Independent agency in Judicial Branch	7	103.44 Work Years <sup>21</sup>	2011	16,803,326	Public Law 111-117 Federal Funding

<sup>21</sup> Approximately 100 employees divided into the offices of Staff Director, General Counsel, Education, Sentencing Practice, Research and Data, Legislative and Public Affairs, and Administration.

**APPENDIX D:**  
**POLICY ON CONSENSUS DECISION-**  
**MAKING**

### **Policy on Consensus Decision Making**

1. All proposals for changes in sentencing and other criminal justice matters within the Commission's jurisdiction will be fully discussed among the members of the Commission, with all members having an opportunity to state their positions in favor of or in opposition to the proposal. Each member will be expected to engage fully in this discussion and raise for consideration by the Commission any objection(s) the member may have so that the objection(s) may be addressed in the decision-making process.

The objective of this process will be to generate proposals with which all members of the Commission agree or, if a member is not in agreement, which that member can "live with."

2. After discussion, the chair will inquire of the members whether each member is in agreement with the proposal or, if a member is not in agreement, whether the member can "live with" the proposal. If all members are in agreement or those members not in agreement state that they can "live with" the proposal, the proposal will be considered a consensus proposal of the Commission.

3. If any member(s) of the Commission indicates that the member is not in agreement with a proposal and cannot "live with" the proposal, the chair will call for a vote on the proposal.

4. If the proposal receives the votes of a majority of the Commission members present at the meeting, the chair and vice-chair will decide whether the size of the majority vote is sufficient to justify designating the proposal as one which carries the endorsement of the Commission. The chair and vice-chair or any other representative of the Commission, in communicating the Commission's endorsement of a proposal, shall state whether the proposal is a consensus proposal, as defined above, or the result of a vote of the Commission and the size of the majority vote in favor of the proposal.

5. Members of the Commission are free to express their opposition to a proposal endorsed by the Commission. It is the expectation of the Commission that a member intending to express opposition to a Commission proposal will inform the chair or vice-chair of the member's intention in sufficient time as to give the chair or vice-chair an opportunity to discuss with the member the grounds for the member's opposition.

**APPENDIX E:**  
**INFORMATIONAL FORUM AGENDA**



**Judiciary Committee**  
**INFORMATIONAL**  
**FORUM**  
**AGENDA**  
**Monday, March 11, 2013**  
**10:00 a.m. in Room 2C of the LOB**

**I. Overview of the Connecticut Sentencing Commission (Judge Shortall, Chair)**

**II. Membership of the Commission: Stakeholders and public members**

**III. The Consensus Process: what it means when the Commission endorses a bill**

**IV. Public Feedback: November 29, 2012 public hearing**

**V. Moving Forward: A resource for the General Assembly on matters concerning criminal justice**

**VI. Testimony on 2013 Legislative Proposals**

- A. H.B. No. 6509, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION, REGARDING MEMBERSHIP OF THE COMMISSION.  
(Judge Shortall)
- B. H.B. No. 6581, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH. (Judge Shortall)
- C. S.B. No. 1062, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE SENTENCING OF A CHILD CONVICTED OF A FELONY OFFENSE. (Justice Borden)
- D. D. H.B. No. 6511, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE ENHANCED PENALTY FOR THE SALE OR POSSESSION OF DRUGS NEAR SCHOOLS, DAY CARE CENTERS AND PUBLIC HOUSING PROJECTS.  
(Dr. Robert Painter)
- E. H.B. No. 6582, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.  
(Andrew Clark & Sarah Russell)
- F. F. H.B. No. 6571, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO SEXUAL ASSAULT IN THE FOURTH DEGREE AND KIDNAPPING IN THE FIRST DEGREE WITH A FIREARM.  
(Judge Devlin)
- G. G. S.B. No. 983, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING UNCLASSIFIED FELONIES. (Bob Farr)
- H. H.B. No. 6508, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING FALSE STATEMENT.  
(Bob Farr)
- I. S.B. No. 985, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING AN EXEMPTION FROM STATE CONTRACTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION THAT OFFER COURSES TO INMATES AT NO COST.  
(Linda Meyer)

**APPENDIX F:**  
**RECOMMENDATIONS TO THE**  
**CONNECTICUT DEPARTMENT OF**  
**CORRECTIONS**



Dannel P. Malloy  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF CORRECTION  
OFFICE OF THE COMMISSIONER**



James B. Dzundza  
Interim Commissioner

May 6, 2013

The Honorable Joseph M. Shortall  
Superior Court  
20 Franklin Square  
New Britain, Connecticut 06051

Dear Judge Shortall:

This will acknowledge receipt of your letter dated May 2, 2013 with regard to the Connecticut Sentencing Commission and the recommendations of the Recidivism Reduction Committee. Please be advised that I have assigned Monica Rinaldi, Director of Programs & Treatment, to develop a committee to review each of the recommendations.

Director Rinaldi will be submitting a formal feasibility and action plan of the implementation of the recommendations.

If you need any further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Dzurenda".

James E. Dzurenda  
Interim Commissioner

JED/jab

cc: Monica Rinaldi, Director

Phone: 860.692.7482 • Fax: 860.692.7483  
24 Wolcott Hill Road • Wethersfield,  
Connecticut 06109  
Website: [www.ct.gov/doc](http://www.ct.gov/doc)

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## Recommendations

1. The Department of Correction should adopt an agency-wide policy statement recognizing that the positive social ties of offenders can help to reduce recidivism.
2. The Department of Correction should consider revisions to its administrative directives on visiting to make the directives more consistent with the positive impact of positive social relationships on offenders.
3. Within the limits of security and capacity constraints, the Department of Correction should seek to minimize obstacles to family visits. The Department should also implement some means of gathering data on family visits, perhaps using volunteers to gather and process data.
4. The Department of Correction should initiate - from within its own agency or through outside channels - an assessment of the transportation available to visitors to all of Connecticut's prison facilities. The assessment should include an appraisal of the degree of demand for transportation from each of the major cities.
5. The Department of Correction should assess the quality and prevalence of child-friendly features in visiting areas of its prison facilities, and should encourage efforts by staff and volunteers to expand these features.
6. The Department of Correction should develop criteria and standards for lengthened visits and communicate these to inmates, and through postings, to family members.
7. The Department of Correction should further develop programs that have an evidence-based capacity to strengthen the bonds between incarcerated parents and their children.
8. The Department of Correction review disciplinary restrictions on visiting and phone calls in light of their impact on positive social ties, and where feasible, minimize their impact on family visits.
9. The Department of Corrections' programs for fathers should receive additional attention.
10. In the Department of Correction, increased case management should, where appropriate, strengthen connections of inmates to their families, and family ties to agency services for inmates.

STATE OF CONNECTICUT

SUPERIOR COURT



Chambers of  
Hon. Joseph M. Shortall  
Judge Trial Referee

May 2, 2013

Honorable James E. Dzurenda  
Acting Commissioner  
Department of Correction  
24 Wolcott Hill Road  
Wethersfield CT 06109

Re: Recommendations of the Connecticut Sentencing Commission  
Regarding Inmate Visitation Policies

Dear Commissioner Dzurenda:

At its meeting on March 21, 2013 the Sentencing Commission adopted by consensus the enclosed recommendations of its Recidivism Reduction Committee and directed me as chair of the Commission, to forward them to you.

While Commissioner Arnone was unable to attend the meeting, I had spoken to him the previous day and learned that the recommendations had his full support. In fact, as a member of the Recidivism Reduction Committee, Commissioner Arnone had been involved in the development of the recommendations.

In adopting these recommendations to the Department of Correction the Commission recognized that the timing of their Implementation will be affected by the Department's budget limitations, as well as safety and security considerations. At the same time, the Commission is persuaded that implementation of the recommendations would support and strengthen positive social relationships between inmates and family members, which research has shown can have a positive Impact on recidivism.

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06/12/13 11:10 FAX

The commission is available to work with the Department in devising methods to measure the outcomes of initiation of these policies, and I hope you will call on us in that regard. May I ask that you keep the Commission up-to-date on your implementation of the recommendations?

Respectfully

cc: Mike Lawlor.

Vice-Chair, Connecticut Sentencing Commission

Vivien Blackford

Co-Chair, Recidivism Reduction Committee

Maureen Price-Boreland

Co-Chair, Recidivism Reduction Committee

Andrew Clark

Acting Executive Director, Connecticut Sentencing Commission

**APPENDIX G:**  
**REPORT ON INCARCERATION &**  
**CHILD SUPPORT OBLIGATIONS**

# Incarceration and Child Support Obligations

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*A report to the Recidivism Reduction Committee of the Connecticut Sentencing Commission regarding the consequences of child support debt for incarcerated individuals, children and custodial parents, and the people of Connecticut*

Vera Eidelman

Lauren Hartz

Haiyun Zhao

Supervised by Hope Metcalf and Sia Sanneh

The Arthur Liman Public Interest Program

Yale Law School

June 2013



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## Introduction

A recent paper on evidence-based reentry initiatives prepared for the Recidivism Reduction Committee of the Connecticut Sentencing Commission identified child support debt accumulation during incarceration as a serious barrier to reentry.<sup>22</sup> This paper further explores that barrier. It considers how and why individuals accumulate child support debt during incarceration, and it examines the consequences of that debt for the incarcerated individual, the custodial parent and child owed support, and the citizens of Connecticut.

## Executive Summary

Governor Malloy has articulated two primary goals for the Connecticut justice system: reducing crime and maximizing efficiency.<sup>23</sup> State agencies involved in setting, modifying, and enforcing child support orders emphasize that setting realistic child support orders is critical to achieving these goals. The federal government echoes this sentiment. The United States Department of Health and Human Services Office of Child Support Enforcement has stressed that “for child support to be a reliable source of income for children, parents who are incarcerated need child support orders that reflect actual income.”<sup>24</sup> Recognizing the importance of realistic child support orders, many state agencies have made concerted efforts to assist incarcerated individuals in modifying their orders, to support these individuals during reentry, and to encourage them to actively engage with and support their children in ways that extend beyond their financial obligations.<sup>25</sup>

Yet our findings suggest that many incarcerated parents continue to accumulate tens of thousands of dollars in child support debt during and after incarceration. Although Connecticut law permits noncustodial parents to modify their child support orders upon incarceration, eligible parents are frequently unaware of this right and continue to accrue debt while incarcerated. When these parents reenter, many cannot meet their ongoing child support obligations or pay off the child support debt they accumulated while incarcerated.

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<sup>22</sup> Linda Meyer and Sarah Russell, et al., *Evidence-based Reentry Initiatives Devoted to Strengthening Positive Social Relationships: A Report Prepared for the Recidivism Reduction Committee of the Connecticut Sentencing Commission*. Draft (Sep. 4, 2012).

<sup>23</sup> See 2011 Annual Recidivism Report, State of Connecticut Office of Policy and Management.

<sup>24</sup> See <http://www.acf.hhs.gov/programs/css/resource/realistic-child-support-orders-for-incarcerated-parents>.

<sup>25</sup> See, e.g., [https://www.acf.hhs.gov/sites/default/files/programs/css/paid\\_no\\_4\\_companion.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/paid_no_4_companion.pdf).

These financial burdens produce negative consequences for the parents, the child, and the State. Custodial parents and children rarely recover the child support they are owed, while the debt makes reentry even more difficult for formerly incarcerated non-custodial parents—a population already at risk of recidivism. Individuals may feel pressure to engage in high-risk, high-reward activity to pay off their orders and may face incarceration as punishment for nonpayment of child support. Constitutionally, the State may only incarcerate individuals who refuse to pay – not those who are unable to pay – but Connecticut permits incarceration as punishment for violation of any court order. If the State is incarcerating people for poverty, its practice is unconstitutional.

This cycle of debt and incarceration is counterproductive as well as expensive. These expenses are compounded, as low child support collection rates decrease federal funding to state child support programs. Debt burdens also damage the obligors' social and familial relationships, hurting their chances at reentry and harming the best interests of the child.

Parents continue to accrue debt while incarcerated, despite the availability of modification, for several reasons. Under the current child support system, many incarcerated individuals do not receive the information they need to secure modification. The inmates who do obtain this information may not recognize the importance of filling out the paperwork because the problem feels distant while they are incarcerated. They may feel deterred by the complexity of the forms, the level of detail required to successfully complete the paperwork, and the number of procedural hurdles that must be overcome to secure modification. Those who start the process may have trouble completing every step correctly because they do not have access to legal assistance on family matters. Of those who learn about the option after incarceration, many fear appearing in court – a mandatory step in the modification process – due to the potential for arrest upon appearing. Furthermore, modification cannot be backdated. Taken together, these hurdles effectively bar incarcerated non-custodial parents from accessing the benefits of modification.

These findings suggest a link between unmodified child support orders and recidivism. While proving direct and proximate causation for recidivism is difficult, if not impossible, for any single factor, the accumulation of debt plainly adds to the challenges of reentry. Child support debt may not be the sole factor contributing to recidivism, but our findings suggest that, for many people leaving prison, this debt is one factor – and for some it is a driving factor.

In addition, the problems posed by child support debt accumulation are likely even greater than the data explored here suggests. This paper does not consider the accumulation of child support debt during the pre-trial process, nor is recent data available on the child support debt of the substantial number of inmates with sentences shorter than three years. As a result, the number of individuals affected and the amount of money involved in child support debt accumulation is likely even bigger than this report suggests.

These findings counsel action by this Committee. This Committee is uniquely positioned to drive change and mobilize key stakeholders on this significant and costly problem, which many participants in the child support system are eager to resolve.

This paper proposes several cost-effective changes that can lessen or remove the challenge for many of Connecticut's child support obligors. Automatically initiating modification proceedings, settling child support debt, providing professional support, and improving outreach to incarcerated parents might address the current shortcomings and reduce the likelihood that child support debt will trigger recidivism and produce a cycle of nonpayment and incarceration. Additional research, including data collection and interviews with individuals or agencies not represented in this report, will enhance these findings and help the Committee evaluate the authors' preliminary recommendations.

## Methodology

This project included five phases of inquiry. In the first phase, the authors examined the legal landscape of child support obligations, including the mechanisms for modification and how they have changed over time. This phase involved analyzing relevant statutes and regulations that govern how officials set, modify, and enforce child support obligations.

In the second phase, the authors reviewed literature on a broad range of topics touching this matter. Those topics included evaluations of reentry initiatives as well as factors that correlate with recidivism. The authors also sought comparative perspectives by researching whether and how other states have addressed child support debt for incarcerated individuals. Finally, we investigated literature on the best interests of children.

In the third phase of the project, the authors interviewed professionals in the child support and reentry systems. Through this phase, the authors sought to understand how the legal regime identified in the first phase operates in practice – including how it succeeds or fails in meeting its goals of setting realistic and enforceable child support orders. Interview participants included representatives from Support Enforcement Services, the Department of Corrections, Families in Crisis, the New Haven Prison Reentry Initiative, and the Delinquency Defense and Child Protection Unit of Public Defender Services. In addition, the authors interviewed two state-appointed lawyers who represent individuals facing incarceration for nonpayment of child support orders.

In the fourth phase, the authors sought empirical perspectives by collecting and analyzing data relevant to this project. This data came from two sources: (1) state agencies engaged in child support enforcement and modification, and (2) individuals who owed child support debt following incarceration. State agency data came principally from a 2007 study conducted by Support Enforcement Services (SES). The authors also looked at data SES collected in 2011,

however, that data was limited to child support obligors serving sentences of three or more years.

Because the 2007 study was conducted prior to certain administrative changes that were designed to ease the child support debt burden for incarcerated parents and because the 2011 study looked only at those with longer sentences, the authors gathered more recent data through interviews in the fifth and final phase. The authors collected personal accounts from formerly incarcerated individuals with child support debt. All of these individuals were male clients at Project Green, a program of Project MORE. Project MORE, a Connecticut-based reentry organization, works to reintegrate ex-offenders into the community and provides a variety of services to these individuals and their families. The Project Green program, which is funded by the State, helps clients build a foundation to restart their lives through a progressive program of community service, full-time employment, and ongoing counseling. The authors met with seven male clients at the New Haven facility on April 1, 2013.

A note on gender: Throughout this paper, the authors refer to the non-custodial parent owing child support in the male gender and the custodial parent owed child support in the female gender. The authors made this choice to improve the readability of the report and to recognize that the vast majority of child support obligors are men.<sup>26</sup> The authors acknowledge that not all obligors are men and that not all parents are opposite-sex couples.

## Legal Background

### Setting Child Support Orders

Title 46b of the Connecticut General Statutes codifies a child's right to parental support. That Title gives the Connecticut Superior Court authority to determine "whether a child is in need of support and, if in need, the respective abilities of the parents to provide support."<sup>27</sup> Several factors inform these determinations, including the "age, health, station, occupation, earning capacity, amount and sources of income, estate, vocational skills and employability of each of the parents, and the age, health, station, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child."<sup>28</sup>

The Connecticut General Statutes establish a Commission for Child Support Guidelines to issue child support and arrearage guidelines for the courts.<sup>29</sup> The most recent Child Support and Arrearage Guidelines became effective on August 1, 2005. The Guidelines include a worksheet

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<sup>26</sup> See <http://www.census.gov/prod/2009pubs/p60-237.pdf>.

<sup>27</sup> Conn. Gen. Stat. § 46b-56(e) (2011).

<sup>28</sup> Conn. Gen. Stat. § 46b-84(d) (2011).

<sup>29</sup> Conn. Gen. Stat. § 46b-215(a) (2011).

that takes into account each parent's gross income, taxes, insurance, and other factors.<sup>30</sup> This worksheet allows the court to calculate a net weekly income, which corresponds to a particular dollar amount of child support in the Schedule of Basic Child Support Obligations. The Schedule only covers net weekly incomes up to \$4,000. When the net weekly income exceeds that amount, courts make case-by-case determinations regarding child support obligations.

Courts may deviate from the Schedule's presumptive support amounts when they find one or more "deviation criteria."<sup>31</sup> Deviation criteria include other financial resources available to a parent that are not captured by the worksheet; extraordinary expenses for care and maintenance of the child; extraordinary parental expenses; the needs of a parent's other dependents; coordination of total family support; and other special circumstances found by the court. Only these criteria warrant departure from the presumptive support amounts, and "it is an abuse of discretion for a court to deviate from the guidelines without making these findings."<sup>32</sup>

Both the Connecticut Superior Court and family support magistrates have authority to modify and enforce orders for payment.<sup>33</sup> Family support magistrates have jurisdiction over cases in which a party is receiving public assistance or in which a party has asked for state assistance in collecting child support. These are known as IV-D cases.<sup>34</sup>

Either party may appeal a child support order by filing Form JD-FM-111 ("Appeal from Family Support Magistrate") with the court or magistrate that rendered the original order.<sup>35</sup> They must also submit a Petition that explains the grounds for the appeal. The appeal must be filed within 14 days of the original order. The original order is effective until the appeal is decided, but the order issued pursuant to appeal may be retroactive to the date of the original order.

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<sup>30</sup> Conn. Agencies Regs. § 46b-215a-2b (2005).

<sup>31</sup> Conn. Agencies Regs. § 46b-215a-3 (2005).

<sup>32</sup> *Wallbeoff v. Wallbeoff*, 965 A.2d 571, 574 (Conn. Super. Ct. 2009) (citing *Unkelbach v. McNary*, 710 A.2d 717, 726-27 (Conn. Super. Ct. 1998)).

<sup>33</sup> Conn. Gen. Stat. § 46b-215(a)(1) (2011).

<sup>34</sup> Conn. Gen. Stat. § 46b-231 (2011).

<sup>35</sup> Conn. Gen. Stat. § 46b-231(n) (2011).

## Modifying Child Support Orders

If a party to a child support order demonstrates a substantial change in the circumstances<sup>36</sup> of either party, that party may ask the court to modify the order.<sup>37</sup> Modifying a child support order is different than appealing an order, which is discussed above. Parties may start modification proceedings on their own or by asking Support Enforcement Services (SES) to prepare and serve the court forms.<sup>38</sup> Modification requires the following steps<sup>39</sup>:

1. File a Motion for Modification (JD-FM-174)
2. File an Appearance (JD-CL-12)
3. Go to the Superior Court Clerk's office to get the Motion for Modification signed
4. Serve papers on other party by a State Marshal (includes a fee)
5. If applicable, apply for Waiver of Fees/Appointment of Counsel Family (JD-FM-75), which requires an outline of assets, monthly income, expenses, liabilities and debts
6. Complete a Financial Affidavit at least 5 days before hearing date, which requires information regarding weekly income and expenses, liabilities/debts, and assets
7. Appear at the hearing
8. On the date of the hearing, complete an Affidavit Concerning Children (JD-FM-164), which requires residence information for the past five years for each child affected by the case and information about previous family violence/protective orders/termination of parental rights/adoption proceedings with the children
9. On the date of the hearing, complete a Worksheet for the CT Child Support and Arrearage Guidelines (CCSG-1, JD-FM-220), which requires details of the current arrangement and financial data from both parents, including gross income, taxes, health premiums, life insurance, union fees, mandatory uniforms and tools; net disposable income; unreimbursed medical expenses; child care contribution; arrearage payments; deviation criteria
10. On the date of the hearing, complete an Advisement of Rights Re: Income Withholding (JD-FM-71)

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<sup>36</sup> Changes in circumstances include changes in incarceration status, Conn. Gen. Stat. § 46b-215e (2006), and changes in custody, Conn. Gen. Stat. § 46b-224 (2007).

<sup>37</sup> Conn. Gen. Stat. § 46b-86(a) (2011).

<sup>38</sup> SES is a part of the Connecticut Judicial Branch. It administers Connecticut's IV-D program. If the party has a IV-D case, he may ask SES to look into whether modification would be appropriate. SES would then prepare the court forms on behalf of that party and inform the party of the hearing date. *Support Enforcement Services Frequently Asked Questions*, STATE OF CONNECTICUT JUDICIAL BRANCH (Feb. 9, 2013), [http://www.jud.ct.gov/childsupport/faq\\_eng.htm#1](http://www.jud.ct.gov/childsupport/faq_eng.htm#1). See also Conn. Gen. Stat. § 52-362a-j (2011). Parties seeking the modification must attend the hearing. *Child Support Resource Center*, DEPARTMENT OF SOCIAL SERVICES (Feb. 9, 2013), <http://www.ct.gov/dss/cwp/view.asp?Q=305184&a=2353>. See also Conn. R. Super. Ct. Fam. §§ 25A-18, 25-26.

<sup>39</sup> See <http://www.jud.ct.gov/forms/grouped/family/modification.htm>.

If a court finds that modification is appropriate, it may make the modification retroactive to when the motion was served, but not earlier.<sup>40</sup> The modification process does not allow for changes to be retroactive to the date the relevant change in circumstances occurred.

The statutory scheme specifically addresses downward adjustment of child support obligations for institutionalized or incarcerated parties.<sup>41</sup> It authorizes downward adjustment based on the party's present income and assets unless the adjustment is based solely on a loss of income by a party who "is institutionalized or incarcerated for an offense *against the custodial party or the child* subject to such support order."<sup>42</sup>

## Enforcing Child Support Orders

The Connecticut General Statutes provide avenues for custodial parents and the State to enforce child support obligations with and without court intervention. Enforcement mechanisms that do not require going to court include automatic offsets of back support against the noncustodial parent's income tax returns,<sup>43</sup> reporting of arrears to credit reporting agencies,<sup>44</sup> and liens against property.<sup>45</sup> In-court enforcement mechanisms include withholding income from the noncustodial parent,<sup>46</sup> suspending his license(s) (driving, professional, occupational, and recreational licenses are subject to suspension),<sup>47</sup> and finding him to be in contempt of court.<sup>48</sup> A non-custodial parent found to be in contempt may be ordered to pay a sum of money, and may be imprisoned for up to a year upon failure to make payment.<sup>49</sup>

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<sup>40</sup> *Cannon v. Cannon*, 953 A.2d 694 (Conn. Super. Ct. 2008); Conn. Gen. Stat. § 46b-86(a) (2011).

<sup>41</sup> The statute reads as follows:

Notwithstanding any provision of the general statutes, whenever a child support obligor is institutionalized or incarcerated, the Superior Court or a family support magistrate shall establish an initial order for current support, or modify an existing order for current support, upon proper motion, based upon the obligor's present income and substantial assets, if any, in accordance with the child support guidelines established pursuant to section 46b-215a. Downward modification of an existing support order based solely on a loss of income due to incarceration or institutionalization shall not be granted in the case of a child support obligor who is incarcerated or institutionalized for an offense against the custodial party or the child subject to such support order.

<sup>42</sup> Conn. Gen. Stat. § 46b-215e (2011) (emphasis added).

<sup>43</sup> If amount in arrears exceeds \$500, or \$150 if custodial parent receives public assistance. Conn. Agencies Regs. § 52-362e-3 (2005).

<sup>44</sup> If amount in arrears exceeds \$1,000. Conn. Agencies Regs. § 52-362d-3 (2005).

<sup>45</sup> In IV-D cases, past due amounts of more than \$500 may be collected through liens on property. If a non IV-D case, liens must be pursued through private action. Conn. Agencies Regs. § 52-362d-2 (2005).

<sup>46</sup> Conn. Gen. Stat. § 52-362 (2005).

<sup>47</sup> Conn. Gen. Stat. § 46b-220 (2005).

<sup>48</sup> *Stoner v. Stoner*, 307 A.2d 146 (Conn. Super. Ct. 1972).

<sup>49</sup> Conn. Gen. Stat. § 53-304(a) (2005).



To secure a contempt order, custodial parents may file an Application for Contempt Order, Income Withholding and/or Other Relief (Form JD-FM-15), *pro se* or with the assistance of an attorney. Parties with IV-D cases may ask the SES Unit for assistance. The court may “deny a claim for contempt when there is an adequate factual basis to explain the failure to honor the court’s order.”<sup>50</sup>

## Findings

### **Connecticut Support Enforcement Services Has Made Significant Efforts to Improve Inmate Access to Modification.**

The current child support statute is the result of 2003 legislation aimed at establishing support orders based upon actual earnings – a clear step toward Connecticut’s goal of setting realistic child support orders. Patricia Wilson-Coker, Commissioner of the Department of Social Services in 2003, stated the purpose of the law was to “avoid the accrual of large uncollectible arrearage amounts and to remove the psychological hurdle of large . . . usually hopeless, debt from the parent’s future.”<sup>51</sup> Such modification is also in line with federal initiatives that support state efforts to establish and maintain child support orders commensurate with current income.<sup>52</sup>

Support Enforcement Services (SES) was able to empirically investigate whether the law was accomplishing its goal for incarcerated parents after the Department of Corrections (DOC) began sharing its data with SES. In 2007, SES assessed how many individuals who owed child support had been or were incarcerated, and whether incarceration had any impact on payment rates.

The SES study found that 40% of non-custodial parents who owed child support had been or were incarcerated. SES also found that such parents were less likely to meet their orders. SES was able to collect payments from only 36% of such noncustodial parents, compared to 68% of parents who had never been incarcerated. In addition, the study discovered that more than 50% of previously or currently incarcerated parents had made no payments on their child support orders.<sup>53</sup>

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<sup>50</sup> *Marcil v. Marcil*, 494 A.2d 620, 622 (Conn. Super. Ct. 1985).

<sup>51</sup> Connecticut Human Services Committee Transcript from 3/11/2003, Testimony on H.B. 6517, codified as Conn. Gen. Stat. § 46b-215e.

<sup>52</sup> Project to Avoid Increasing Delinquencies, Office of Child Support Enforcement, Administration for Children & Families, U.S. Department of Health and Human Services, “Realistic Child Support Orders for Incarcerated Parents,” June 2012.

<sup>53</sup> Support Enforcement Services, “2007 Internal Self-Assessment Report Statewide ‘Crime Doesn’t Pay,’” Oct. 2007.

In 2006, Support Enforcement Services (SES) also increased efforts to alert incarcerated individuals about their modification rights through a targeted letter initiative. SES outreach now includes disseminating information about debt modification in correctional facilities, sending targeted letters to incarcerated parents, and presenting at reentry fairs.

1. **Disseminating information.** Upon entering the prison system, inmates should receive a packet of information from SES. Included in this packet is a trifold brochure informing inmates of their right to seek modification of their child support order.<sup>54</sup> The brochure includes contact information for SES and information on how to seek modification.
2. **Sending targeted letters.** SES also conducts a data match with DOC to identify incarcerated individuals with outstanding child support orders who have two or more years remaining on their sentence.<sup>55</sup> Twice each year, SES sends these individuals a plain language “outreach letter” informing them of their right to seek modification. Included in each outreach letter is an individualized modification form (in English and Spanish). Incarcerated parents need only enter their name and current income – the form comes preloaded with the other necessary information.

To secure modification, incarcerated parents must complete the form, submit the form, and attend a court hearing. Most courts allow incarcerated individuals to appear via video conferencing. Preloaded forms and video hearings are the results of concerted efforts by SES and DOC to make the modification process simpler for, and more accessible to, incarcerated individuals.

SES studies indicate that many inmates eligible for the letters take advantage of them. According to an internal SES study conducted in 2011, 1,909 inmates received outreach letters from February 2006 through March 2011. Of these inmates, 1,322 returned modification requests. This represents a 69% response rate. Furthermore, of the 1,322 cases in which inmates requested modification, 77% – over 1,000 cases – resulted in a nominal or zero order.<sup>56</sup>

3. **Presenting at reentry fairs.** SES also attends reentry fairs to speak with inmates about their child support obligations and to inform them of their modification rights and options.

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<sup>54</sup> The brochure is available at <http://www.ct.gov/doc/lib/doc/pdf/childsupportinfo.pdf>.

<sup>55</sup> According to Ms. Panke, the two-year limit stems from concerns that an incarcerated individual with a shorter sentence will seek modification while in prison, but will then fail to have his order modified when he leaves, resulting in inappropriately low support orders. This worry is addressed in the automatic initiation of modification preliminary recommendation.

<sup>56</sup> At the time of this study, the time remaining on incarceration requirement was three years. Since the study, SES has shorted the requirement to two years.

## **Despite Efforts by SES, Non-Custodial Parents Leave Prison with Thousands of Dollars in Child Support Debt.**

### **Many inmates remain unaware of their modification rights.**

Despite SES and DOC efforts, many incarcerated individuals remain unaware of their right to seek modification. Of the seven recently-released individuals interviewed for this report, only one knew he had the right to seek modification upon incarceration. None of them recalled receiving information during intake regarding modification rights.

Susan Quinlan, Executive Director of Families in Crisis, a Connecticut-based reentry organization, identifies this as a timing and prioritization problem. Ms. Quinlan commented that while agencies believe they are doing their part through outreach campaigns aimed at informing people of modification options, incarcerated people may be overwhelmed while in prison, and therefore unlikely to think about the arrears at first (or at all). In her experience of working with incarcerated and reentering parents, they confront the debt when they get out, at which point it is too late for them to alter that debt. Ms. Quinlan described child support debt as creating a legitimate barrier to employment, since as soon as reentering parents get a legitimate job, their pay is garnished at a predetermined rate. Such heavy wage garnishment may leave them destitute and decrease their incentive to work.<sup>57</sup>

### **As a result, inmates with child support orders accumulate substantial debt.**

Even with the 2003 statute enabling downward modification of child support orders upon incarceration, previously or currently incarcerated parents continued to face an average of \$17,340 in child support debt in 2007.<sup>58</sup> While the SES outreach letter initiative may have decreased this number since 2007, interviews show that practitioners familiar with the system and individuals affected by it continue to see high debts upon release from incarceration.

Of the four Project Green clients who shared personal financial information, two have debts approaching \$35,000. Eric Rey, Coordinator for the New Haven Prison Reentry Initiative, reported working with clients who face as much as \$45,000 in debt.<sup>59</sup> Laureen Vitale, a state-appointed lawyer who represents clients facing prison time for nonpayment of child support orders, recounted representing clients with debts that range from \$2,000 to \$110,000.<sup>60</sup> In addition, a 2011 SES study found that 126 inmates who did not respond to their targeted letters will have collectively accumulated more than \$3 million in child support debt over their period

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<sup>57</sup> Interview with Susan Quinlan, Executive Director, Families in Crisis, March 25, 2013.

<sup>58</sup> Support Enforcement Services, “‘Problem Solving’ Child Support and Incarceration” presentation, Jan. 26, 2010, slide 15.

<sup>59</sup> Interview with Eric Rey, Coordinator for the New Haven Prison Reentry Initiative, March 25, 2013.

<sup>60</sup> Interview with Laureen Vitale, state-appointed attorney for individuals facing contempt of court charges for nonpayment of child support, April 17, 2013.

of incarceration – an average of nearly \$24,000 in debt per person – if their orders remain unmodified.<sup>61</sup>

These large debts impact a substantial portion of Connecticut's incarcerated population.<sup>62</sup> According to a 2007 SES study, 3,016 of the State's 18,902 inmates were behind on child support payments.<sup>63</sup> In other words, 16% of Connecticut's incarcerated population in 2007 had child support debt.<sup>64</sup> According to an internal study, the SES outreach letter initiative resulted in downwardly modified orders for approximately 1,000 incarcerated individuals from February 2006 through March 2011. Assuming that the number of individuals with child support debt in 2007 was representative of the 2011 population, even with these efforts, approximately 2,000 incarcerated individuals continued to accumulate child support debt. In addition, the 1,000 incarcerated individuals who decreased their orders going forward did not see any change in their existing debt as a result.

### **Many of These Parents Are Unable to Meet Their Child Support Obligations During and After Incarceration.**

According to 2007 data from SES, the average currently or formerly incarcerated non-custodial parent who owes child support is a 37 year-old man with 1.5 minor children. He has been or will be incarcerated 4 times.<sup>65</sup> His support order is \$70 per week.

While incarcerated, he will be earning \$0.75-\$1.75/day.<sup>66</sup> If he earns the daily maximum and works 365 days/year, he will make \$638.75, but will accumulate a child support debt of \$3,380 over the same period, leaving him with an additional debt of nearly \$2,750 per year.

When he is released from prison, he will be unlikely to find a job immediately. Instead, he will rely on unemployment, the most common source of income for non-custodial parents who owe child support debt. If he is able to find work, it will likely be low-wage or minimum-wage work with the Social Security Administration, state or local government, Yale, Walmart, UPS, or

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<sup>61</sup> Support Enforcement Services "Inmate Modification Outreach Project" April 2011, p. 8.

<sup>62</sup> This analysis does not include individuals in the pre-trial phase, though they likely face similar challenges. The absence of data on these individuals suggests that unrealistic child support orders may burden an even larger population than what is captured by the State's most recent studies. Addressing child support orders and debt for those in the pre-trial phase would likely require a separate study and may lead to additional policy recommendations.

<sup>63</sup> Available at <http://www.ct.gov/doc/cwp/view.asp?a=1505&q=330332>.

<sup>64</sup> An additional 23,465 of the non-custodial parents who owed child support debt at the time of the SES study had been incarcerated previously. Of all non-custodial parents who owed child support debt, 40% were or had been in prison.

<sup>65</sup> Support Enforcement Services, "'Problem Solving' Child Support and Incarceration" presentation, Jan. 26, 2010, slide 15.

<sup>66</sup> See <http://www.cga.ct.gov/2011/rpt/2011-R-0191.htm>.

Dunkin' Donuts.<sup>67</sup> These jobs likely pay minimum wage, and are therefore unlikely to provide a substantial salary.<sup>68</sup> As a result, meeting his \$70 per week obligation in current support, in addition to any arrearages and living expenses, will be nearly impossible even once he is out of prison.

Collection data reflects this reality. SES's 2007 study found that more than 50% of non-custodial parents who had child support debt and had been or were incarcerated had made no payments on their orders.<sup>69</sup> As Joseph Auger, a state-appointed attorney who represents individuals in contempt for nonpayment hearings, explains, from the perspective of his clients their debt level does not determine how much money the State can collect. Rather, the State can only collect as much as the individuals can pay.

### **The Current Approach to Modification Presents Several Shortcomings.**

#### ***This Child Support Debt Carries Negative Consequences for the Parents, the Child, and the State.***

The high debt that results from such unrealistic child support orders poses serious problems for the custodial parent, the child, the State, and the incarcerated non-custodial parent. Though one goal of the system is and should be to support the custodial parent and child,<sup>70</sup> today's approach fails to accomplish this goal. Instead, because currently and formerly incarcerated individuals retain unrealistic orders, very little money flows to the custodial parent and child; the non-custodial parent continues to owe significant sums, which the State must then expend resources to collect; and the non-custodial parent is more likely to face reincarceration because of the pressure high debt places on individuals to join the underground economy and because the State can punish nonpayment with incarceration.

#### ***The custodial parent and the child rarely recover the child support owed.***

At every level of child support order – from \$0-25/week to more than \$150/week—the State collects less of the money owed by parents who have been or are in prison than it does from those who have not. Across all levels, the collection rate in 2007 for those with a criminal offense was 36%, which was 32 percentage points lower than the collection rate for those who

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<sup>67</sup> Support Enforcement Services, "2007 Internal Self-Assessment Report Statewide 'Crime Doesn't Pay,'" Oct. 2007, p. 4.

<sup>68</sup> A full time minimum wage worker in Connecticut working 40 hours a week, 52 weeks a year, will earn \$66 per day, \$330 per week, and \$17,160 per year.

<sup>69</sup> Support Enforcement Services, "2007 Internal Self-Assessment Report Statewide 'Crime Doesn't Pay,'" Oct. 2007, p. 5.

<sup>70</sup> The Department of Social Services website explains, "The goal of the Child Support Enforcement Program is to improve the self-sufficiency of families through increased financial and medical support." See <http://www.ct.gov/dss/cwp/view.asp?a=2353&q=305184>.

have never been incarcerated.<sup>71</sup> An individual who has been involved with DOC is more than twice as likely to not pay any current support.<sup>72</sup> In other words, few custodial parents and children are receiving child support payments from non-custodial parents who have been or are in prison.

This results in significant uncollectible child support obligations for the State. The 2007 SES Report found that, with 3,000 incarcerated individuals owing an average of about \$64 per week and serving an average sentence of more than four and a half years, the State will be unable to collect almost \$10 million per year in child support – the equivalent of 1.6% of the State’s 2013 DOC budget.<sup>73</sup>

Not only does collecting this debt require the use of additional state resources, but it may also decrease federal incentive funding for the State program, which is determined in part by the amount of child support orders collected.<sup>74</sup> In addition, the State bears the costs of incarcerating an individual for nonpayment of child support debt and of providing counsel for indigent defendants in contempt hearings.<sup>75</sup>

### *The child support debt increases the likelihood of recidivism and reincarceration.*

The current system also makes recidivism more likely. Child support debt may lead formerly incarcerated parents back to prison, both because debt obligations place pressure on them to join the underground economy and because the State can punish failure to meet those obligations with incarceration.<sup>76</sup>

In fact, nearly three-quarters of non-custodial parents who owe child support and have been incarcerated will go back to prison.<sup>77</sup> The average non-custodial parent owing child support will

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<sup>71</sup> Support Enforcement Services, “2007 Internal Self-Assessment Report Statewide ‘Crime Doesn’t Pay,’” Oct. 2007, p. 2.

<sup>72</sup> Ibid, p. 3.

<sup>73</sup> Connecticut Office of Policy and Management, “Connecticut FY 2014-FY 2015 Biennium Governor’s Budget Summary,” Section B, p. 114.

<sup>74</sup> See Social Security Act §458(b)(4), available at [http://www.ssa.gov/OP\\_Home/ssact/title04/0458.htm](http://www.ssa.gov/OP_Home/ssact/title04/0458.htm).

<sup>75</sup> Federal funding is not available for defendants in child support cases. See <https://www.acf.hhs.gov/programs/css/resource/prohibition-of-ffp-for-incarceration-counsel-for-absent-parents-final-rule>.

<sup>76</sup> Interview with Susan Quinlan, Executive Director, Families in Crisis, March 25, 2013; Interviews with Project Green clients, April 1, 2013.

<sup>77</sup> Though the SES 2007 assessment (see footnote below) that provides this number does not specify the time period for this recidivism rate, this number suggests that recidivism may be higher for individuals with child support debt than for those without children or child support debt. For example, in the same year that the SES study was conducted, the Office of Policy Management found that 47% of those who were released without supervision were re-convicted of a crime in less than one year (Support Enforcement Services, “‘Problem Solving’ Child Support and Incarceration” presentation, Jan. 26, 2010, slide 12).

return to prison more than four times, with child support obligations mounting during each period of incarceration if he cannot secure modification.<sup>78</sup>

The experience of attorneys reflects this reality: Ms. Vitale estimates that 85% of her clients have been involved in the prison system before their contempt hearings.<sup>79</sup> Mr. Auger estimates that more than half of his clients have previously been in prison.<sup>80</sup>

### **High debt pressures ex-offenders to join the underground economy.**

Faced with high levels of debt, formerly incarcerated non-custodial parents feel pressure to engage in high-risk, high-reward activity that is often illegal. One Project Green client explained that many people with child support debt perceive two options: “construction or selling drugs, the only way[s] to make over twenty bucks per hour.” Another Project Green client recalled feeling the pressure directly. After being released, he worked more than 80 hours per week at two jobs but took home less than \$90 per week because money was taken out of his wages to pay for child support. His employment began to feel hopeless and pointless. Mr. Rey has seen his clients confront the same problem, explaining that for his clients, this level of child support debt makes it very hard to “do the right thing” because it pressures men to go into the underground economy.

Many non-custodial parents face additional barriers upon reentry that add to the difficulties of finding a job. For example, 40% of formerly incarcerated people in Connecticut have not completed high school.<sup>81</sup> Across the United States, 80% of inmates have substance abuse issues. The rates of serious mental illness among the inmate population are two to four times those of the non-inmate population.<sup>82</sup> And, as one Project Green client explained, a criminal record itself poses a serious obstacle. Because formerly incarcerated individuals have to wait five to seven years for expungement, they experience difficulty securing and keeping a job that will allow them to repay their child support debt or to meet their current orders.

Project Green clients explained that the pressure they felt to get money as quickly as possible came not only from the custodial parent, but also from the court. They said that judges at their nonpayment hearings had instructed them to come up with money in any conceivable way and demanded large sums the day of the court appearance. “Everything’s about paying today,” one

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<sup>78</sup> Support Enforcement Services “2007 Internal Self-Assessment Report Statewide ‘Crime Doesn’t Pay,’” Oct. 2007, p. 7.

<sup>79</sup> Interview with Laureen Vitale, state-appointed attorney for individuals facing contempt of court charges for nonpayment of child support, April 17, 2013.

<sup>80</sup> Interview with Joseph Auger, state-appointed attorney for individuals facing contempt of court charges for nonpayment of child support, April 17, 2013.

<sup>81</sup> Support Enforcement Services, “‘Problem Solving’ Child Support and Incarceration” presentation, Jan. 26, 2010, slide 13.

<sup>82</sup> Ibid.

Project Green client explained. This orientation by the court caused some Project Green clients to avoid the judicial system altogether, and others felt pressure to secure funding illicitly.

### **Parents can also face imprisonment as punishment for nonpayment.**

Nonpayment itself can also lead to re-incarceration. The United States Supreme Court has held that the government can only punish debtors who have the ability pay their debt but are refusing to do so.<sup>83</sup> However, most states, including Connecticut, permit incarceration for any individual who violates a court order.<sup>84</sup> This includes child support orders. Therefore, parents who owe court-ordered child support debt may be incarcerated as punishment for nonpayment under a contempt of court charge.

Though “it is well settled that the ‘inability of [a] defendant to obey an order of the court, without fault on his part, is a good defense to the charge of contempt,’”<sup>85</sup> interviews suggest that indigent individuals believe they can be imprisoned for nonpayment.<sup>86</sup> As one Project Green client noted when asked how child support differs from other types of debt he faces, “You can go to prison for [it].”

When an indigent individual is charged with contempt for nonpayment of child support, the State appoints him a lawyer. Ms. Vitale and Mr. Auger are two of four such lawyers in New Haven. Mr. Auger estimates that he handles 200 to 250 contempt for nonpayment of child support cases per year, while Ms. Vitale has a current caseload of 150 such contempt cases. On the day we met, Ms. Vitale had argued seven cases and received three new ones.<sup>87</sup>

Although Ms. Vitale and Mr. Auger agree that the hearings have become more sensitive to their clients, they continue to see injustice. According to Ms. Vitale, the saddest stories come from those clients who find a job after months of trying and agree to work for a week without pay as

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<sup>83</sup> *Bearden v. Georgia*, 461 U.S. 660 (1983).

<sup>84</sup> They can also face federal criminal charges for nonpayment under statutes enacted in 1992 and 1998, enforced by Project Save Our Children. Congressional Research Service, “Child Support Enforcement: Incarceration As the Last Resort Penalty For Nonpayment of Support,” March 2012, p. 12.

<sup>85</sup> *Afkari-Ahmadi v. Fotovat-Ahmadi*, 294 Conn. 384, 398 (2009) (quoting *Bryant v. Bryant*, 228 Conn. 630 (1994)).

<sup>86</sup> Interviews with Project Green clients, April 1, 2013. Though none had jobs, the clients feared arrest and imprisonment for nonpayment.

<sup>87</sup> Ms. Vitale estimated that approximately three-quarters of her hearings focused on showing the magistrate the steps her client had taken to improve his case—whether by paying some of his order, attending GED classes, or reaching out to community groups—and scheduling a date for repeat hearings until her client finds a job. In the other quarter of cases, however, prison is a real possibility.



part of the employment arrangement. She has seen such clients sentenced to prison at their contempt hearings and losing their new jobs as a result.<sup>88</sup>

Mr. Rey has lost a number of reentry clients to prison as a result of nonpayment. Mr. Rey estimated that out of a caseload of 100 people, 90 will be men, 25 of whom have child support orders.<sup>89</sup> He said he might lose as many as 10 to prison for nonpayment – and emphasized that this number is taking into account the help he provides to increase the odds that they will stay out of prison.<sup>90</sup> Thus, even with the benefits of state assistance, many individuals end up in prison for nonpayment.

Of those who owed child support debt in 2007, more than 2,800 individuals had been incarcerated specifically for nonpayment of child support debt. DOC estimates the daily cost of incarcerating each inmate to be \$93.29.<sup>91</sup> This means that Connecticut residents paid approximately \$270,000 per day to incarcerate those non-custodial parents for non-payment. In addition, taxpayers paid for the representation of indigent parents in their contempt hearings.

Connecticut residents also pay societal costs when the child support system drives obligors to recidivism. Beyond the costs associated with enforcement and incarceration, residents can experience physical, psychological, and economic harm when obligors recidivate.<sup>92</sup>

Not only does recidivism hurt society overall, it also creates an additional perverse outcome in the child support context: if the incarcerated individual has not modified his order, the debt will continue to accumulate while he is in prison, creating a vicious cycle of debt and imprisonment. This system, as currently enforced, undermines Governor Malloy's top goals for the State's justice system: reducing crime and maximizing efficiency.<sup>93</sup> Large uncollectible child support debts feed crime rates and clog the court system, the enforcement agencies, and the prisons.

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<sup>88</sup> Interview with Laureen Vitale, state-appointed attorney for individuals facing contempt of court charges for nonpayment of child support, April 17, 2013.

<sup>89</sup> Interview with Eric Rey, New Haven Prison Reentry Initiative, March 25, 2013.

<sup>90</sup> Ibid.

<sup>91</sup> Connecticut Department of Corrections, 2011 Annual Report, p. 1.

<sup>92</sup> Linda Meyer and Sarah Russell, et al., *Evidence-based Reentry Initiatives Devoted to Strengthening Positive Social Relationships: A Report Prepared for the Recidivism Reduction Committee of the Connecticut Sentencing Commission*, pp. 10-11. Draft (Sep. 4, 2012).

<sup>93</sup> See 2011 Annual Recidivism Report, State of Connecticut Office of Policy and Management.

### *Debt burdens damage relationships, harming the best interests of the child.*

Debt burdens can also force distance between the noncustodial parent and his family members, including his child.<sup>94</sup> Yet strong relationships – including positive familial and social ties – have been identified by this Committee as factors that can reduce recidivism.<sup>95</sup> The federal Office of Child Support Enforcement has found that “for child support to be a reliable source of income for children, parents who are incarcerated need child support orders that reflect actual income.”<sup>96</sup>

Not only does this hurt the noncustodial parent’s chance of successful reentry, but it may also lower his expectations of himself as a father, which in turn hurts his child. In direct contradiction to the goals of Connecticut’s Fatherhood Initiative, child support debt often leads former inmates to resist seeing their children and encourages them to diminish their conception of what being a father means.<sup>97</sup> Mr. Auger explained that about a third of his clients conceptualize being a father as only having to pay money, not actually engaging with their children. Ms. Vitale and Mr. Rey observed a similar phenomenon, noting that their clients can get discouraged from pursuing a relationship with their children when they fail to pay their orders.

This can have serious consequences for the child. As one study explains, “Children of incarcerated parents may fear that they have been abandoned, that relationships with significant others are not reliable, or that they cannot count on being taken care of.” This effect is likely to increase if the father continues not to see his child once he is out of prison but ostensibly has more choice. The study goes on to say that “the National Center on Fathers and Families reports that ‘children with absent fathers are at greater risk than those whose fathers are present for teen pregnancy, drug use, poor grades, incarceration, and suicide....’”<sup>98</sup> Thus, a father’s absence – which becomes more likely when high debt stands between him and his child – can seriously hurt his child’s life outcomes.

The current child support system can also negatively affect the relationship between the parents. Project Green clients reported that the system often pitted them against their child’s

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<sup>94</sup> One Project Green client, who recently turned 18, discussed the effect of child support debt on his other family relationships. He spoke of the stress that his mother has faced as a result of trying to help him pay off his debt.

<sup>95</sup> State of Connecticut Sentencing Commission Annual Report, 2012, pp. 7-8.

<sup>96</sup> See [https://www.acf.hhs.gov/sites/default/files/ocse/realistic\\_child\\_support\\_orders\\_for\\_incarcerated\\_parents.pdf](https://www.acf.hhs.gov/sites/default/files/ocse/realistic_child_support_orders_for_incarcerated_parents.pdf)

<sup>97</sup> Project to Avoid Delinquencies, Office of Child Support Enforcement, Administration for Children & Families, U.S. Department of Health and Human Services, “Realistic Child Support Orders for Incarcerated Parents,” June 2012, p. 1.

<sup>98</sup> Technical Assistance Resource Center of the Annie E. Casey Foundation, “Reentry: Helping Former Prisoners Return to Communities,” 2005, p.45, quoting Nation Center on Fathers and Families, “Constructing and Coping with Incarceration and Family: Perspectives from the Field,” 2001.

custodial parent.<sup>99</sup> The clients explained that the debt becomes a particularly active issue when their relationship with the custodial parent is strained; threats concerning child support and the initiation of court proceedings were often used as a tool in their disagreements.<sup>100</sup> Such tension can have negative consequences for both the noncustodial parent and the child.

### **Inmates are not receiving the information they need to secure modification.**

None of the Project Green clients with active child support orders knew they could request modification upon incarceration. Similarly, very few of Ms. Vitale's clients knew about the modification option before she began working with them. Mr. Rey and Ms. Quinlan also identified this information problem among the clients they serve.

Mr. Rey and Ms. Quinlan believe this is partly because child support orders are not an immediate concern for inmates: often, the impact of child support debt on reentry is not apparent or important to inmates at the time of intake. The SES modification information sheet distributed in DOC intake packets largely goes unnoticed, and the majority of inmates are never made aware of their right to seek modification through other channels.

This can be particularly detrimental for older individuals, who might rely on an outdated understanding of modification options. Mr. Auger explains that some of his older clients do not know that the law has changes to allow downward modification.

Of the few inmates Mr. Auger has seen who were aware of the possibility of modification, few were aware of how to correctly complete each necessary step. Inmate Legal Assistance Program, which provides legal services to incarcerated individuals, does not help men with family law matters. As a result, incarcerated men do not have access to attorneys who can explain their modification rights to them and help them through the onerous process. Mr. Auger noted that if individuals do not fill out the complex modification application forms exactly right while they are incarcerated, their orders will not change; by the time they get out and can more easily access legal assistance, they may no longer meet the criteria to modify their orders.

### **Formerly incarcerated individuals are fearful of appearing in Child Support Court.**

Even if they were aware of their child support rights, formerly incarcerated individuals may not seek modification if the process required them to appear in Child Support Court for fear of getting arrested for nonpayment while there.

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<sup>99</sup> Mr. Rey noted similar dynamics in his clients' experiences. Interview with Eric Rey, Coordinator for the New Haven Prison Reentry Initiative, March 25, 2013.

<sup>100</sup> Interviews with Project Green clients, April 1, 2013.

Owing child support debt is an arrestable offense, as explained above. Thus, presenting oneself before a magistrate carries both real and perceived risk. That risk is compounded by the fact that parents seeking modification do not have a right to counsel and many current and formerly incarcerated individuals do not have a full understanding of the law and processes of child support. As a result, although the law is clear that incarceration is grounds for modification and that inmates are entitled to orders that reflect their actual income and assets, many individuals conclude that the risk of punishment for nonpayment outweighs the possible benefits of modification.

In addition, even if the formerly incarcerated individuals do come to court, the result may not be a modified order. As Ms. Panke explained, the court result is a “wild card.” A formerly incarcerated individual’s choice not to come to court may be the result of a rational weighing of the cost of potential arrest versus the benefit of potential modification.

## **Preliminary Recommendations**

### **Initiate Modification Proceedings Upon Incarceration.**

The State could automatically initiate modification proceedings upon incarceration, either through SES or at an individual’s sentencing hearing. This would not require any legislative action. Instead, it would utilize existing DOC data-matching programs that SES already uses to identify incarcerated individuals with outstanding child support orders.<sup>101</sup> A Modification Form would be filled out on their behalf once they were identified. This measure would only start the modification process. Individuals would still need to attend a court hearing and meet current requirements to secure modification.

Automatically initiated proceedings would allow fuller execution of the law by giving both the individual and the court maximum flexibility to determine the appropriate timing and amount of downward modification. It would accomplish the policy goal of setting realistic orders because it could stop the arrearage clock at the date of incarceration. Currently, Connecticut law allows modification orders to be backdated to the date the motion for modification was served, but not before.<sup>102</sup> Thus, individuals continue to accrue debt at pre-incarceration levels until they initiate modification proceedings. Automatic initiation upon incarceration, on the other hand, would preserve the individual’s right to seek modification of debt accrued during incarceration even if he does not immediately pursue modification proceedings on his own. This option would also give courts the greatest flexibility in implementing child support orders based on an individual’s actual income and assets, in accordance with the statute, by enabling them to take account of the individual’s incarceration history.

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<sup>101</sup> Public Service and Trust Commission, “Problem Solving In Family Matters, 2009 Interim Report,” p. 11.

<sup>102</sup> *Cannon v. Cannon*, 953 A.2d 694 (Conn. Super. Ct. 2008); Conn. Gen. Stat. § 46b-86(a) (2011).

Automatically initiated modification proceedings would also combat the information problem by bringing individuals into the modification process upon incarceration. Incarcerated individuals would learn about the modification option because they would automatically be input into the process. Automatic initiation would also give inmates more faith in the system – both the child support system and the broader legal system – because it would serve as clear evidence of the State’s goals of setting realistic orders and fostering reentry.

After the individual was released from incarceration, modification proceedings could again be initiated automatically – this time for upward modification. Ideally, the State would include a buffer period to allow time for the individual to get a job before this second modification. Colorado and Oregon modify the orders of released individuals back to pre-incarceration levels 60 or 90 days after release without a hearing.<sup>103</sup>

If the individual’s post-release wages differed from his previous income, he could go through the modification process to modify the automatic order. Ms. Quinlan suggested automatic modification as a possible solution to the information problem, and SES recommended a process that would reinstate an order to pre-incarceration levels after the individual’s release. This recommendation recognizes both suggestions.

One way to accomplish automatic initiation is to address modification during the individual’s sentencing hearing. The District of Columbia recently enacted legislation mandating that the court inform individuals of their modification rights during sentencing.<sup>104</sup> The D.C. law also requires the court to give individuals the opportunity to fill out modification forms during their sentencing hearing. This method of delivering information guarantees that everyone entering the prison system is informed of their modification rights and that they have the opportunity and the means to start the modification process.<sup>105</sup>

An alternative to automatically initiated proceedings would be a presumption of modification upon incarceration. Los Angeles County has developed a “passive” expedited modification process in which modification due to incarceration is granted unless one of the parents objects.<sup>106</sup> The availability of a hearing assures that cases warranting individualized consideration due to unique circumstances can be decided on a case-by-case basis. Connecticut could adopt a similar system, though this option may require legislative action.

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<sup>103</sup> See [https://www.acf.hhs.gov/sites/default/files/programs/css/working\\_with\\_incarcerated\\_resource\\_guide.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/working_with_incarcerated_resource_guide.pdf)

<sup>104</sup> D.C. Code § 23-112a. The law was passed in 2005 as an amendment to D.C.’s code of criminal procedure. See also <http://cssd.dc.gov/page/incarcerated-parents-and-ex-offenders>.

<sup>105</sup> See [https://www.acf.hhs.gov/sites/default/files/ocse/dcl\\_09\\_26a.pdf](https://www.acf.hhs.gov/sites/default/files/ocse/dcl_09_26a.pdf).

<sup>106</sup> See [https://www.acf.hhs.gov/sites/default/files/programs/css/working\\_with\\_incarcerated\\_resource\\_guide.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/working_with_incarcerated_resource_guide.pdf)

As an alternative or addition to this recommendation, the Committee should explore opportunities to streamline the modification process. At present, this process requires multiple steps for individuals seeking modification. If an individual falters on any of these steps, modification is denied. SES simplifies the process for some incarcerated individuals, preloading forms and assisting them through all steps of modification. Others who are unaware of SES assistance or otherwise cannot access its services are unlikely to achieve modification. The Committee can propose consolidating the six forms presently required into a smaller number of forms, waiving filing fees for incarcerated individuals, and ensuring that incarcerated individuals have an option of appearing in court via videoconference. These proposals, together or in isolation, will make securing modification more attainable for incarcerated individuals who are not able to meet ongoing child support obligations. Streamlined procedures would also benefit the court, as they would allow for more efficient handling of modification proceedings.

### **Settle Debt Upon Reentry.**

Settling the debt of incarcerated individuals upon reentry is another alternative. Under this regime, the State would reach a settlement with incarcerated individuals, reducing their arrears and accrued child support debt to a manageable (and, therefore, payable) amount. This would apply in all cases where custodial parents had assigned the child support arrearages to the State.<sup>107</sup> If the custodial parent did not assign the arrearages to the State, the State could instead advise the custodial parent of her rights and interests in settlement.

The federal government has approved this approach.<sup>108</sup> Forty-four states and the District of Columbia,<sup>109</sup> have some sort of child support debt settlement program. Maryland explicitly permits settlement of child support debt accrued during incarceration.<sup>110</sup> This policy is in addition to Maryland's existing arrearage adjustment program.<sup>111</sup> Connecticut currently allows for child support arrearage reductions<sup>112</sup> when non-custodial parents meet certain criteria, including making regular child support payments and participating in fatherhood programs.<sup>113</sup> Connecticut could expand its existing program to mirror Maryland's for incarcerated individuals.

Debt settlement provides a way to retroactively reduce or eliminate child support debt accrued while incarcerated. It would give former inmates the opportunity to correct their debt situation

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<sup>107</sup> Parents who are receiving TFA benefits must assign all child support payments to the State for the duration of the benefits period. See <http://www.ct.gov/dss/lib/dss/pdfs/support97.pdf>

<sup>108</sup> U.S. Department of Health and Human Services Administration for Children and Families, Office of Child Support Enforcement Memo PIQ-99-03, March 22, 1999.

<sup>109</sup> See [http://archive.acf.hhs.gov/programs/cse/debt\\_compromise.html](http://archive.acf.hhs.gov/programs/cse/debt_compromise.html).

<sup>110</sup> See Family Law Article, §12-104.1, Annotated Code of Maryland. The law was passed in 2012 by a vote of 78-61 over objections that the measure was unfair to children (see <http://marylandreporter.com/2012/03/22/house-approves-suspension-of-child-support-payments-for-inmates/>).

<sup>111</sup> See Family Law Article, § 10-112.1, Annotated Code of Maryland.

<sup>112</sup> Conn. Gen. Stat. § 17b-179b (2011).

<sup>113</sup> See <http://www.ct.gov/fatherhood/cwp/view.asp?a=4122&q=481646&fatherhoodNav=%7C>

once they leave prison and gain better access to legal services. Debt settlement would recognize that many other concerns weigh more heavily on prisoners while they are incarcerated, but that few create equally substantial pressure when they are out. A post-incarceration option would likely be utilized much more often than the current system and would still have the benefits of decreasing the debt-related pressures that lead people back to prison. This option does not require judicial intervention or resources; therefore, no additional burdens will be placed on the courts.

### **Train Professionals in the Criminal Justice System to Help.**

The incarcerated individuals affected by child support debt are likely to interact with a number of government service providers, from public defenders to DOC employees. Mr. Rey noted that child support and corrections staff, have easy access to individuals while they are incarcerated. By integrating questions about child support orders into existing systems, the State could ensure that realistic orders are set and the problem of re-incarceration is avoided.

Christine Rapillo, Director of the Delinquency Defense and Child Protection Unit of Public Defender Services, which oversees the lawyers who represent clients in contempt hearings, is exploring ways to connect the contempt-hearing lawyers with their clients' criminal lawyers. She is developing materials that train public defenders to ask each client if he has a child support order in place.

The Judicial Branch Problem Solving Initiative, launched in 2009 and discontinued in 2011, made similar recommendations.<sup>114</sup> The Problem Solving Court recommended in 2009 that DOC intake and assessment include questions about the existence or possibility of child support obligations.<sup>115</sup> The State could also train judges to inform individuals of their modification options and procedures during sentencing, mirroring the D.C. system discussed above. Such efforts would ensure that inmates who need help do not fall through the cracks. Building child support modification into existing processes would also help maximize efficiency by leveraging existing systems.

### **Improve Outreach to Inmates.**

Each of the formerly incarcerated individuals with whom we spoke, as well as the social workers and attorneys who work most closely with them, identified lack of information as a key problem. While the State has worked to improve inmate awareness of the child support modification

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<sup>114</sup> The Problem Solving Initiative brought community service providers and state agencies together to design a multidisciplinary judicial process that would address the underlying issues confronting the parents who appear in family support court. See [http://www.jud.ct.gov/committees/pst/problemsolving/NH\\_pilot/default.htm#Members](http://www.jud.ct.gov/committees/pst/problemsolving/NH_pilot/default.htm#Members).

<sup>115</sup> Public Service and Trust Commission, "Problem Solving In Family Matters, 2009 Final Report," p. 11.

option, that information is not yet reaching enough inmates. Extending SES's letter outreach program to individuals serving shorter sentences could be a significant step forward.

Other states have found that using videos providing child support information is one of the most effective ways to deliver information to inmates.<sup>116</sup> Prison facilities could show videos at regular intervals – during intake procedures and in pre-release programs, for example. This would be both cost-effective and simple.

Child support workers could also meet with inmates to go over their options and the services available to assist them in obtaining modification. Colorado, Illinois, Massachusetts, Texas, and Washington child support agencies have found that prisons and jails are receptive to regular presentations by child support workers.<sup>117</sup>

In addition, given the fear that former inmates say they experience when faced with a court date, outreach should reframe the process as one meant to support them while coming to a realistic resolution. Rather than focusing on money owed, outreach could also recommended fatherhood programs or parenting initiatives, making the process's many goals clear to incarcerated individuals.

## Conclusion and Next Steps

This report explores how and why child support debt accumulates during incarceration. It proposes alternatives to the existing system that might reduce the negative consequences of child support debt. These include automatic initiation of modification upon incarceration, debt settlement upon reentry, better training for criminal justice professionals, and improved outreach to affected individuals. These alternatives would serve state and federal policy goals – including reducing crime and maximizing efficiency through realistic child support orders.

The authors urge the Recidivism Reduction Committee to continue this important inquiry into child support debt and incarceration. This report serves as a starting point for understanding the deficiencies in the current system and considering viable alternatives. The Committee may wish to seek additional data, as well as perspectives from individuals and agencies that declined to speak with the authors of this report to further understand the problem and best target the solution.

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<sup>116</sup> See [https://www.acf.hhs.gov/sites/default/files/programs/css/working\\_with\\_incarcerated\\_resource\\_guide.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/working_with_incarcerated_resource_guide.pdf).

<sup>117</sup> Ibid.



## **Request Additional Data.**

The Committee may wish to request additional empirical data from state agencies. The following data points, which the authors were not able to obtain, may assist the Committee in understanding the scope of the problem and the optimal solutions:

- Data regarding modification for incarcerated individuals with sentences of less than two years (including the number of incarcerated individuals with child support orders who have sentences of less than two years, how many of them seek child support modification, and how many of those are successful). This data would help clarify whether SES outreach is targeting the right population. In general, understanding the characteristics of the affected population would help in designing the solution.
- Costs associated with the current child support modification system (including the average prison sentence for someone found in contempt of a child support order, the amount spent annually on legal services for individuals seeking child support modification due to incarceration, and the amount spent annually on adjudication for individuals seeking child support modification due to incarceration or opposing a contempt charge).
- Data and financial models projecting fiscal impact due to modification efforts and reduction of arrears, including impact from federal incentive funding, program costs, and savings from improved compliance and reduced contempt hearings. Combined with the bullet point above, this information would clarify the cost of today's system for the State and would likely make a compelling case for instituting change.
- Data regarding the ability of incarcerated individuals to meet obligations during and after incarceration (including employment rates following incarceration, prevailing wage rates for jobs obligors secure following release, average amount incarcerated individuals pay toward child support obligations while incarcerated). Such data would likely sharpen the point that individuals do not pay because they are not able to.
- Data regarding people who are prosecuted and incarcerated for failure to pay child support obligations (including indigence status of those serving such sentences, length of sentence, and debt owed). If the State is incarcerating indigent individuals for nonpayment of child support without modifying their orders, these individuals are caught in a particularly vicious catch-22: They continue to commit the act for which they were incarcerated while they are incarcerated. In addition, they continue to accumulate child support debt and all of the problems that accompany it. If this data shows that the State is incarcerating indigent individuals for nonpayment, an additional policy recommendation would be for Connecticut to discontinue this practice, which is contrary to the State's policy goals, messaging, and legal standards.

- Data regarding incarceration rates and policies for nonpayment of child support across various states. Such information could help Connecticut policymakers assess the viability and efficacy of this report’s recommendations and may introduce them to additional options.

### **Seek Perspectives Not Captured in This Report.**

The authors recommend seeking the perspectives and experiences of individuals or entities that did not participate in this report, such as:

- Incarcerated individuals who owe child support, with a variety of sentence lengths;
- Connecticut Superior Court judges and family support magistrates;
- Department of Social Services officials;
- Department of Corrections officials.

Information from these parties, as well as additional information from those that did participate in this report, will help further develop the findings explored here and will help the Committee determine which of the preliminary recommendations would best solve the problems identified in this report.

Gathering additional perspectives from other states may also be helpful. Speaking with legislators, administrators, and child support workers in states that have implemented policies Connecticut is interested in pursuing would be useful in gauging how successful their policies have been at increasing collections, reducing arrearages, and reducing recidivism.

### **Confirm Preliminary Recommendations.**

The authors expect such additional information to confirm the findings of this report – specifically, that child support debt accumulated during incarceration remains a persistent, serious barrier to reentry. The authors anticipate that further investigation will also support the preliminary recommendations presented in this report as the best ways to meet state and federal policy goals for the child support system and to improve outcomes for affected parents and children, as well as the people of Connecticut.

**APPENDIX H:**  
**REPORT ON EVIDENCE-BASED  
REENTRY INITIATIVES**

**EVIDENCE-BASED REENTRY INITIATIVES DEVOTED TO  
STRENGTHENING POSITIVE SOCIAL RELATIONSHIPS**

**A Report of the Recidivism Reduction Committee of the  
Connecticut Sentencing Commission**

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## EXECUTIVE SUMMARY AND RECOMMENDATIONS

Ninety-five percent of those incarcerated nationwide will return to their communities. Between 50-60 percent will recidivate. Randomized studies have shown that punitive policies tend to be less effective overall than treatment-based policies in changing offender behavior,<sup>1</sup> and prison may exacerbate criminal behavior by eroding the familial, educational, community and vocational support necessary for successful reentry and by creating trauma and loss that perpetuate crime from generation to generation. People rarely change by themselves. Rather, they tend to make positive changes because of positive close relationships. This Report examines some of the existing empirical literature on evidence-based approaches for improving recidivism rates by attending more closely to approaches that strengthen familial and community networks. Connecticut is already using many of these techniques. But more can be done.

Below, the Recidivism Subcommittee of the Connecticut Sentencing Commission offers initial recommendations regarding the creation, expansion, or elimination of programs and policies in Connecticut.

### I. PRISON-BASED PROGRAMS AND POLICIES

- **Expand Opportunities for Quality Visitation for Prisoners**

Studies show that visitation strengthens family ties, reduces prison violence, and decreases recidivism, often by providing stable housing and material and emotional support upon reentry. The following reforms might be considered in the area of prison visitation.

- Help create more transportation options for visitors to less-accessible prison facilities.
- Encourage more visitor-friendly attitudes and appreciation for visitors.
- Enhance child visitation/contact by:
  - ☐ creating child-friendly visit facilities (playgrounds, play areas, toys and books)
  - ☐ creating prison nursery programs
  - ☐ looking into the expansion of family overnight visitation programs, especially as part of family therapy or reentry preparation
  - ☐ creating read-to-your-children programs, scouting programs, or other ways in which mothers and fathers can collaborate with their children while incarcerated
- Reduce restrictions on the number of people that may be placed on visiting lists; increase flexibility regarding number of persons who can visit at one time (especially to allow children to visit together); expedite and simplify the process for changing the visiting list.
- Ease restrictions on visits with family members with criminal records.
- Encourage prisoners to reach out to supportive family members and to recognize that not all family relationships are helpful and supportive.
- Reevaluate whether and when loss of visitation and phone access ought to be used as a general sanction for misbehavior. Take into account in visitation policies, discipline policies and policy statements the positive

effects visitation and telephone contact can often have in 1) supporting offenders' efforts to change, 2) improving their prospects for reentry, and 3) improving their children's and families' well-being.

- Residential community prison-diversionary programs for mothers and infants could be expanded. Similar family housing for fathers could be considered.

- **Promote Other Means for Prisoners to Connect with Family While in Prison**

Positive social relationships may be maintained through means other than visitation. Below are some recommendations.

- Investigate new technologies for enhancing communication, such as video conferencing.
- Ensure that phone service is adequate and calls are low-cost to offenders' families.
- Enhance lines of communication with foster parents, care-givers, pediatricians, and school officials, and among DOC, CSSD, and DCF.
- Expand family services and counseling, and other programs seeking to reconnect families with incarcerated members before and after release.
- Expand Cognitive Behavioral Treatment ("CBT") programs in prison concerning fatherhood, family, and parenting skills, and carefully evaluate program outcomes.
- Recognize the importance of healthy family relationships, especially with children, to incarcerated fathers as well as mothers, and to their children.

- **Encourage and Support Positive Social Relationships for Prisoners Through Drug and Mental Health Treatment, Education, Vocational Training, and Religious Programs**

Treatment and Counseling: More than half of the prison population suffers from substance abuse and/or mental illness.<sup>2</sup> Group-based treatment and supportive counseling programs with community follow-up help reentrants to overcome addiction and mental illness and to develop supportive relationships, substantially decreasing recidivism. The appropriate involvement of family in treatment and counseling increases its efficacy, and the treatment in turn strengthens family relationships.

- Provide drug treatment where possible using therapeutic communities and aftercare program models, including reentry counseling, and peer support groups.
- Study access to and continuity of medication-assisted and CBT treatments for substance addiction from jail to prison to reentry.
- Provide more consistent counselor liaisons in prison, even through transfers, to accurately record and follow-up therapy programs and help keep family contacts.
- Provide counseling and psychotherapy for institutionalized juveniles, especially along with family therapy.

- Expand CBT programs in prison concerning alternatives to violence and safe communities.
- Study restorative justice approaches and provide opportunities for community service and restitution before release and after.
- Life skills education and domestic violence CBT programs may need reevaluation. (Some studies indicate that these programs do not seem to reduce recidivism for adults, slight impact for juveniles.)

Education: Educational opportunities give prisoners the opportunity to develop positive social relationships with other students and teachers, in addition to helping them become more employable upon their release.

- Enhance general and college education opportunities, especially for juveniles.
- Eliminate state contractor requirements for universities that offer free courses to inmates.
- Evaluate funding models used in other states.
- Evaluate effect of prison transfers on educational opportunities.
- Prefer in-person classroom experiences to distance learning.
- Support peer-mentoring and mutual support programs.
- Support pre-release programming.

Vocational Training: Job training also provides prisoners with the opportunity to build relationships while improving their employment prospects.

- Enhance work release or transitional employment opportunities.
- Create Parallel Universe workplaces, with significant inmate forums for input and governance.
- Evaluate vocational training opportunities in prison to better connect them with market needs and jobs.

Religious Programs: Connecting with religious communities while in prison may help individuals find support from these communities post-release. Religious programs—particularly those that enable inmates to form supportive relationships—could be more continuous from prison to community. Volunteer no-contact rules could be reevaluated.

## **II. POST-RELEASE REENTRY PROGRAMS AND POLICES**

Positive social relationships are crucial to the successful reintegration of individuals into the community. The following reforms might help maintain and strengthen these relationships post-release.

- Expand family mediation and transition services. Help inmates evaluate and choose supportive relationships and protect themselves from abusive ones.
- Look at options for child-care, transportation, etc. to help support family ties.



- Mandatory public housing restrictions on formerly incarcerated persons who wish to live with family members are counter-productive, especially for those with children—a flexible case-by-case approach should be used.
- Engage formerly incarcerated individuals in multi-dimensional therapy involving parents, schools, and families.
- Enhance transitional housing and halfway house reentry programs.
- Do not rely on intensive supervision alone for individuals at a high risk of recidivating, but also provide intensive treatment.
- Provide more opportunities for reentry networking among community service providers, as in existing roundtable projects across the state.
- Coordinate reentry support for housing, employment, food, continuity of health care, substance abuse prevention, and transportation.
- Support in-prison drug and mental health treatment with community aftercare, including peer support, telephone follow-up, and continuity of treatment.
- Child-support obligation accumulation during incarceration is counter-productive. Coordinate agency oversight so that arrearages do not accumulate during incarceration. Consider using mechanisms other than jail sanctions to encourage payment of child support.
- Reevaluate driver's license suspension laws in light of employment, child care, and transportation needs.
- Mandatory-by-crime post-incarceration employment and licensing restrictions are counterproductive—a flexible case-by-case approach should be used.
- Reevaluate fees parolees may pay for required electronic monitoring or other required services, especially in light of child-care and support obligations.
- Record and track participants in existing programs for better future evaluation, and work closely with social scientists to establish adequate control groups and data collection.

### **III. OTHER PROGRAMS TO REDUCE RECIDIVISM**

- Nurse-Mother partnerships that provide visiting nurses for new mothers in difficult financial circumstances prevent criminal activity by mothers and children.
- Early childhood education programs that provide preschool opportunities for children at risk prevent criminal activity.
- “Scared Straight,” boot camp, and other programs that rely primarily on fear, shame and pain to change behavior in juvenile offenders do not work, but may increase recidivism. Connecticut has already abandoned most of these programs. These results suggest that prison discipline practices should be carefully calibrated for juvenile offenders, and positive reinforcement used where possible.
- Use of school expulsion and criminal referral for less serious offenses by juveniles is counter-productive. Outdoor experience programs for juveniles in place of prison do not seem to work

## EVIDENCE-BASED REENTRY INITIATIVES DEVOTED TO STRENGTHENING POSITIVE SOCIAL RELATIONSHIPS

*"The story begins in an economically depressed urban setting (Bridgeport, New Haven, Hartford). Two teens meet in high school. Since they do not have the best parental guidance, supervision or role models they engage in unsafe sex and this is how our subject is conceived. These young parents face numerous challenges and the consequences start. She drops out of school to take care of the baby and lives at home with her mother or grandmother. He drops out of school too and tries to get a job. His job pays minimum wage, their living space is a room in a relative's home and the challenges increase. He ends up moving out and selling drugs which will lead to a series of incarcerations over the next 20 years. The baby does not receive the best care or attention. Malnutrition and low academic achievement are present. His mother is stressed, works two-three minimum wage jobs and by the time the kid is 10 his mother has had a few boyfriends and she has had two-three more children with different men. So by the time our subject is 10 he starts going to play in the streets after school, weekends and during the summer (his mother cannot afford after school care or summer camp). Out in the streets he does not have much supervision and eventually once he is a teen he starts getting in trouble. The pranks turn into crimes and he gets arrested for the first time. This time he will go to a juvenile review board. He has grown up without a father figure. He has only seen his father a few times in between incarcerations and prolonged episodes of drug use. Our teen is back on the streets but he has been kicked out of school and is hanging out with negative role models. This leads to criminal behavior, drug selling and eventually arrest and incarceration. His mother does not have money to bail him out and realizes that perhaps the best way to keep him away from trouble is for him to go to jail. The first sentence will be for a few months, the next one will be for a couple years and by the time he is in his late twenties he will get a sentence for almost five years. By now he has two children with two separate women, he owes child support and has broken ties with most of his relatives by abusing and misusing their support. As he approaches the end of his incarceration he faces high expectations: he has to get a job, live on his own, pay child support, attend night school, and comply with all the programming stipulated by parole or probation ranging from relapse prevention to domestic violence prevention. He faces these challenges without a GED, reliable transportation, appropriate healthcare and key supports. The odds are against him, he grows frustrated, desperate and starts coping with substance use and violence which will lead to criminal behavior and re-incarceration. At some point during this story his children grew up, became teens, got pregnant, started getting in trouble, dropped out of school, got arrested, possibly incarcerated and the cycle continues." -----*  
Yale Family Reentry Team Research Worker

## I. CHANGING FOCUS TO EMPHASIZE FAMILY AND OTHER PRO-SOCIAL NETWORKS IN REENTRY POLICY

**Contemporary evidence-based “best practices” for successful reentry after prison require a break with our historic focus on the individual offender and a renewed attention to developing, aiding, and sustaining pro-social networks.**

### A. *Correctional policy: from solitude to community*

*“You come here alone, you leave here alone.”* —An inmate at York CI quoting a prison proverb.

The original philosophy of the penitentiary was to isolate offenders from the community to allow them to repent and reflect—to become “penitent.” The success or failure of offenders was considered to be an internal, individual, spiritual matter, not a matter of social environment. Early reformers in Pennsylvania believed that:

Depraved tendencies, characteristic of the convict, have been restrained by the absence of vicious association, and in the mild teaching of Christianity, the unhappy criminal finds a solace for an involuntary exile from the comforts of social life. . . . Shut out from a tumultuous world, and separated from those equally guilty with himself, he can indulge his remorse unseen, and find ample opportunity for reflection and reformation.<sup>3</sup>

New York reformers likewise, in 1821, directed prison inspectors “to select a number of the ‘oldest and most heinous offenders’ and put them in solitary confinement, with the end in view of observing its disciplinary effects.”<sup>4</sup> The experiment “proved a hopeless failure and led to a marked prevalence of sickness and insanity on the part of the convicts in solitary confinement.”<sup>5</sup> New York instead instituted a regime of communal work. Other jurisdictions soon did the same.<sup>6</sup>

Modern penological and psychological theory has confirmed what these early prison reformers discovered: **most significant personal change—from quitting smoking<sup>7</sup> to getting an education<sup>8</sup>—does not usually occur in solitude, but is greatly enhanced by supportive social networks.** Reentrants who have faith-based communities have lower recidivism rates than comparable-risk reentrants who do not.<sup>9</sup> Those receiving drug treatment in therapeutic communities have better outcomes than those who receive drug treatment with less social support.<sup>10</sup> Those who have strong and healthy family relationships have lower recidivism rates than those who do not.<sup>11</sup> Even the U.S. Army is turning to peer-mentoring,<sup>12</sup> family counseling, and group therapeutic approaches to help soldiers coming back from battle (and the families they return to) to counteract post-traumatic stress disorders and achieve “resilience,”<sup>13</sup> the “capacity to rebound from adversity strengthened and more resourceful.”<sup>14</sup> An early assessment of the Army’s program in January

2012 showed positive results, and the program's director, Brigadier General Jim Pasquarett, noted, "I think in the future, even under this budget, we're going to fund it. We believe this will save us money through prevention (because) it helps our Soldiers, family members and Department of the Army civilians deal with adversity in their life and more importantly – thrive in their lives."<sup>15</sup>

The resilience therapies used by the Army stem from resilience studies in the 1990s. These studies followed children from areas of violence and poverty who were statistically likely to "fail" according to measures of substance abuse, mental illness, family instability and crime. Researchers tried to identify the common characteristics of those who, defying expectations became optimistic, successful, and stable adults. They found that the children who succeeded against all odds were those who had, among other things, at least one consistently stable and supportive adult in their lives and who were able to establish concentric circles of community supports in peer groups, classrooms, churches, and neighborhoods.<sup>16</sup> Researchers have also demonstrated that this resilience can be taught and be strengthened through teaching family and community members to communicate well, to work together through hard times, and to avoid or change abusive relationships that cause trauma and often lead to criminal conduct.<sup>17</sup> The focus is on seeing difficulties as challenges, and then finding strengths and resources in both past experiences and in present support systems to meet those challenges. The focus is not on making "excuses" and receiving "help." The key findings of this resilience research are:

- "Individual resilience is best understood and fostered in the context of the family and larger social world, as a mutual interaction of individual, family, sociocultural, and institutional influences.
- Crisis events and persistent stresses affect the entire family and all its members, posing risks not only for individual dysfunction, but also for relational conflict and family breakdown.
- Family processes mediate the impact of stress for all members and their relationships and can influence the course of many crisis events.
- Protective processes foster resilience by buffering stress and facilitating adaptation.
- Maladaptive responses heighten vulnerability and risks for individual and relationship distress.
- All individuals and families have the potential for greater resilience; we can maximize that potential by encouraging their best efforts and strengthening key processes."<sup>18</sup>

These principles have been put to work in the correctional and reentry context in other states, as we detail below. Mark Carey, a warden in Minnesota, summarizes:

[T]he social learning approach appears to have the greatest potency for long-lasting behavior change. . . . These programs rely on role-modeling, mentoring, connecting a disenfranchised community member to the larger, pro-social environment, using positive reinforcement and consequences, employing cognitive skills and restructuring, using a network of social supports, and experiential learning. . . . Learning through social interaction, by its very nature, means that it does not occur in a vacuum. It thrives in the context of families, neighborhoods, and communities.<sup>19</sup>

**B. The effects of imprisonment on communities**

*"Me and his mom was talking [when she came to visit me in prison] and he [my son] had the key in his hand and he started digging around the edge of the window.*

*So I'm like ... 'Boo Boo, what you doing?'*

*He's like, 'I'm trying to break all the daddies out.'"*<sup>20</sup>

Across the country there has been deep concern over the disproportionate number of young African American and Hispanic men who are incarcerated and the concentration of this incarceration in poor, predominately minority neighborhoods.<sup>21</sup> Connecticut's story is similar, and Connecticut has begun to take steps to study and redress this disparity.<sup>22</sup>

More attention, however, needs to be paid to the collateral and generational consequences of this disproportionality. Nationwide, African American children are seven times more likely to have a parent in prison than White children, and Hispanic children are twice as likely.<sup>23</sup> The concentration of incarceration in isolated minority communities over generations contributes to the breakdown of families and social support networks in these communities.<sup>24</sup> When a large percentage of the men in a community are incarcerated, women carry the burden of supporting and raising children alone and community resources dwindle. When mothers also go to jail, family dislocation is even worse. Children grow up in an atmosphere of emotional and financial instability, moving from place to place and relative to relative, suffering emotional distress, behavioral problems and developmental delays.<sup>25</sup> Many children end up in foster care.

Qualitative studies from Connecticut demonstrate that relationships between parents are often irrevocably broken by imprisonment, and stable, long-term

parenting is highly unusual in such families.<sup>26</sup> Fathers who are in and out of prison lose contact with children and/or create tension as they try to reassume parenting roles after long absences. They often want to reestablish ties with their children, but time, money, and skills are often lacking. Reentry strains the whole family. Families may be required to leave public housing in order to reestablish a home with a father coming out of prison, creating additional instability and financial strain.

Parents under financial pressure may return to lucrative criminal conduct to support families, or they may give up trying and cope with substance abuse, and then children once again lose their parents to imprisonment and enter foster care. Families become transient and constantly morphing, creating anxiety, insecurity, aggression, violence, and depression. **Disruption of secure, stable, and supportive social relationships by incarceration contributes to more crime** and the cycle continues.<sup>27</sup> Because of the dislocation of families and loss of social supports, children who come from homes in which parents (usually fathers) are incarcerated are two to three times more likely to be incarcerated themselves.<sup>28</sup> And the number of children who have incarcerated parents is increasing—2.3% of the U.S. population under 18 are children whose parents are incarcerated, and between 1991 and 2007, the number of parents in prison in the U.S. increased by 79%.<sup>29</sup>

The trauma and dislocation caused by the arrest and incarceration of a parent can be comparable to the experience of a parent's death and can reverberate in a child's life in many negative ways and for many years, influencing the potential for job and financial instability, mental illness, substance abuse and criminality.<sup>30</sup> To take just one example of this co-occurrence, the National Center for Addiction and Substance Abuse found that inmates that are substance involved are 40.6% likelier to have family criminal history and are more likely to have lived only with their mothers or in foster care as children than inmates who are not substance involved.<sup>31</sup> As recent scholarship puts it:

The ubiquity of penal confinement in the lives of young African American men with little schooling is historically novel, emerging in the last decade . . . [and] the effects of the prison boom extend also to the families of those who are incarcerated. . . . Partly because of the burdens of incarceration on women who are left to raise families in free society, incarceration is strongly associated with divorce and separation. In addition to the forced separation of incarceration, the post-release effects on economic opportunities leave formerly incarcerated parents less equipped to provide financially for their children. New research shows that the children of incarcerated parents, particularly the boys, are at greater risk of developmental delays and behavioral problems. . . . [C]lear majorities of the young men in poor communities are going to prison and returning home less employable and more detached from their families. In this situation, the institutions charged

with public safety have become vitally implicated in the unemployment and the fragile family structure characteristic of high-crime communities.<sup>32</sup>

**C. Individual responsibility is a key part of efforts to create pro-social support systems, and vice versa**

*The power of rewards and punishments in situations of interpersonal influence resides in the relationship. . . . To put it bluntly, if one does not care what the other thinks or feels, then one is free to act according to his or her own wishes. Relationship-building skills such as expressing warmth and respect and providing constructive feedback can be taught.*<sup>33</sup>

The shift in perspective from the individual offender to the social environment does not entail diluting personal responsibility or de-emphasizing the importance of individual transformation. Cognitive-behavioral therapy (“CBT”) approaches, for example, have been proven to reduce recidivism by focusing on changing antisocial thinking patterns and increasing the offender’s sense of personal responsibility and compassion for others.<sup>34</sup> The basic idea of CBT is to achieve buy-in from offenders by teaching them to recognize in themselves the patterns of, for example, suspecting and blaming others or not thinking ahead, that lead to impulsive, violent, manipulative, and self-destructive actions. Even CBT however, though conceived as “individualistic” therapy focused on changing the offender and not his environment, already has a social dimension that is not always explicit: Role-playing, positive and negative reinforcement, identification with the leader or therapist, mentoring, modeling and mutual discussion are key elements of successful CBT approaches, yet these techniques themselves require trust and reciprocity within the therapy group or therapeutic relationship.

As Mark Carey points out, social networks, social learning and CBT are mutually reinforcing, for they all emphasize developing relationships of reciprocity, trust, respect, patience and compassion, and skills of mediation, communication, and thinking long-term and outside the box. But compassion and patience and problem-solving techniques are only adaptive if the larger social network is not pervasively violent, unstable, and manipulative. For trust to be possible, those around you have to be trustworthy. In short, **the therapeutic models we already use and know to be effective at reducing recidivism already both presuppose and strengthen social networks.** These models also point out that the mode in which we intervene is as important as the content of the intervention. Seeking input from those formerly and currently incarcerated about how best to structure programs is also part of the process of creating community, reciprocity, mutual respect and encouraging participation. As the next sections demonstrate, empirical research bears out the fact that helping offenders build strong pro-social networks that support change and bridge prison and reentry is key to reducing recidivism.

#### **D. Supporting families reduces recidivism**

*"Given current scarce resources, our reentry system is families."*

— Reentry agency worker.

One of the most important social networks, of course, is the family, broadly defined. Especially for younger offenders, even those "at the higher range of offense seriousness," "effect sizes as high as 60 percent have been obtained from functional or behavioral family therapy, family empowerment, and allied therapeutic approaches, which involve working with young offenders and their families."<sup>35</sup> A comprehensive analysis of policy options in Washington State demonstrated across the board that therapeutic interventions that involve children and families are the most effective in lowering recidivism rates. The most effective interventions were also the earliest ones—nurse/mother partnerships that provided visiting nurse support to new mothers through the first two years, keeping mothers and their children from lapsing into criminal conduct, and pre-school education for at-risk children. But resilience research shows that later interventions can work, too, and "over the years, positive interactions have a mutually reinforcing effect" and "a downward spiral can be turned around at any time in life."<sup>36</sup> Likewise, the still-tentative empirical consensus is that children who are able to maintain contact with their incarcerated parents, unless there is a history of abuse, are better off than those who lose those relationships.<sup>37</sup> And, incarcerated parents who maintain their relationships with their families are less likely to violate parole and to recidivate than those who do not have families to return to.<sup>38</sup> Many former inmates report that having a role as a "father" or "mother" is a source of pride and an incentive to care about the future; it creates the optimism and sense of purpose and connection that is necessary for resilience and reentry success. **Breaking the generational cycle of imprisonment, then, requires attention to improving and fostering supportive family ties, especially between partners, parents and children.**

Not all relationships are supportive ones,<sup>39</sup> of course, and a "pro-family" policy should not be applied blindly or inflexibly. As with all efforts to provide appropriate programming, careful assessment of an offender's needs and individual program planning are crucial, and the planning process may warrant dialogue with offenders and/or with their families to identify supportive relationships and balance the interests, rights, and duties of the incarcerated person, the state, and the family members. Moreover, family relationships, as we detail below, are often complex and shifting, and should embrace a broad and flexible definition of "family."

#### **E. Mothers in prison have special needs and concerns**

*"I had my baby inside and DCF took him away right away. I don't know where he is now."*

Former inmate at York, CI.



Nationwide, more than 60 percent of incarcerated women have children, and of those, 64 percent lived with their children in the month before their arrest or just before incarceration and 77 percent provided most of the daily care for their children, 40 percent as single parents.<sup>40</sup> Because mothers are three times more likely than men to be raising their children alone, incarcerated mothers are more likely to have children in foster care and to lose their parental rights during incarceration. The number of mothers incarcerated more than doubled between 1991 and 2007, but women's facilities are few and usually far from their children. All of these factors combined mean that more children who lose their mothers to incarceration will tend to miss them more (because they were primary care givers), need them more (because dislocation and foster care is more likely), and see them less (because transportation is more difficult and caregivers less likely to provide it). As a result, "there is some evidence that maternal incarceration is more damaging to a child than paternal incarceration."<sup>41</sup>

Mothers in prison also often suffer from trauma or illness. Mothers in prison are twice as likely as men to report recent homelessness, four times as likely to report physical or sexual abuse, and one-and-a-half times more likely to have a current mental illness or other health problem.<sup>42</sup> Twenty-five percent are pregnant at arrest or have given birth in the year before.<sup>43</sup> Substance abuse among women in prison is more likely to be associated with past trauma than it is for men.<sup>44</sup> Domestic violence against women is also associated with abuse and neglect of children, and even very early exposure to violence, neglect, and family instability can lead to reactive attachment disorders in children, a diagnosis associated with later criminal activity.<sup>45</sup>

Hence, availability in jails and prisons of resilience programming, mental and physical health care, and substance abuse treatment designed for women is vital both for imprisoned mothers and for their families. Prison nursery programs enable early attachment and enhance parenting skills. And, nurse-mother mentoring programs, family-friendly half-way houses, and parenting programs in the community that support single-parent families are crucial, too. A Washington State Public Policy Institute study found programs targeting young mothers and children to have the biggest impact on recidivism per dollar spent.<sup>46</sup> Strong family ties enhance both the mother's and the child's chances for stable and non-criminal lives.<sup>47</sup>

The Connecticut Judicial Branch's Court Support Services Division recently completed an important study for the National Institute of Corrections that field-tested and evaluated a new probation model designed expressly for women (WOCMM). Consistent with the research mentioned in this paper, the new probation model emphasizes collaborative, resilience-based, and CBT approaches, continuity and coordination of services (including mental illness and substance abuse treatment), and explicitly identifies the protective effects of pro-social contacts, employment, and education. The study also employed methods of quality control to be sure the treatment model was properly implemented. It targeted areas

of need specific to women, including trauma, abuse, mental illness, substance abuse, and children and family needs. After one year, the study compared the recidivism rates in four Connecticut cities of 174 women who received treatment according to the new WOCMM approach with 174 women who had standard probation services. (The two samples were randomly assigned, but then matched by risk assessment score, ethnicity, age, site, substance abuse involvement scores, and probation site). After one year, WOCMM participants were significantly less likely to be rearrested than the control group (31.6% versus 41.5%), and the effect sizes were even greater for high risk participants (36.1% versus 49.5%).<sup>48</sup>

***F. Family support requires recognizing the importance of fathers***

*Young New Haven boy to his formerly-incarcerated father:*

*"Papa, will you take a walk with me?"*

*"Ok, but why do you want to take a walk?"*

*"I want everyone to see that I have a dad, too."*

Concerns about family ties have too often been considered an issue only for mothers in prison. But fatherhood is equally crucial. Because so many more men are incarcerated than women, many more fathers are behind bars than mothers. Though incarcerated fathers are often portrayed as having little contact with their children, more than half of incarcerated African American men lived with their children before going to prison.<sup>49</sup> Research is also clear that fathers' incarceration causes wide-spread instability in the extended family, financial and housing instability, and, rather than making prison seem "normal," as is sometimes assumed, harms, stigmatizes and isolates children.<sup>50</sup>

For imprisoned men, family visitation is complicated by shame and worries about their children turning to crime, yet their desire to stay in touch is often strong.<sup>51</sup> Reentry is often hard, as fathers struggle to find a place in their children's lives again.<sup>52</sup> Yet these family ties are too often ignored in prison programming and reentry programs. Schemes in which half-way houses for families are limited to mothers, reentry employment for fathers does not consider the need for child-care, and in-prison programming for men does not address fatherhood, ignore this reality.<sup>53</sup> On the other hand, programming for men that includes family therapy and definitions of masculinity and fatherhood can be effective in stabilizing family relationships and reducing recidivism<sup>54</sup>

Childhood abuse and trauma are not women-only issues either, but men tend to be more reluctant to discuss them. More study and discussion of men's experience with trauma and abuse can help develop more appropriate

programming. Researchers note that backgrounds of abuse and trauma can surface in discussions of fatherhood and discipline, and family therapy helps here, too.<sup>55</sup>

**G. Classrooms, schools, churches, and neighborhoods are important social support systems for reentry success**

*"When I taught at York Correctional, my students read hundreds of pages of texts. But the most often-quoted passage in their papers was this sentence from Martin Luther King: 'Find some great cause, some great purpose, some loyalty to which you can give yourself and become so absorbed in that something that you give your life to it.'"*

—volunteer prison teacher

Concentric circles of social networks are important to successful reentry. One such social network is the neighborhood or community. For example, offenders and therapists working with school officials alongside families decreases recidivism more than therapists working with families alone.<sup>56</sup> Networking among prosecutors, police, social workers, probation officers, business owners, and community leaders can produce "patterns of reciprocity" that create the "mutual obligation and responsibility that reduces the incentives for opportunism and malfeasance."<sup>57</sup> Those with supportive faith communities also have a better chance to stay out of prison.<sup>58</sup> Resilience is created through optimism about the future, mutual support, a sense of "greater purpose," and a feeling of control over one's environment. Education programs can provide both needed skills and self-confidence. Restorative justice programming and opportunities for community service and restitution can restore self-respect as well as giving back to victims and communities.<sup>59</sup> Encouraging communication, collaboration, participation, and group decision-making, from prison classrooms to parent-teacher associations to voting booths, can support that optimism, group cohesion, and sense of purpose and control that enable trust and resilience.

**H. Work is an important social support system for reentry success**

Beyond family and neighborhood, another important pro-social network is the workplace. Having a job reduces recidivism,<sup>60</sup> but not just because it provides financial stability. **Working with others also promotes mutual understanding, camaraderie, optimism, and team spirit.** Dora Schriro, former director of corrections in Arizona and Missouri, and current commissioner of correction in New York City, discusses the beneficial effects of her "parallel universe" program, which allows prisoners to experience a sense of accomplishment and teamwork in a "parallel universe" work-world inside:

For example, one of the job opportunities available to inmates in Arizona who earn a GED is with a company we have partnered with for many years. When the company won a business innovation award, the CEO said that he wished the inmates who contributed to the firm's

success could have attended the awards ceremony. So I said, "Why don't you bring the award out to the prison, and we'll replicate the awards ceremony?"

We brought together more than 300 inmates from various housing units in a common yard where the impact of the partnership and shared success was immediately apparent. In addition to friendly banter and lots of laughter, I observed many of the prisoners who were employed in the award-winning business generously praising the officers who had helped make this happen. Both inmates and staff spoke about what they had accomplished. The inmates knew that they did not get the work assignment by accident; they had to get their GED and remain violation-free to participate in the employment program. And the staff knew that they were correctional professionals who had inspired, supported and sustained this change.<sup>61</sup>

***I. Achieving reductions in recidivism through supporting social networks requires realistic goals, good implementation, and careful reporting and analysis***

Most of "what works" doesn't work magic. Nor does it work for all offenders. First, the effect sizes for most interventions are modest—a 10% drop in the recidivism rate is a terrific result. We should make sure that we don't over-inflate expectations of policy-makers, citizens, or offenders themselves. Second, the **interventions only work well if there is quality control in implementation.** Therapists doing family therapy, for example, have to be good therapists to achieve any effects at all. Third, change takes time. A cautionary tale: The Vera Institute's ambitious Greenlight Program in New York, though grounded in the empirical literature of "what works," ended up with *higher* rather than *lower* recidivism effects. According to its disappointed designers, part of the failure may have been poor implementation, but part of the failure may also have been its attempt to implement all its reentry therapies in a cost-saving 60 day time-frame.<sup>62</sup>

**II. "WHAT WORKS" TO REDUCE RECIDIVISM IN REENTRY THROUGH STRENGTHENING FAMILY AND OTHER PRO-SOCIAL SUPPORT NETWORKS**

***A. Enhance family visitation during incarceration***

*"The findings suggest that revising prison visitation policies to make them more 'visitor friendly' could yield public safety benefits by helping offenders establish a continuum of social support from prison to the community."*<sup>63</sup>

As might be predicted, research has found a connection between prison visitation and the quality of an imprisoned person's relationships with family and friends. For example, Visher (2011) analyzes data on 324 male prisoners from Ohio and Texas with at least one minor child and finds that fathers who received mail or in-person visits from their children during the final 3 months of their prison term were more likely to have a strong attachment to their children after release.<sup>64</sup> In a review of the existing literature regarding parent-child contact, Poehlmann, Dallaire, Loper, and Shear (2010) report a wealth of evidence supporting positive outcomes from parent-child visits.<sup>65</sup>

While most of the studies control for variables such as age, race, marital status, criminal history, length of incarceration, and program participation, they are not able to control for the pre-incarceration quality of familial relationships. Using longitudinal survey data, however, La Vigne et al. (2005) do control for pre-incarceration relationship quality, and find that **in-prison contact is important for the maintenance of relationship quality**. They find less evidence that visitation plays an important role in creating new relationships or improving the quality of existing relationships. In light of this finding, however, it should be noted (and is emphasized by Poehlmann et al. (2010)) that establishing a relationship with a child's caregiver can be vital to maintaining a relationship between an incarcerated parent and their child.

Connecticut's current policies regulate these potentially beneficial visits more stringently than many other states. For example, Connecticut is one of a minority of states which places strict limits on the number of individuals that may be put on a prisoner's visitors list (5-10 based on the security level of the inmate<sup>66</sup>) and restricts individuals to only one inmate's visitors list unless that individual is an immediate family member of more than one inmate.<sup>67</sup> Connecticut also limits the number of visitors who can visit at the same time to 2 (non-contact) or 3 (contact). This limitation is especially hard on families with more than one or two children, because siblings cannot all visit on the same day and caregivers incur additional transportation and child-care costs. In addition to the limitation on the number of individuals that may be included on the visitors list, Connecticut also restricts the frequency of updates to the visitors list. The relevant Administrative Directive from the Connecticut Department of Correction ("DOC") states that "[m]odifications to the list shall not normally occur more frequently than every 120 days."<sup>68</sup> **The vast majority of states have not found such limits necessary to administer a secure visitation program.**

Limiting categories of visitors is especially problematic in the context of the complicated parenting relationships that many incarcerated parents have. A pilot study in New Haven of fathers on parole gives us a glimpse at the important parenting relationships that may not code as "immediate family."

Fathering relationships for the men in our sample took a number of different forms. One participant, 25 year old Kevin, illustrates this

well. [H]e was incarcerated for the first time, at the age of 15, for five years. Since then, he has been incarcerated four more times. Between February 2004 and December 2006, he had five children with four different women, the first one when he was 21 years old. ... He also has a social son [named after him] who was born in 2002. The mother of his social son is the mother of his two oldest children. Two of his biological children and his social son were born while he was incarcerated.<sup>69</sup>

In addition to maintaining the quality of relationships, the quantity and timing of visitation seems to be associated with reduced risk of recidivism.<sup>70</sup> Bales and Mears (2008) analyze administrative data on 7,000 Florida inmates and find that *who* visits seems to matter. Studies have reached different results, but, across studies, **spousal visitation is most strongly associated with reduced recidivism, at least for men.**<sup>71</sup> Other studies have shown that men tend to rely on female family members, wives, girlfriends, mothers and sisters, for housing and material support post-incarceration, which would help to explain the correlation.<sup>72</sup> Visitation that directly bears on reentry options like housing, then, may be the most directly related to reductions in recidivism.<sup>73</sup> Emotional support is critical, too, however. Bales and Mears suggest that “associating with others or believing that others care about them helps released prisoners feel more willing and able to cope with the challenges of reentry.”<sup>74</sup> They also note that “inmates may come to believe that they are, at their core, deviants, a process termed ‘role engulfment.’” By allowing those in prison to reconnect with family roles as husbands, sons, fathers, and lovers, “visitation may serve to provide an important counter to such labels and processes.”<sup>75</sup>

**Despite their potentially beneficial role in the rehabilitation process, the Connecticut DOC’s Administrative Directives provide that loss of visitation may be used as a disciplinary sanction, and it does not appear that the rehabilitative potential of visits has historically been factored into DOC policy decisions about visitation.** An inmate can be denied Extended Family Visiting and contact visits due to past disciplinary infractions. In general, Administrative Directive 10.6(6)(P). states that “[a]n inmate may be denied future visits for a specified period of time in accordance with Administrative Directive 9.5, Code of Penal Discipline.” Furthermore, the Connecticut DOC can forbid an inmate from writing or receiving letters as a disciplinary penalty and may also deny the use of telephones as they are “deemed a privilege and not an entitlement.”<sup>76</sup> These restrictions are general penalties for disobedience and are not directly related to security concerns. The Code of Penal Discipline does, however, stipulate that “loss or modification of social visiting, loss of telephone, or loss of social correspondence” will not be imposed concurrently.<sup>77</sup> The Administrative Directives do not express the beneficial aspects of visitation anywhere.

By contrast, California’s penal code states that any DOC regulations impacting visitation shall “recognize and consider the important role of inmate

visitation in establishing and maintaining a meaningful connection with family and community.”<sup>78</sup> Florida’s statute states that “[t]he Legislature finds that maintaining an inmate’s family and community relationships through enhancing visitor services and programs and increasing the frequency and quality of the visits is an underutilized correctional resource that can improve an inmate’s behavior in the correctional facility and, upon an inmate’s release from a correctional facility, will help to reduce recidivism.”<sup>79</sup> Alaska puts it this way: “The Department encourages prisoner visitation because strong family and community ties increase the likelihood of a prisoner’s success after release. Visitation is subject only to the limitations in this policy and as necessary to protect persons and maintain order and security in the institution.”<sup>80</sup> A revision of Connecticut’s Administrative Directives or Statutes could likewise encourage visiting policy to be made with a view to 1) encouraging offenders’ efforts to reform, 2) encouraging supportive social connections for offenders’ emotional well-being and autonomy, 3) supporting continuity and stability in those supportive relationships for improved reentry options, 4) supporting offenders’ friends, family, and children, who may need and want their imprisoned loved one to stay involved in their lives, as well as maintaining order and security.<sup>81</sup>

Reframing visitation policy as a part of the rehabilitation process may not only be valuable in reshaping visitation policy but may also be a way of improving the often strained relationship between visitors and correctional officers. Some studies have found that differing perspectives on the visitation process can cause conflict between correctional officers and visitors. In interviews with correctional officers, Sturges (2002) finds that correctional officers view the visitation process mainly as a security threat to the facility and complain about visitors’ attitudes during the process.<sup>82</sup> Dixey and Woodall (2012) likewise find that correctional officers largely view visitation as a burdensome logistical nightmare. On the other hand, visitors feel that long waits and the attitude of correctional officers towards them make an already stressful situation more difficult.<sup>83</sup> A change in perspective regarding the entire visitation process may help to ease this officer-visitor tension while also promoting a beneficial tool for rehabilitation and eventual post-incarceration reintegration into a community.

Modes of enhancing family visitation can include:

- Prison nursery programs that allow infants to stay with their mothers through the first year, enhancing the infant’s attachment and ability to form social bonds as well as supporting the mother’s parenting role and dedication to the child.<sup>84</sup> The women’s prison at Bedford New York has the flagship program, which could serve as a model in Connecticut.
- Transportation for families to visit prison. Especially for prisoners housed at a distance from major metropolitan areas in Connecticut, it

is difficult for families to visit. Bus services could be enhanced for these prisons. Families with young children especially need help maintaining contact with incarcerated family members.<sup>85</sup>

- Playgrounds, reading areas, overnight visits for children. Children who visit in prison often must sit still at a table across from their parent. This is not a natural way for children to interact with their parent. Visiting a parent in prison could be much less traumatic for children if they are able to interact in a child-friendly environment. Some prisons have facilities for overnight visits, but they are seldom used because of prison policies that allow overnight visits only in extraordinary circumstances. Other states are beginning to allow parents to eat a meal or spend a night or weekend with their children,<sup>86</sup> often as a reward for specific achievements.
- New technologies. Video visitation could help prisoners keep in touch with distant family members or enable more participation in the daily lives of their children.<sup>87</sup>
- Several agencies and programs in Connecticut help children with parents in prison feel less alienated both from their parents and from their communities. These groups could be supported and expanded.
- Case managers or counselors could provide more support for mothers and fathers to keep in touch with school teachers, child counselors, pediatricians, foster parents, and other caregivers to allow them to play more of a daily role in their children's lives.
- The quality of the visit matters. For example, girl scout programs in which children of incarcerated parents participate with their incarcerated parents have had empirical success in enhancing mother-daughter relationships.<sup>88</sup> An inmate forum in Arizona led to innovative visits that included food brought by visitors.<sup>89</sup>
- Functional family therapy and integrated family transitions programming was found to be especially helpful and cost-effective for institutionalized juveniles, according to a 2011 report from the Washington State Institute for Public Policy ("WSIPP").<sup>90</sup>



**B. Support pro-social family relationships after incarceration through family mediation, family therapy, stable housing, realistic child support obligations, and expanded employment opportunities**

Most offenders return to live with family members. Half-way houses and other transitional living arrangements, though beneficial during the crucial early period of reentry when recidivism rates are highest, are scarce resources and most offenders cannot participate in them.<sup>91</sup> They also may not provide sufficient reentry services. Hence, aiding families during the reentry process is crucial. Connecticut's family reentry programs have been helpful to many transitioning offenders and include mediation, visitation, and family therapy. Other states and models have also had beneficial results.<sup>92</sup>

**1. Public housing restrictions can destabilize families**

*"Mrs. Smith came to our office to fight an eviction proceeding which had been filed against her. The main cause of eviction was that she had an unauthorized tenant living with her. It was her son, Al. Mrs. Smith and Al have lived in public housing all their lives, and up until he served two years for a felony drug charge, Mrs. Smith's apartment was Al's home. He was a party to the lease, and a permissible resident. After he got out of prison, he tried to return to the complex and asked to sign onto the lease again, but they decided to bar him because of his felony conviction.*

*Alex was thus homeless, or would have been had Mrs. Smith not let him stay there anyway, in violation of her lease. Eventually, the office caught on to what was happening, and now Mrs. Smith, who has had a mental disability for her whole life, is fighting to convince the court to re-open the default judgment entered against her (she never showed up to court because she cannot read, and even if she could, she's got severe mental impairments that would have kept her from comprehending anyway.)*

*Al has a court date coming up- he was arrested for larceny, which he swears he did not commit. The special prosecutor must agree, because she tells him he has a very strong case and should fight it.*

*As tends to happen, the police have offered Alex a plea deal- 2 years if he'll plead guilty. Remarkably, he decided the other day that he might want to accept the deal, rather than litigate, despite his strong chance of winning his pending case, because that is the only way he can think of that will get him a permanent address and will satisfy the landlord who is trying to evict his mom." Legal Aid Worker*

**Federal rules are more flexible than local housing authorities often realize,<sup>93</sup> and in many cases local housing authorities have discretion to accept ex-offenders.** Indeed, the U.S. Department of Housing and Urban Development ("HUD") recently emphasized to public housing authorities the "importance of second chances" and urged them to allow ex-offenders to enter public housing where appropriate. HUD noted that "people who have paid their debt to society deserve the opportunity to become productive citizens and caring parents, to set the past aside and embrace the future." HUD stated that "part of that support means helping ex-offenders gain access to one of the most fundamental building blocks of a stable life—a place to live." HUD emphasized that owners may consider in screening applicants with criminal histories "all relevant evidence, including

factors that indicate a reasonable probability of favorable future conduct” such as “evidence of rehabilitation.”<sup>94</sup>

Despite the flexibility permitted under federal law, many local housing authorities adopt restrictions that are much stricter than federal requirements. For example, the Housing Authority of New Haven will reject any application with a conviction for use of drugs within the last ten years.<sup>95</sup> Berger Apartments, a federally subsidized and privately-owned housing development in New Haven rejects applicants who have ever been convicted of a drug-related crime, any felony, or a misdemeanor involving violence.

Last year, the Connecticut Sentencing Commission recommended legislation to allow judges to issue certificates to offenders who appear to be good candidates for public housing, although local housing authorities would retain discretion to determine the applicant’s suitability for housing.

Model programs addressing standards for placing ex-offenders in public housing exist in Utah, Oregon, and Vermont. The Salt Lake County Housing Authority partnered with the county jail to place ex-offenders in rent-assisted housing and helps locate appropriate units and negotiate with landlords. The Housing Authority of Portland provides subsidies for housing in conjunction with nonprofit groups involved in career placement and training. A jointly-funded Housing Specialist helps program participants locate units that will accept the subsidies and considers applications for public housing on an individual basis using its own guidelines that rate the seriousness of particular crimes. Housing applicants may appeal denials and are invited to bring evidence of rehabilitation and an advocate, such as a parole officer, to testify on their behalf. In Vermont, the Burlington Housing Authority is working with six other cities to find housing for reentrants, and has also implemented a set-aside of Section 8 vouchers for people released from jail. Staff also works with inmates in the county jail’s transitional work program to help with financial planning.<sup>96</sup>

The Housing Authority of New Haven (“HANH”) currently has a Reentry Pilot Program, which allows the Housing Authority to admit applicants who would be otherwise ineligible under HANH guidelines based on their criminal convictions.<sup>97</sup> However, the program is limited to only 12 applicants and has a lengthy waiting list. Programs such as this should be expanded in Connecticut.

Another possible reform would be to alter the procedures used by housing authorities in screening applicants. Currently, it appears that most housing authorities run criminal record checks after receiving applications, and automatically send out letters denying applicants with convictions that render them ineligible under the local housing authority’s guidelines. The applicant may then request a hearing to challenge the denial decision and present evidence of rehabilitation. However, many applicants do not challenge the denial decision because they are discouraged by the rejection and/or do not understand their rights.

Instead of denying an applicant and then placing the burden on the applicant to appeal the decision, the housing authority could instead simply defer a decision and invite the applicant to present evidence of rehabilitation at a hearing. A Connecticut statute arguably already requires approach,<sup>98</sup> although it does not appear that housing authorities follow this procedure.

## **2. Court-imposed financial burdens can destabilize families**

Another challenge during reentry is the accumulation of financial obligations during prison and parole—a debt load that makes it difficult for parents (usually fathers) to find their feet during reentry. Connecticut permits inmates to modify child support obligations and stop the accumulation of child support debt during incarceration, but inmates need to be informed of this option and exercise it, otherwise child support obligations continue to accrue during imprisonment and create an insurmountable debt. An automatic process of stopping this accumulation during imprisonment would be better. When fathers fail to pay child support, this may count as a parole violation, or they may be jailed for contempt of court, and reentry as well as family unification is defeated.

Until last year, Connecticut had an innovative “problem solving court” as part of the Family Support Magistrate Court in New Haven. The court used a non-adversarial team approach to help parents—most of whom had criminal records—to meet their support obligations. Rather than jailing parents for contempt for nonpayment, the support court team worked together to help support parents’ efforts to find jobs, go to school, and improve their parenting skills. The program involved close monitoring and a system of rewards and non-incarceration sanctions. Cases involved frequent status hearings and direct interaction between the litigants and the Family Magistrate.

Parole and probation themselves may also require significant economic and time demands that take away from the ability to pay child support and spend time with children. Some examples of these payments are given in the Smoyer, Blankenship, MacIntosh study:

“1. Restitution Payments: Offenders who are convicted of larceny or burglary charges may be required to re-pay the victim (usually a store or bank, sometimes an individual). Installment plans are arranged that take into consideration the offender’s income and the amount of time they will be on community supervision. The debt must be paid in full before the end of the [parole or probation] sentence.

2. Drug Testing and Monitoring Devices: Parolees and probationers may be charged for surveillance equipment and/or drug testing. These co-payments are determined by the parole/probation officers, depending on the offender’s income. While these charges were uncommon among study participants, some men did pay for these services, especially monitoring bracelets.

3. Required Classes (e.g., domestic violence, anger management, and parenting): Some classes that are required by P/P have a co-payment (generally between \$10 and \$20). Participants cannot attend the class unless the co-pay is paid and, not

surprisingly, participants reported skipping classes and violating the terms of their community release because they did not have the money to pay this fee.

4. Transportation: Only one of the African American fathers we interviewed had his own car. All the other men relied on public transportation or rides from friends or family, who often requested money for gas. While the \$2.50 that is required for a round-trip bus trip in New Haven may seem like a minimal outlay, these fares were a significant expenditure given the participants' limited incomes and the number of required weekly appointments."

The authors conclude that **"living on very low incomes created a constant tension between personal living expenses and bills, expenses relating to their criminal justice status, and expenses relating to their children. . . .** Expenses relating to probation and parole and state-mandated child support were usually paid first as non-payment could result in reincarceration. These demands limited the fathers' capacity to offer direct financial support to their children and/or their children's mothers."

The study pointed out that fathers are also required to maintain full time employment and report for programming and drug testing, leaving little time for child care. Child care itself does not count as full-time employment. With little support, parenting relationships for reentering fathers can be stressful. Smoyer et al conclude that "it was clear that children can be a source of inspiration for recovery; nevertheless, fatherhood was also a source of stress that led to relapse and criminal activity . . . . The question of whether or not interaction with children (and specifically what kinds of interaction) reduces fathers' likelihood of going back to prison requires further study."<sup>99</sup>

While some of these fees and probation/parole requirements may be important and justified by their restitutive, rehabilitative, or restorative justice goals, the effects of the accumulation of such obligations deserves further study. Perhaps fees might be monitored and ameliorated in individual cases through a case worker, or perhaps "phased in" as reentrants establish housing and job security.

### ***C. Family and pro-social support systems also help support substance abuse and mental illness interventions***

*"For inmates with substance use disorders, provide comprehensive pre-release planning to assure transition to a broad range of integrated reentry services including addiction treatment and management, mutual support programs, other health care services, education and training, and family support."<sup>100</sup>*

A 2006 report funded by the Bureau of Justice Statistics found that 64 percent of inmates had some mental health problem and within that group, 76 percent of inmates were diagnosed with co-occurring mental illness and substance abuse problems. According to a joint report from the Substance Abuse and Mental Health Services Administration ("SAMHSA") and National Institute of Justice ("NIJ"), drug use among the offender population is much higher than the general population with

60 to 80 percent of individuals under the supervision of the criminal justice system having a substance use-related issue. This national report suggests that, “More and more, the success of offender reentry efforts will hinge on the availability of effective and readily accessible treatments for mental and substance use disorders for those probationers and parolees who, in increasing numbers, need these services.”<sup>101</sup> Unfortunately, a 2010 report from the National Center on Addiction and Substance Abuse at Columbia University has documented a serious ‘treatment gap’ in prisons across the nation. In addition to lagging availability of treatment and counseling programs, medicine-assisted treatment options for addiction are often interrupted or unavailable.<sup>102</sup>

More treatment for substance abuse and mental illness is vitally important. But as with other attempts to effect change in prison, **drug and mental health treatment works better in supportive environments and small expenditures on community aftercare can make a big difference in effectiveness.**<sup>103</sup> Voluntary therapeutic community treatments work both in and outside of prison to reduce recidivism, and are remarkably more effective with follow-up aftercare, consistent support for medicine-based treatments, peer-support, and volunteer support following reentry in the community.<sup>104</sup> Even simple and inexpensive interventions, like a daily “check in” phone call from a volunteer, can aid recovery.

Connecticut’s “reentry roundtables” across the state are working on successful collaborative working relationships that connect resource providers and facilitate coordination of community aftercare opportunities. Although little data is yet available from these efforts, similar programs in other states have demonstrated cost-effective success.

Pennsylvania’s Allegheny County Jail (“ACJ”) Collaborative, for example, provides treatment for underlying mental health and substance abuse problems and successfully reduces recidivism rates among offenders. The ACJ Collaborative is a cooperative effort between the ACJ, the Allegheny County Department of Human Services and the Allegheny County Health Department. The collaborative consists of “a 25-member committee representing 60 social service providers and government agencies, providing both in-jail and post-release comprehensive yet individualized non-duplicative services with the goal to promote reintegration and reduce recidivism.”

A 2008 study of 301 inmates involved in the ACJ Collaborative supports the hypothesis that community support programs that may help reduce recidivism among traditional inmates will also help reduce recidivism among inmates with mental illness and substance abuse issues, provided those individuals received treatment for their mental health and substance abuse. The study found that “individuals who received treatment for their mental health issues had significantly lower recidivism rates; whereas their untreated peers had higher recidivism rates.”<sup>105</sup> In addition, the study also found that **“highly positive family social support was found to reduce the effect of factors known to predict higher**

**recidivism rates,”** including substance abuse. Family social support was measured “according to the participants’ perceived level of social support offered by their family” in answering questions about their family support on a 0 to 8 scale.

The study found that “collaborative jail reentry programs for people with mental health and substance abuse problems are critical tools to reduce recidivism.” It is important to note that a major goal of the ACJ Collaborative is family reunification and building healthier family relationships. This collaborative approach demonstrates how the community-building programs described elsewhere in this paper can be most successful when paired with efforts to address mental health and substance abuse issues for affected inmates. The efforts are mutually reinforcing: the treatment helps the patient relate to the family, and the family helps the patient stay in treatment.

The family and social support programs that can reduce recidivism among the general offender population can be especially helpful for mentally ill offenders. A 2011 study examined factors associated with recidivism among offenders with mental illness specifically and also addressed the importance of treatment for mental illness, as well as addressing co-occurring mental illness and substance abuse, and the important role of family and social support. The study explained,

Lack of family and social support has been identified as a barrier to mental health treatment. Although families play a significant role in the lives of mentally impaired offenders, family members often lack the knowledge and education on providing support for treatment. Effective treatment should incorporate family members to help families understand the illness and how to deal with a mentally impaired individual.<sup>106</sup>

**The family support programs that help all offenders build strong community connections and reduce the risks of re-offending can also help mentally ill offenders gain maximum value from their treatment programs and provide even stronger connections to help reduce recidivism.**

In addition to programs designed to support a strong family connection, programs designed to assist offenders in transitioning back to living and working in their communities can also be especially helpful for offenders with mental illness. A 2010 paper published in the American Journal of Community Psychology addressed the challenges of community reentry among inmates with serious mental illness and found that mentally ill inmates are more likely to experience homelessness and less likely to find employment than other released inmates.<sup>107</sup> Additionally, the researchers found that individuals with co-occurring mental illness and substance use disorders have a “poorer overall prognosis” than those with serious mental illness alone; specifically, these individuals are at greater risk of “relapse and hospitalization, housing instability and homelessness, violence and suicidality, and a host of other negative outcomes.” The need to provide programs supporting the

offender's reentry into the community becomes even more important for those with mental illness *and* substance abuse issues. Pairing treatment programs for mental illness and substance abuse with effective community reentry programs will gain maximum effectiveness for this significant portion of offenders.

***D. Improve educational and vocational opportunities through pro-social networks to enhance pro-social and family ties***

**1. The pro-social power of the classroom**

Nationally, those incarcerated are among the least educated members of society. A 2003 Bureau of Justice Statistics report found that 41 percent of state and federal prisoners have not completed the requirements for a high school diploma or GED. Only 11 percent have attended some college, compared with 48 percent of the general population.<sup>108</sup>

We know that education programs can develop specific job-related skills, such as data entry or welding or balancing a check book, but they also have more diffuse benefits. Reading critically, writing well, mastering deductive reasoning and computation, and learning to articulate thoughts and ideas clearly and persuasively are skills that "cross-train" across many life activities—from filling out forms to moderating disputes. Marks of success, such as a GED or college credit, may enhance future opportunities and signal diligence and follow-through to employers and administrators. **But critically, the classroom experience itself, if interactive and rich, creates pro-social bonds as students listen to others' views and experiences, overcome fear of sharing their own experiences with others, improve their communication skills, help and support each other through the rigors of a course, and model respectful communication of differences and moral reasoning.**<sup>109</sup>

Education programs have been evaluated by a number of empirical studies and in a number of meta-analyses. Even when control groups are used, and even when those receiving the educational services are statistically more likely to recidivate than those in the control group, and even when one controls for post-incarceration employment, **education reduces recidivism.**<sup>110</sup>

The two most reliable studies, which control for selection bias, from Florida, show that basic education also has employment benefits. A 2007 Florida study (Tyler and Kling) of the effect of attaining a "GED" on employment opportunities showed a GED helped only African American but not White prisoners. A 2008 follow-up study (Cho and Tyler) found that **general adult basic education improved employment prospects more and more over time**, but did not improve wages when compared to employed reentrants who did not have the educational programming.<sup>111</sup>

The effect of college-level or specialty courses on recidivism rates is more difficult to measure, because those who complete these classes are highly self-selected. Many studies demonstrate that those who choose to participate in college courses have dramatically lower recidivism rates than those who do not, but it is difficult to determine whether the same motivation that leads these individuals to take college courses is also the causal factor affecting recidivism, rather than the courses themselves.<sup>112</sup> Likewise, arts programs in prison, including visual arts, writing, drama and dance, can show that participants recidivate at much lower rates than those who do not participate, but an appropriate control group is difficult to identify.<sup>113</sup> Qualitative evidence from the classroom, however, suggests that both college-level and arts-based courses can be transformative, bridging racial boundaries, providing non-violent outlets for emotional expression and thoughtful evaluation of experience, creating pro-social bonds and providing non-substance-abuse-based forms of satisfaction, engagement, and vocation.<sup>114</sup> Moreover, there may be spill-over peer effects: even if it is only the most-motivated students who take advantage of these opportunities, and even if they would have succeeded anyway, they may serve as role-models and inspiration to others who may initially be less motivated to change. These peer effects have been studied in other educational settings, and, not surprisingly, the more redundant the peer influences, the stronger the effects.<sup>115</sup> In other words, **the more friends you have who do well in school, the higher the likelihood that you will, too.** The WSIPP study does not separately evaluate post-secondary education or arts programs, but these programs deserve closer empirical study, especially for their potential peer effects.

College courses in prison are scarce and not currently federally funded. Though Wesleyan University offers a series of classes in several prisons (and is expanding this year to York), there are currently no college 4-year degree programs offered in Connecticut, and other college course programs (through Trinity and Quinnipiac) are isolated. These programs might be expanded, if appropriate legislation can resolve contracting barriers. Community college courses have also been offered in some institutions, but families must pay for them. Other college courses are available only on a correspondence basis, which is not only expensive for inmates (though limited scholarships are available), but is logistically difficult and loses the role-playing, moral reasoning, and modeling benefits of the classroom experience.<sup>116</sup> More modern distance-learning techniques, like virtual classrooms, email, instant messaging, blogs, and on-line discussion forums, which help create social learning environments at a distance, cannot be used currently in Connecticut prison settings. New York, Texas, Massachusetts, Iowa, Nevada, Oregon, Minnesota, North Carolina, and California have developed more expansive programs of college education and experimented with various forms of state partnerships with educational institutions and non-government funding sources, which deserve further study and could serve as models here.<sup>117</sup>

Arts programming in Connecticut includes drama and dance, as well as visual arts and creative writing. Arts programming, however, is less common in men's



facilities than in women's. Evaluation and potential expansion of these programs should be part of a close look at rehabilitative educational opportunities.

## **2. The pro-social power of the workplace**

### ***a. In prison***

Prison work itself can reduce recidivism by giving inmates the job skills they need outside as well as the experience of self-esteem, satisfaction, and social connection that comes with employment. The WSIPP analysis found that prison industries reduce recidivism by 5.9 percent. **Some jurisdictions are also trying to enhance the in-prison experience of work by “parallel universe” programs.** In Arizona and Missouri's pilot parallel universe programs, for example, prisoners interviewed for jobs and received job evaluations. They received higher wages after they completed educational programs and they received employee awards similar to those in the workplace. They also had more autonomy (and therefore responsibility) for personal decisions, such as reordering medications and keeping track of commissary balances. In Arizona, the prison administration developed an award system after an inmate forum. Inmates suggested that a valued award would be the right to have visitors bring in food on visitation days; another was the right to have “dinner and a movie.” As a result of these forums, these awards were incorporated into the “parallel universe” incentive structure. Inmates were also encouraged to do community service projects and were given some choice about which to support.

**Officials in both states credited these reforms with reduced prison violence and reduced recidivism rates.** In four years, Arizona inmates raised 1.4 million for victim agencies and court-ordered restitution increased 14 percent. Inmate on inmate and inmate on correctional officer violence decreased substantially and recidivism rates improved among program completers. Missouri reduced its overall recidivism rates for new felony charges by 13 percent.<sup>118</sup>

Connecticut's in-prison hospice and nurse-assistant volunteer programs provide similar opportunities to develop skills, mentor and support peers, and experience the satisfaction of community service. Peer-mentoring is also used in other programming, such as alternatives to violence.

### ***b. After prison***

Reentrants face a difficult employment market, with significant discrimination against ex-offenders. However, the Equal Employment Opportunity Commission (“EEOC”) ruled 25 years ago, and reaffirmed in April 2012, that employers may not discriminate against ex-offenders in employment “unless they can show that the exclusion is job related and consistent with business necessity.”<sup>119</sup> Educating employers about this rule and EEOC guidelines may help reentrants in the employment market. Connecticut is experimenting with “ban the box” legislation in

state employment, which allows ex-offenders to apply for jobs without indicating their criminal history. Instead, employers may inquire about past convictions only after a prospective employee “has been deemed otherwise qualified for the position.”<sup>120</sup> Cities such as New Haven have gone further, and require city employers, and employers who contract with the city, to make provisional job offers before inquiring regarding criminal history.<sup>121</sup>

In 2012, Ohio enacted comprehensive “collateral sanctions” legislation with bipartisan support.<sup>122</sup> Ohio’s legislation allows a person to apply to the court to request the sealing of one felony and one misdemeanor conviction or two misdemeanor convictions. In addition, the legislation allows courts to issue “certificates of qualification for employment,” which provide relief from certain bars on employment and occupational licensing. The legislation also protects employers from negligent hiring lawsuits by providing immunity to employers who hire employees who have been granted certificates. Finally, Ohio’s new statute prohibits the State Board of Cosmetology from denying an applicant based on a prior criminal conviction (regardless of whether the applicant has received a certificate).

**In Connecticut, some barriers to employment for those with criminal convictions stem from state statutory restrictions on employing or licensing ex-offenders in a broad array of jobs.**<sup>123</sup> Connecticut’s “provisional pardons” system, created in 2006, is intended to remove barriers to licenses and employment for individuals with prior criminal convictions. However, few provisional pardons are issued each year and many people do not understand their legal effect. Last session, the Connecticut Sentencing Commission recommended legislation aimed at improving this system. The legislation would have renamed provisional pardons “certificates of relief from barriers,” expedited the application process by allowing courts to issue certificates, clarified the legal effect of certificates, and expanded the program to remove barriers to public housing. The bill received a favorable vote in the Judiciary Committee, but was not ultimately enacted.

California’s 2011 realignment program is currently experimenting with returning less serious offenders to local jails where they can be more easily connected with community resources. Alameda County’s implementation program includes ambitious reentry programs, including transitional employment and housing initiatives, though rushed implementation may make these experiments less successful. Similar initiatives are being implemented in the United Kingdom.<sup>124</sup> The success or failure of these programs will be important to watch.

### **3. The pro-social value of other communities**

Many studies, including WSIPP, have emphasized the reduction in recidivism associated with participation in religious communities. And, many formerly incarcerated people who have successfully returned to their communities work with community organizations to help others who are reentering. Currently, no-contact

rules prohibit persons who were formerly incarcerated from associating with each other or with prison volunteers. To the extent that these rules impede positive social ties like these, or prevent a reentrant from, for example, going to church with volunteers they met inside, they should be reevaluated.

Collaborative or restorative approaches can also help reintegrate those in prison with their communities by providing opportunities post-sentence for victim/offender dialogue and for restitution and community service. WSIPP studies show a modest recidivism reduction effect for restorative justice approaches, but this doesn't account for the benefits to communities and to victims that these encounters and services can provide.<sup>125</sup> Especially in communities where many of those in prison are returning, the opportunity for dialogue may be important not only to bring home to offenders the particular consequences of their offenses and possibly thereby lower crime rates, but to enhance neighbors' feelings of safety, reduce resentment and fear, make those returning from prison more employable, make employers more comfortable employing them, and reestablish public trust. Efforts like this are underway in Bridgeport, as family reentry groups organize community service projects for ex-offenders. Juvenile mediation pre-sentence is in place in several juvenile courthouses and schools throughout the state, through grants from private institutions. An adult diversionary mediation program, though successfully handling many cases in several GA courts, was a victim of recent budget cuts. But currently there are few opportunities for victim/offender dialogue post-sentence. These programs should be evaluated and possibly expanded.

### III. Conclusion

**Focusing on creating and strengthening supportive relationships for people reentering their communities from prison will support community safety now and in the future.**

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<sup>1</sup> Lipsey, Mark W. and Cullen, Francis T., *The Effectiveness of Correctional Rehabilitation: A Review of Systematic Reviews*, 3 ANNUAL REVIEW OF LAW & SOCIAL SCIENCE, (2007)(a review of meta-analyses showed that punitive or supervisory approaches had no effect on recidivism or increased it, while rehabilitation methods, depending on program and implementation, decreased recidivism); M. Keith Chen & Jesse M. Shapiro, *Does Prison Harden Inmates? A Discontinuity-Based Approach*, AMERICAN LAW AND ECONOMICS REVIEW (2007)(compared inmates with similar risk scores that were assigned to different security levels because of bright-line risk score cut-offs, finding that those in harsher institutions had a higher recidivism rate); ROGER PRZYBYLSKI, WHAT WORKS: EFFECTIVE RECIDIVISM REDUCTION AND RISK-FOCUSED PREVENTION PROGRAMS: A COMPENDIUM OF EVIDENCE-BASED OPTIONS FOR PREVENTING NEW AND PERSISTENT CRIMINAL BEHAVIOR (2008)(RKC Group, Prepared for Division of Criminal Justice, Colorado); STEVE AOS, MARNA MILLER, ELIZABETH DRAKE, EVIDENCE-BASED PUBLIC POLICY OPTIONS TO REDUCE FUTURE PRISON CONSTRUCTION, CRIMINAL JUSTICE COSTS, AND CRIME RATES, WASHINGTON STATE INSTITUTE OF PUBLIC POLICY (2006). [WSIPP] See also the WSIPP website at: <http://www.wsipp.wa.gov/topic.asp?cat=10&subcat=0&dteSlct=0>

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<sup>2</sup> THE NATIONAL CENTER ON ADDICTION AND SUBSTANCE ABUSE AT COLUMBIA UNIVERSITY, BEHIND BARS II: SUBSTANCE ABUSE AND AMERICA'S PRISON POPULATION (February 2010).

<sup>3</sup> HARRY ELMER BARNES, THE STORY OF PUNISHMENT 130 (quoting "Report of the Inspectors of the Western Penitentiary, 1854") (Boston: Stratford, 1930).

<sup>4</sup> *Id.* at 134.

<sup>5</sup> *Id.* at 134-35.

<sup>6</sup> *Id.* at 138-39 ("Maryland introduced solitary confinement in 1809 and abolished it in 1838. Massachusetts authorized solitary confinement in 1811 and did away with it in 1829. Maine experimented with solitary confinement from 1824 to 1827. New Jersey introduced solitary confinement in 1820, abolished it in 1828, reintroduced it in 1833 and finally abolished it in 1858. Virginia introduced solitary confinement in 1824 and practically abolished it in 1833. Rhode Island introduced solitary confinement in 1838 and abolished it in 1844. Except for these instances of brief experimentation with the Pennsylvania system, the [New York] Auburn system[of work] prevailed in the early state prisons of the country.").

<sup>7</sup> Lindsay F. Stead and Tim Lancaster, *Group Behaviour Therapy Programmes for Smoking Cessation*, 2 THE COCHRANE LIBRARY (2009)(meta-analysis showed that group therapy doubled the chance of quitting smoking compared to self-help approaches).

<sup>8</sup> Those who take on-line or correspondence classes involving little social interaction drop out more often than those who take traditional classes. Karen Frankola, *Why Online Learners Drop Out*, WORKFORCE (June 2001).

<sup>9</sup> Beverly D. Frazier, *Faith-Based Prisoner Reentry*, in RETHINKING CORRECTIONS: REHABILITATION, REENTRY AND REINTEGRATION 279-306 (Lior Gideon & Hung-En Sung, eds., 2011) (review of literature).

<sup>10</sup> Wayne N. Welsh, *Prison-Based Substance Abuse Programs*, in RETHINKING CORRECTIONS, supra, at 157-92 (review of literature).

<sup>11</sup> *See infra*.

<sup>12</sup> Nisha Money, et al., *Best Practices Identified for Peer Support Programs* (January 2011)(Defense Centers of Excellence: For Psychological Health and Traumatic Brain Injury).

<sup>13</sup> *See* <https://www.resilience.army.mil/about.html>

<sup>14</sup> FROMA WALSH, STRENGTHENING FAMILY RESILIENCE 4 (2006).

<sup>15</sup> David Vergun, *Study Concludes Master Resilience Training Effective*, January 24, 2012, at [http://www.army.mil/article/72431/Study\\_concludes\\_Master\\_Resilience\\_Training\\_effective/](http://www.army.mil/article/72431/Study_concludes_Master_Resilience_Training_effective/)

<sup>16</sup> "Werner and Smith's (1982, 1992) longitudinal study of resilient children provides rich evidence for a complex interactional view of resilience, involving multiple internal and external protective influences in lives over time. They concluded that earlier researchers focused too narrowly on maternal influence and the damage of one parent in the nuclear household, and missed the importance of siblings and others in the extended family network. The role of a wide variety of supportive relationships was crucial at every age. ... Throughout their school years, the resilient children actively recruited support networks in their extended families and communities. Interestingly, more girls than boys overcame adversity at all age levels. We might postulate the influence of gender-based socialization in seeking out and sustaining supportive relationships: Girls are raised to be both more easygoing and more relationally oriented, whereas boys are taught to be tough and self-reliant through life. Moreover, often because of troubled family lives, competencies were built by assuming early responsibilities for household tasks and care of younger siblings." *Walsh*, at 14. *See also*, EMMY WERNER & RUTH S. SMITH, OVERCOMING THE ODDS: HIGH RISK CHILDREN FROM BIRTH TO ADULTHOOD (1992).

<sup>17</sup> WALSH at 25 ("A resilience-based stance in family therapy is founded on a set of convictions about family potential that shapes all intervention, even with highly vulnerable families whose lives are saturated with crisis situations. Collaboration among family members is encouraged, enabling them to build new and renewed competence, mutual support, and shared confidence that they can prevail under duress. This approach fosters an empowering family climate: Members gain ability to overcome crises and challenges by working together, and they experience success as largely due to their shared efforts and resources. Experiences of shared success enhance a family's pride and sense of efficacy, enabling more effective coping with subsequent life adaptations.").

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<sup>18</sup> *Id.* at 26. WERNER & SMITH (1992) at 186: “Among the protective factors that discriminated between high risk individuals with and without coping problems in early adulthood were the educational level of the parents (especially the opposite-sex parent), the availability of caring adults outside the home, and supportive teachers in school who acted as role models and assisted the youths with realistic educational and vocational plans. Other potent buffers of adversity in early adulthood were the emotional support provided by spouses, kith, and kin, the power of faith and prayer, and the opening up of opportunities that increased the individual’s competence and confidence. Equally powerful in adulthood as predictors of successful adaptation were temperamental characteristics that have a strong genetic base: activity level, sociability, and emotionality. Protective factors within the individual tended to make a greater impact on the quality of adult adaptation of high risk women; outside sources of support tended to make a greater impact on the overall adaptation of high risk men.”

<sup>19</sup> American Correctional Association & International Community Corrections Association, *Social Learning, Social Capital, and Correctional Theories: Seeking an Integrated Model*, in WHAT WORKS AND WHY: EFFECTIVE APPROACHES TO REENTRY 6-7 (2005).

<sup>20</sup> Interview from Amy Smoyer, Kim Blankenship & Tracy MacIntosh, *Parenting on Parole or Probation: African American Fatherhood Under Community Supervision*, in THE MYTH OF THE MISSING BLACK FATHERS (Roberta Coles & Charles Green, eds., 2009) (from a qualitative pilot study on the effect of parole and probation on parenting in New Haven).

<sup>21</sup> CASA at 4.

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<sup>22</sup> A study commissioned by the Connecticut Assembly Appropriations Committee in 2003 (*Building Bridges from Conviction to Employment*) found that just a few predominantly minority neighborhoods in Hartford, New Haven, Bridgeport and Waterbury accounted for 45% of Connecticut’s prison population, and that 10-15% of young African American men ages 18-49 in these neighborhoods were incarcerated. See, *Building Bridges From Conviction to Employment: A Proposal to Reinvest Correction Savings in an Employment Initiative, One Year Later* 14-22 (2004). The report demonstrated that 15-20% of this incarceration stemmed from parole violations, and the report recommended changes to parole and probation systems that would involve targeted intensive programming and reduced use of incarceration for technical violations. Some of these recommended changes were implemented in 2004 by establishing two new programs in CCSD: the Probation Transition Program and Technical Violation Unit. They were found to be effective both in reducing recidivism and controlling costs. Stephen Cox, Kathleen Bantley, Thomas Roscoe, *Evaluation of the Court Support Services Division’s Probation Transition Program and Technical Violation Program* 3 (2005). A 2008 Office of Legislative Research Report is also available that details the types of technical violations that may result in reincarceration. George Coppolo, *Parole Technical Violations* (2008).

<http://www.cga.ct.gov/2008/rpt/2008-R-0135.htm>. These programs now serve as a national model. NESTOR RIOS AND JUDITH GREENE, REDUCING RECIDIVISM: A REVIEW OF EFFECTIVE STATE INITIATIVES (2009)(Justice Strategies, Tides Center, Report for Colorado Legislature). Responding to evidence that harsher penalties for crack cocaine had racially disparate effects, Connecticut equalized penalties for crack and powder cocaine in 2005. In 2009, the Connecticut Assembly passed disproportionate minority contact legislation, to look closely at the patterns and effects of the arrest and incarceration of juveniles in these minority communities. Studies done pursuant to this legislation found that “racial and ethnic minorities are greatly over-represented in the juvenile justice system,” and “the observed disproportionality cannot be explained by difference in delinquent behavior across racial and ethnic groups,” and that “Black and Hispanic juveniles were clearly overrepresented in Connecticut’s juvenile justice system (e.g., referral to court, placement in detention, and placement at Long Lane School). While overrepresentation was sizable for Hispanic juveniles, it was considerably greater for Black juveniles.” DORINDA M. RICHELLE, ELIOT C. HARTSTONE, KERRI L. MURPHY, A SECOND REASSESSMENT OF DISPROPORTIONATE MINORITY CONTACT IN CONNECTICUT’S JUVENILE JUSTICE SYSTEM (2009)(submitted to the Office of Policy and Management, Criminal Justice Policy and Planning Division). A second study in 2011 found that disproportionate minority contact (“DMC”) in Connecticut with the criminal justice system may be more prevalent outside cities than it is within cities, where minority populations in Connecticut are concentrated. Benjamin Barnes, Secretary, Office of Policy Management, *Biennial Report on Disproportionate Minority Contact, Fiscal*

Years 2010-2011, <http://www.ctija.org/resources/pdf/DMCBiennialReport123111.pdf> (December 31, 2011).

<sup>23</sup> Laura Glaze & Lauren Maruschak, *Bureau of Justice Statistics Special Report: Parents in Prison and Their Minor Children* (2004); Stacy Bouchet, *Children and Families with Incarcerated Parents* (2008)(Annie E. Casey Foundation).

<sup>24</sup> Smoyer, Blankenship & MacIntosh, *supra*; see also Dorothy E. Roberts, *The Social and Moral Cost of Mass Incarceration in African American Communities*, 56 STAN. L. REV. 1272 (2004).

<sup>25</sup> WERNER & SMITH (1992) at 160-71 (nothing that parental absence, family disruption, and family conflict were key predictors of 'poor adult adaptation,' criminal behavior, and mental illness.)

<sup>26</sup> *Id.*

<sup>27</sup> Smoyer, Blankenship, MacIntosh, *supra*.

<sup>28</sup> Solangel Maldonado, *Recidivism and Parental Engagement*, 40 FAMILY LAW QUARTERLY 191, 195 (2006).

<sup>29</sup> Lauren Glaze and Laura Maruschak, Bureau of Justice Statistics, U.S. Department of Justice, *Parents in Prison and Their Minor Children* (2010).

<sup>30</sup> Maldonado, *supra*.

<sup>31</sup> CASA at 24.

<sup>32</sup> Bruce Western & Becky Pettit, *Incarceration and Social Inequality*, DAEDALUS 8-15 (2010).

<sup>33</sup> D.A. ANDREWS, JAMES BONTA, *THE PSYCHOLOGY OF CRIMINAL CONDUCT* 243 (5<sup>th</sup> Ed., 2010).

<sup>34</sup> *Id.* at 131-55.

<sup>35</sup> James McGuire, *Evidence-Based Programming Today*, in WHAT WORKS AND WHY: EFFECTIVE APPROACHES TO REENTRY 85; see also WSIPP (2006).

<sup>36</sup> STRENGTHENING FAMILY RESILIENCE, *supra*, at 15.

<sup>37</sup> McGuire, *supra*, at 197.

<sup>38</sup> *Id.* at 196. Maldonado, *supra*, at 191; see also JOYCE A. ARDITTI, PARENTAL INCARCERATION AND THE FAMILY: PSYCHOLOGICAL AND SOCIAL EFFECTS OF IMPRISONMENT ON CHILDREN, PARENTS, AND CAREGIVERS (2012).

<sup>39</sup> WERNER & SMITH (1992) at 74: (Recognizing that for at risk children and adolescents: "[t]here was ... the need for detachment from kith and kin whose emotional and domestic problems still threatened to engulf them."

<sup>40</sup> Laura E. Glaze & Lauren Maruschak, *Bureau of Justice Statistics Special Report: Parents in Prison and Their Minor Children* (2004). These statistics are from state prisons nationwide in 2004.

<sup>41</sup> The Sentencing Project, *Incarcerated Children and their Families: Trends 1991-2007* at 1. D.H. Daillaire, *Incarcerated Mothers and Fathers: A Comparison of Risks for Children and Families*, 56 FAMILY RELATIONS 440 (2007).

<sup>42</sup> Glaze & Maruschak (2004).

<sup>43</sup> Laura Maruschak, *Medical problems of prisoners*, Bureau of Justice Statistics, 2004.

<sup>44</sup> CASA (2010).

<sup>45</sup> TERRY LEVY & MICHAEL ORLANS, *HANDBOOK OF ATTACHMENT INTERVENTIONS* (2000).

<sup>46</sup> WSIPP 2006.

<sup>47</sup> WSIPP 2006, Stacey Bouchet, *Children and Families with Incarcerated Parents* (2008).(For Annie E. Casey Foundation).

<sup>48</sup> *Women Offender Case Management Model: Outcome Evaluation* (November 29, 2010)(A Report to the National Institute of Corrections from the Connecticut Justice Department, Court Support Services Division).

<sup>49</sup> Roberts, *supra*.

<sup>50</sup> Maldonado, *supra*; Bouchet, *supra*; JOANNA RAMIREZ-BARRETT, EBONY RUHLAND, HILARY WHITHA, DEE SANFORD, TOM JOHNSON, RYAN DAILEY, *THE COLLATERAL EFFECTS OF INCARCERATION ON FATHERS, FAMILIES AND COMMUNITIES*, 7 (2006)(Council on Crime and Justice summarizing seven qualitative studies in Minneapolis, MN)("Council on Crime and Justice").

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<sup>51</sup> Council on Crime and Justice at 19–20.

<sup>52</sup> Council on Crime and Justice Study at 23 quotes one study participant: “It’s hard to adjust back into the streets, you know, and your kids they’re not going to do exactly what you tell them to do when you first start seeing them but in due time, love and mentally they’ll come back. Just be patient and keep on trying.”

<sup>53</sup> Smoyer, Blankenship & MacIntosh, *supra*.

<sup>54</sup> WSIPP 2006.

<sup>55</sup> See, e.g., Council on Crime and Justice at 17.

<sup>56</sup> McGuire, *supra*, at 86.

<sup>57</sup> Carey, *supra*, at 9; Peggy McGarry, *Public Safety and the Search for a Strategic Convener*, in WHAT WORKS AND WHY: EFFECTIVE APPROACHES TO REENTRY 153–54 (“[C]ommunity-based or problem-oriented prosecutors do not just prosecute individual criminal cases. They may be doing broader legal research on noncriminal legal areas, pursuing code enforcement cases in civil court, writing new codes or ordinances, or providing legal advice to police and community organizations.”).

<sup>58</sup> See *supra* note 8.

<sup>59</sup> Dora Schiro, *Getting Ready: How Arizona Has Created a “Parallel Universe” for Inmates*, NATIONAL INSTITUTE OF JUSTICE JOURNAL No. 263 (2009). WSIPP (2006) also notes recidivism reduction effects for restorative justice programs, at least for younger offenders.

<sup>60</sup> SEE JACK CRONIN, MISSOURI INSTITUTE OF PUBLIC POLICY, HARRY S. TRUMAN SCHOOL OF PUBLIC AFFAIRS, THE PATH TO SUCCESSFUL REENTRY: THE RELATIONSHIP BETWEEN CORRECTIONAL EDUCATION, EMPLOYMENT AND RECIDIVISM 15 (2011) (finding that employment cut recidivism rates in half for study in Missouri of 25,000 inmates). The study, however, did not have a random job assignment component, so could not eliminate the factor of individual motivation, though it did control for other factors. However, studies based on a 1972 randomized job assignment experiment in the federal prisons also support, though more modestly, a connection between employment and lowered recidivism, especially for those over 27. See Christopher Uggen, *Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism*, 67 AMERICAN SOCIOLOGICAL REV. 529–46 (2000).

<sup>61</sup> Dora Schiro, *Getting Ready: How Arizona Has Created a “Parallel Universe” for Inmates*, NATIONAL INSTITUTE OF JUSTICE JOURNAL No. 263 (2009).

<sup>62</sup> JAMES A. WILSON, YURY CHERYACHUKIN, ROBERT C. DAVIS, JEAN DAUPHINEE, ROBERT HOPE, KAJAL GEHI, VERA INSTITUTE FOR JUSTICE, SMOOTHING THE PATH FROM PRISON TO HOME: AN EVALUATION OF THE PROJECT GREENLIGHT TRANSITIONAL SERVICES DEMONSTRATION PROGRAM (Executive Summary) (2005) (“This study raises strong cautions about the desirability of intensive short-term reentry programming. Other studies of longer and more expensive reentry programs with tighter links to community-based services show that reducing recidivism among people leaving prison is possible. The current findings suggest, however, that trying to save money by compacting reentry programming into a shorter time frame may be counterproductive. Like mentoring programs, a small dose of reentry programming may be worse than no programming at all.”).

<sup>63</sup> MINNESOTA DEPARTMENT OF CORRECTIONS, THE EFFECTS OF PRISON VISITATION ON OFFENDER RECIDIVISM (Nov. 2011).

<sup>64</sup> Christy A. Visher, *Incarcerated Fathers: Pathways from Prison to Home*, CRIMINAL JUSTICE POLICY REVIEW (2011).

<sup>65</sup> Julie Poehlmann, Danielle Dallaire, Ann Booker Loper, Leslie D. Shear, *Children’s Contact with Their Incarcerated Parents: Research Findings and Recommendations*, 65 AMERICAN PSYCHOLOGIST 575 (2010). Visits were associated with improved relationships, but more consistently positive outcomes were shown to be associated with remote contact such as letters and phone calls. The study did not look at the extent to which the prison visiting environment or correctional officer attitude to the visitors (playground versus sterile room; welcoming versus suspicious and authoritarian) affected the success of the visit.

<sup>66</sup> Only a handful of states allow fewer individuals on an inmate’s visitors list than Connecticut. See Alabama (8) Ala. Admin. Reg. 303, Visitation, at V.B (2006); Iowa (4 plus family) Iowa Dep’t of Corr. Policy 3 at IV.A.1.; Kentucky (3 plus family) Ky. Corr. Policy 16.1.II.D; Oklahoma (6 plus family) Okla. Dep’t of Corr. Policy 030118.IA; II.D.; Rhode Island (9) R.I. Dep’t of Corr. Policy 24.03–3.III.D.3; South

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Dakota (2 plus family) S.D. Dep't of Corr. Policy 1.5.D.1.IV at "Approval for Visits" A.23; S.D. Admin. R. 17:50:02:01; and Tennessee (8 plus family) Tenn. Dep't of Corr. Policy 507.01.VI.B.6(a), (o).

<sup>67</sup> Conn. Administrative Directive 10.6.4.A.4.b.

<sup>68</sup> Conn. Administrative Directive 10.6.4.A.2.

<sup>69</sup> Smoyer, Blankenship, MacIntosh, *supra* (2009).

<sup>70</sup> Grant Duwe, Valerie Clark, *Blessed Be the Social Tie That Binds: The Effects of Prison Visitation on Offender Recidivism*, CRIMINAL JUSTICE POLICY REVIEW (2011); William D. Bales, Daniel P. Mears, *Inmate Social Ties and the Transition to Society: Does Visitation Reduce Recidivism?* 45 JOURNAL OF CRIME AND DELINQUENCY 287 (2008); Daniel P. Mears, Joshua C. Cochran, Sonja E. Siennick & William D. Bales, *Prison Visitation and Recidivism*, JUSTICE QUARTERLY (2011); DENA DERKZEN, RENEE GOBEIL, JUSTIN GILENO, CORRECTIONAL SERVICE, CANADA, VISITATION AND POST-RELEASE OUTCOME AMONG FEDERALLY-SENTENCED OFFENDERS (2009). A 2011 Department of Correction study in Minnesota also found a correlation between visitation and lowered recidivism rates. See [http://www.doc.state.mn.us/publications/documents/11-11PrisonVisitationResearchinBrief\\_Final.pdf](http://www.doc.state.mn.us/publications/documents/11-11PrisonVisitationResearchinBrief_Final.pdf)

<sup>71</sup> The Mears study also found an increased number of child visits to be associated with a higher rate of recidivism for the men in their study, a result they did not expect. Other studies have not replicated this result. It is also not clear whether there is an interaction between number of children and reincarceration for failure to pay child support. Mears et al. (2011) also look at Florida data, and find that visits from a spouse or significant other have the largest effect on reducing recidivism, with friends having a weaker effect and visits from other family members having an even weaker effect. Derkzen, Gobeil, and Gileno (2009), who study data on 6,537 Canadian offenders, show that increased visits decrease readmission but not reoffending. Spouses, however, were associated with lower reoffending. A 2011 Minnesota Department of Corrections study found that clergy, in-laws, and more distant family members were more strongly associated with lower recidivism, but that ex-spouses' visits increased recidivism rates (again, one wonders here about the connection between this result and policies of reincarceration for child support non-payment). Therefore, the effect of visits on post-incarceration outcomes seems to be associated with the type of visitor, though studies vary. In addition, there is heterogeneity in the effect of visitation on different types of offenders. Mears et al. (2011), for example, show a differential effect of visitation based on type of crime.

<sup>72</sup> The same results may not hold for female inmates. Female inmates tend to rely most on public assistance for material support after reentry, and for them, marriage is not associated with lowered recidivism rates. Andrea Leverentz, *Barriers to Reintegration*, in RETHINKING CORRECTIONS 371. A SHARPP study in Connecticut also found male reentrants tended to rely on females for housing. KIM M. BLANKENSHIP, GENDER, RELATIONSHIPS, AND SEXUAL HIV RISK: FINDINGS FROM A STUDY OF NON-VIOLENT DRUG OFFENDERS ON PROBATION AND PAROLE (2011). The Mears study above did not find that visitation for women reduced recidivism, but recidivism rates for women are already very low.

<sup>73</sup> As always, however, one must remember that it is difficult to make causal claims based on observational studies because factors driving the perceived results may be unobservable to the researcher. For example, the connection between recidivism and visitation found in these studies could be due to some unobservable characteristic associated with both the likelihood of visitation and lower rates of recidivism – say, whether the offender is gregarious or a good communicator. Bales and Meares (2008) do suggest three theories explaining why visitation might lower recidivism, however. The first is that release from prison is not only a moment of freedom but a moment of challenge, and that visitation in prison will ease family tensions and challenges at the key moment of release and permit former inmates a better chance at reintegration. The second, labeling theory, would suggest that visitation from family could counter implicit self-labeling impulses that would otherwise lead inmates to believe they are deviants. Instead of “criminals” they see themselves as “husbands,” “fathers” or “sons.” The third, “general strain theory,” argues that visitation reminds prisoners consistently that someone cares about them and that, therefore, they have a “greater incentive to face the challenges of reentry.”

<sup>74</sup> Bales and Mears (2008) at 292.

<sup>75</sup> *Id.*

<sup>76</sup> Conn. Administrative Directive 10.7.4.A and 10.7.5.



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<sup>77</sup> Conn. Administrative Directive 9.5.2.D.

<sup>78</sup> Cal. Penal Code § 6400.

<sup>79</sup> Fla. Stat. § 944.8031.

<sup>80</sup> Alaska Dep't Corr. Policy 810.02 VI.A.

<sup>81</sup> Jade S. Laughlin, Bruce A. Arrigo, Kristie R. Blevins and Charisse T.M. Coston, *Incarcerated Mothers and Child Visitation: A Law, Social Science and Policy Perspective*, 19 CRIMINAL JUSTICE POLICY REVIEW 215 (2008) encouraging jurisdictions to follow California and Florida in placing language in their statutes regarding prison visitation policy which promotes such visitation as an important part of offender rehabilitation. 25 jurisdictions have policies that promote or encourage visitation. (BOP, AK, CA, CO, GA, HI, ID, IN, IA, LA, MD, MN, MO, MT, NH, NM, NY, OH, OK, OR, RI, SC, TX, VT, WA)(From a survey done by Chesa Boudin and Trevor Stutz, Yale Law School, January 2012 Draft).

<sup>82</sup> Judith Sturges, *Visitation at County Jails: Potential Policy Implications*, 13 CRIMINAL JUSTICE POLICY REVIEW 32 (2002).

<sup>83</sup> Rachael Dixey, James Woodall, *The Significance of 'The Visit' in an English Category-B Prison: Views from Prisoners, Prisoner's Families, and Prison Staff*, 15 COMMUNICATION, WORK & FAMILY 29 (2012).

<sup>84</sup> Huebner (2010) found that women who live with their children during residential treatment are less likely to reoffend, though, unlike studies involving men, marriage had no effect on recidivism for women unless they brought resources to the marriage. Beth M. Heubner, Christina DeJong, and Jennifer Cobbina, *Women Coming Home: Long-Term Patterns of Recidivism*, JUSTICE QUARTERLY 27(2), 225-254 (2010). Prison nursery programs (CA, IL, IN, OH, NE, NY, SD, WA, WV) and community-based residential programs (AL, CA, CT, IL, NC, MA, VT) are detailed in Chandra Kring Villanueva, Institute on Women and Criminal Justice, *Mothers, Infants, and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives* (2009).

<sup>85</sup> Johnna Christian, *Riding the Bus: Barriers to Prison Visitation and Family Management Strategies*, 21 JOURNAL OF CONTEMPORARY CRIMINAL JUSTICE 31 (2005).

<sup>86</sup> Laughlin et al, *supra*, at 223. Five jurisdictions allow for overnight visits – CT, CA, NM, NY, MS. Boudin & Stutz, 2012.

<sup>87</sup> Nine jurisdictions provide some form of video visitation – AZ, IN, NJ, NM, NY, OR, PA, VA, WI. Boudin & Stutz, 2012.

<sup>88</sup> Kathleen J. Block and Margaret J. Potthast, *Girl Scouts Beyond Bars: Facilitating Parent-Child Contact in Correctional Settings* in CHILDREN WITH PARENTS IN PRISON 93-110 (Cynthia Seymour and Creasie Finney Hairston, eds. (2001) show that the Girl Scouts Beyond Bars program improves the quality of visits and can help to preserve or enhance the mother-daughter bond.

<sup>89</sup> Schriro, *Parallel Universe*, *supra*.

<sup>90</sup> The institute's publications are all available on-line at:

<http://www.wsipp.wa.gov/auth.asp?authid=2>.

<sup>91</sup> Even half-way house arrangements, however, could do more to promote family reunification. Half-way houses for men in CT only accommodate offenders, not children, preventing men from living with their children and limiting visiting times. (There are 31 spaces in CT half-way houses for female offenders with children). As with prison visitation, passes to spend time with family are not considered programming. No-cellphone policies also limit family contact. Smoyer, Blankenship, MacIntosh (2009), *supra*.

<sup>92</sup> <http://www.crcmc.org/whatweoffer/reentrymediation.html>.

<sup>93</sup> Federal law contains only some absolute bans on tenant occupancy based on particular criminal convictions. In particular, local public housing agencies must ban applicants who (1) have manufactured or produced methamphetamine on the premises of federally assisted housing or (2) are subject to lifetime state sex offender registrations. See 42 U.S.C. §13663(a); 24 C.F.R. § 960.204(a)(3).

<sup>94</sup> U.S. Department of Housing and Urban Development, Letter from HUD Secretary to PHA executive directors (June 17, 2011).

<sup>95</sup> See Housing Authority of New Haven Admissions and Continued Occupancy Policy 32 (2010).

<sup>96</sup> BUREAU OF JUSTICE ASSISTANCE, U.S. DEPARTMENT OF JUSTICE, PUBLIC HOUSING AUTHORITIES (PHAS) AND PRISONER REENTRY (2006).

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<sup>97</sup> See Housing Authority of New Haven Admissions and Continued Occupancy Policy 32 (2010).

<sup>98</sup> Conn. Gen. Stat. § 8-45a provides that housing authorities may consider certain types of prior criminal history in determining an applicant's eligibility for housing. However, in evaluating criminal history, they are also required to "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." Denying an applicant prior to considering these other factors arguably violates this statute, even if housing authorities offer applicants an opportunity to present evidence of rehabilitation as part of an appeal.

<sup>99</sup> *Id.* at 28-29.

<sup>100</sup> CASA at 86 (2010).

<sup>101</sup> THOMAS E. FEUCHT & JOSEPH GFROERER, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION AND NATIONAL INSTITUTE OF JUSTICE, MENTAL AND SUBSTANCE USE DISORDERS AMONG ADULT MEN ON PROBATION OR PAROLE: SOME SUCCESS AGAINST A PERSISTENT CHALLENGE (Summer 2011). Not only is the prevalence of mental illness and substance abuse high among individuals in the criminal justice system, the costs are also high. A recent Connecticut study, *Costs of Criminal Justice Involvement among Persons with Severe Mental Illness in Connecticut*, found that the state of Connecticut pays a high price for incarcerating the mentally ill and suggested that new programs are needed to treat offenders outside the prison system. The study looked at information and data from Connecticut's Department of Mental Health and Addiction Service, Department of Corrections and Department of Social Services and found that among criminal justice-involved mentally ill people, total costs for care were roughly twice the average per-person cost for the non-criminal justice-involved. The study concluded that, "the addition of criminal justice costs doubled the total system costs per person for these service recipients with serious mental illness. Cost of jail diversion amounted to a small fraction of cost of arrest and incarceration; thus, there is potential for a large cost offset if jail diversion prevents further criminal justice involvement." See

<http://ctmirror.org/story/15199/state-pays-high-price-incarcerating-large-numbers-mentally-ill>.

<sup>102</sup> CASA at 43-44. See also, e.g., *Methadone and Buprenorphine Prescribing and Referral Practices in US Prison Systems*, JOURNAL OF DRUG AND ALCOHOL DEPENDENCE (November 2009); Mark Parrino, *Methadone Treatment in Jail*, AMERICAN JAILS (2000).

<sup>103</sup> Evidence-based approaches to substance abuse treatment involve thirteen aspects: "1) standardized risk assessment, 2) standardized substance abuse assessment and treatment matching, 3) use of techniques to engage and retain clients in treatment, 4) use of therapeutic community, cognitive behavioral or other standardized treatment orientation, 5) a comprehensive approach to treatment and ancillary needs, 6) addressing co-occurring disorders, 7) **involvement of family in treatment**, 8) a planned treatment duration of 90 days or longer, 9) integration of multiple systems to maximize care and outcomes, 10) **continuing care or aftercare**, 11) use of drug testing in treatment, 12) use of graduated sanctions, and 13) incentives to encourage progress." CASA AT 42 (2010)(citing 2007 National Criminal Justice Treatment Practices Survey)(bold not in original).

<sup>104</sup> WSIPP Report (2006), *supra*.

<sup>105</sup> Solveig Spjeldnes, Hyunzee Jung, Lambert Maguire & Hide Yamatani, *Positive Family Social Support: Counteracting Negative Effects of Mental Illness and Substance Abuse to Reduce Jail Ex-Inmate Recidivism Rates*, 22 JOURNAL OF HUMAN BEHAVIOR IN THE SOCIAL ENVIRONMENT 130-47 (2012).

<sup>106</sup> Eladio D. Castillo & Leanne Fiftal Alarid, Factors Associated with Recidivism Among Offenders with Mental Illness, 55 INTERNATIONAL JOURNAL OF OFFENDER THERAPY AND COMPARATIVE CRIMINOLOGY 98 (2011).

<sup>107</sup> Jacques Baillargeon, Stephen K. Hoge and Joseph V. Penn, *Addressing the Challenge of Community Reentry Among Released Inmates with Serious Mental Illness*, 46 AM. J. COMMUNITY PSYCHOLOGY 361-75 (2010).

<sup>108</sup> C. HARLOW, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT, EDUCATION AND CORRECTIONAL POPULATIONS (2003).

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<sup>109</sup> Gerald G. Gaes, *The Impact of Prison Education Programs on Post-Release Outcomes* (paper presented at Reentry Roundtable on Education 2008 at John Jay College of Criminal Justice).

<sup>110</sup> *Id.* Because of the difficulty of designing a study with an appropriate control group, however, different studies find different effect sizes, from 7-40%. The Washington State Public Policy Institute Study (WSIPP 2006), one of the most conservative meta-analyses because it discounts or omits non-experimental designs and studies run by program designers, estimates that general education (both basic and post-secondary) reduces adult recidivism by 7% and vocational training reduces it by 9%. Life skills education had no effect. For juvenile offenders, the WSIPP study found general education in prison to have a substantial effect on recidivism, reducing it by 17.5%. High school graduation in the community itself reduced recidivism by 10.4%.

<sup>111</sup> Here, race worked the other way, with Whites gaining more advantage from prison education than minorities. According to the study, taking at least 313 hours of adult education in prison increased employment by 7-12% for Whites and 4-5% percent for minorities. Recidivism rates also declined slightly for those with at least 313 hours of education. A 1985 study of federal prisoners (Saylor and Gaes) with a 20 year follow-up found similar results for vocational training – it aided employment more over time, but not wages, though this study found it helped minority offenders more than Whites. Two studies in Ohio (Sabol 2007, 2007b), however, found vocational training to have no effect on employment. The experimenter suggested that one reason for these perverse findings may have been a mismatch between the training and the jobs available in the community. One would also have to ensure that the vocational training provided did not run aground on legal bans on ex-offenders holding those jobs (discussed in the next section). Gaes, *supra*.

<sup>112</sup> Gaes, *supra*, at 28. Those who complete college courses in prison are 45% less likely to recidivate than the general population, according to some studies that do not control for self-selection. See Wesleyan Prison Project's website at <http://www.wesleyan.edu/cpe/about/whycip.html>. However, controlled studies are not available. Gaes, *supra*.

<sup>113</sup> Larry Brewster, *Arts in Corrections: A Path to Redemption* (2010)(University of San Francisco)(citing studies of California's 20-year arts-in-corrections program, and providing follow-up interviews with 16 former participants). Shakespeare-behind-bars, a 17-year-old drama-based arts program in several institutions in Michigan and Kentucky, boasts a 25% reduction in the recidivism rate for its former participants. <http://www.shakespearebehindbars.org/about/mission.htm>. Again, these studies do not control for self-selection.

<sup>114</sup> *Id.*

<sup>115</sup> ANTONI CALVO-ARMENGOL, ELEONORA PATACCHINI, YVES ZENOU, PEER EFFECTS AND SOCIAL NETWORKS IN EDUCATION (2006).

<sup>116</sup> Georgen Guerrero, *Prison-Based Educational and Vocational Training Programs*, in RETHINKING CORRECTIONS 201.

<sup>117</sup> DIANNA M. SPYCHER, GINA M. SHKODRIANI & JOHN B. LEE, COLLEGE BOARD ADVOCACY AND POLICY CENTER, THE OTHER PIPELINE: FROM PRISON TO DIPLOMA: COMMUNITY COLLEGES AND CORRECTIONAL EDUCATION PROGRAMS (2012). The WSIPP study also examines cost-effectiveness of education in prison for adults. Again, though its estimates are conservative, it finds that prison education saves between \$10,699 (general) and \$13,738 (vocational) per participant. These estimates are based on programs paid for by the state. Many of the post-secondary educational opportunities available in Connecticut prisons are run by volunteers, so the cost-saving estimates would be higher for these programs.

<sup>118</sup> Dora Schriro, *How Arizona Has Created a "Parallel Universe" for Inmates*, National Institute of Justice (Issue 263, 2009); JOAN PETERSILIA, WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY 182-84 (2003).

<sup>119</sup> See U.S. Equal Employment Opportunity Commission, EEOC Enforcement Guidance, Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

<sup>120</sup> Conn. Gen. Stat. § 46-80(b).

<sup>121</sup> See New Haven Ordinance (Feb. 17, 2009), <http://www.cityofnewhaven.com/CSA/pdfs/Ban%20the%20Box%20FINAL%20VERSION.pdf>.

<sup>122</sup> Ohio Senate Bill 337, [http://www.legislature.state.oh.us/BillText129/129\\_SB\\_337\\_EN\\_N.html](http://www.legislature.state.oh.us/BillText129/129_SB_337_EN_N.html).

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<sup>123</sup> See JENNIFER NELSON, CONSEQUENCES OF A FELONY CONVICTION REGARDING EMPLOYMENT, OLR RESEARCH REPORT 2005-R-0311 (2005). Jobs subject to restrictions include commercial driving, veterinarians, barbers, hairdressers, cosmeticians, sanitarians, nurses, marital/family therapists, professional counselors, alcohol and drug counselors, nutritionists, accountants, architects, private detectives, security guards, shorthand reporters, teachers. Commercial cleaning and hair dressing are vocational training programs in some CT prisons, suggesting that the vocational programming has not been tailored to available jobs in the community.

<sup>124</sup> DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS, MINISTRY OF JUSTICE, UNITED KINGDOM, MAKING PRISONS WORK: SKILLS FOR REHABILITATION: REVIEW OF OFFENDER LEARNING (May 2011), <http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/m/11-828-making-prisons-work-skills-for-rehabilitation.pdf>.

<sup>125</sup> See, e.g., LAWRENCE W. SHERMAN & HEATHER STRANG, RESTORATIVE JUSTICE: THE EVIDENCE (Smith Institute 2007)(summary of the Jerry Lee Program of Randomized Trials in Restorative Justice for the Smith Institute)(meta-analysis of randomized controlled trials of RJ programs in England and the U.S. showed significant improvements in recidivism rates, number of cases processed, and victim and offender satisfaction with the process in multiple jurisdictions, though only with some kinds of offenders. As expected, these approaches worked better with younger offenders. The findings also, unexpectedly, showed better results for violent than for non-violent crimes).

**APPENDIX I:**  
**PUBLIC ACT 13-28**

**House Bill No. 6571**

**Public Act No. 13-28**

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO  
SEXUAL ASSAULT IN THE FOURTH DEGREE AND 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-73a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(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.

Sec. 2. Section 53a-92a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(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. ]

Approved May 28, 2013

**APPENDIX J:**  
**PUBLIC ACT 13-258**



**Public Act No. 13-258**

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
CONNECTICUT SENTENCING COMMISSION REGARDING  
UNCLASSIFIED FELONIES.**

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

Section 1. Section 53a-25 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

- (a) An offense for which a person may be sentenced to a term of imprisonment in excess of one year is a felony.
- (b) Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D, (5) class E, (6) unclassified, and [(6)] (7) capital felonies under the provisions of section 53a-54b in effect prior to April 25, 2012.
- (c) The particular classification of each felony 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 E felony if the maximum term of imprisonment specified is in excess of one year but not more than three years; or (2) an unclassified felony if the maximum term of imprisonment is otherwise within the definition set forth in subsection (a) of this section.

Sec. 2. Section 53a-35a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

For any felony committed on or after July 1, 1981, the sentence of imprisonment 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) (A) For a capital felony committed prior to April 25, 2012, under the provisions of section 53a-54b in effect prior to April 25, 2012, a term of life

imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a, or (B) for the class A felony of murder with special circumstances committed on or after April 25, 2012, under the provisions of section 53a-54b in effect on or after April 25, 2012, a term of life imprisonment without the possibility of release;

(2) [for] For the class A felony of murder, a term not less than twenty-five years nor more than life;

(3) [for] For the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years;

(4) [for] For a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years;

(5) [for] For the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years;

(6) [for] For a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years;

(7) [for] For a class C felony, a term not less than one year nor more than ten years;

(8) [for] For a class D felony, a term not [less than one year nor] more than five years; [and]

(9) For a class E felony, a term not more than three years; and

[(9) for] (10) For an unclassified felony, 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-41 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

A fine for the conviction of a felony 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

felony, an amount not to exceed twenty thousand dollars; (2) for a class B felony, an amount not to exceed fifteen thousand dollars; (3) for a class C felony, an amount not to exceed ten thousand dollars; (4) for a class D felony, an amount not to exceed five thousand dollars; (5) for a class E felony, an amount not to exceed three thousand five hundred dollars; and (6) for an unclassified felony, an amount in accordance with the fine specified in the section of the general statutes that defines or provides the penalty for the crime.

Sec. 4. Section 18-100f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Unless otherwise ordered by the court, whenever an arrested person charged with the commission of no crime other than a class D or E felony or a misdemeanor, except a violation of section 53a-60a, 53a-60b, 53a-60c, 53a-60d, 53a-72a, 53a-73a or 53a-181c, is committed by the court to the custody of the Commissioner of Correction pursuant to section 54-64a, the commissioner may release such person to a residence approved by the Department of Correction subject to such conditions as the commissioner may impose including, but not limited to, participation in a substance abuse treatment program and being subject to electronic monitoring or any other monitoring technology or services. Any person released pursuant to this section shall remain in the custody of the commissioner and shall be supervised by employees of the department during the period of such release. Upon the violation by such person of any condition of such release, the commissioner may revoke such release and return such person to confinement in a correctional facility.

Sec. 5. Subdivision (1) of subsection (b) of section 46b-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) (1) Upon motion of a prosecutorial official, the superior court for juvenile matters shall conduct a hearing to determine whether the case of any child charged with the commission of a class C, [or] D or E felony or an unclassified felony shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court. The court shall not order that the case be transferred under this subdivision unless the court finds that (A) such offense was committed after such child attained the age of fourteen years, (B) there is probable cause to believe the child has committed the act for which the child is charged, and (C) the best interests of the child and the public will not be served by maintaining the case in the superior court for juvenile matters. In making such

findings, the court shall consider (i) any prior criminal or juvenile offenses committed by the child, (ii) the seriousness of such offenses, (iii) any evidence that the child has intellectual disability or mental illness, and (iv) the availability of services in the docket for juvenile matters that can serve the child's needs. Any motion under this subdivision shall be made, and any hearing under this subdivision shall be held, not later than thirty days after the child is arraigned in the superior court for juvenile matters.

Sec. 6. Subsections (d) to (g), inclusive, of section 53a-29 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(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<sub>1</sub> [or] D or E 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, 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 six months or less, or not more than two years if the authorized sentence of imprisonment is in excess of six months, or where the defendant is charged with failure to provide subsistence for dependents, a determinate or indeterminate period.

(e) Notwithstanding the provisions of subsection (d) of this section, the court may, in its discretion, on a case by case basis, sentence a person to a period of probation which period, unless terminated sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a class C<sub>1</sub> [or] D or E felony or an unclassified felony, not more than five years; (2) for a class A misdemeanor, not more than three years; and (3) for a class B misdemeanor, not more than two years.

(f) The period of probation, unless terminated sooner as provided in section 53a-32, shall be not less than ten years or more than thirty-five years for conviction of a violation of subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-90a, 53a-196b, 53a-196c, 53a-196d, 53a-196e or 53a-196f.

(g) Whenever the court sentences a person, on or after October 1, 2008, to a period of probation of more than two years for a class C<sub>1</sub> [or] D or E felony or an unclassified felony or more than one year for a class A or B misdemeanor, the probation officer supervising such person shall submit a report to the sentencing court, the state's attorney and the attorney of

record, if any, for such person, not later than sixty days prior to the date such person completes two years of such person's period of probation for such felony or one year of such person's period of probation for such misdemeanor setting forth such person's progress in addressing such person's assessed needs and complying with the conditions of such person's probation. The probation officer shall recommend, in accordance with guidelines developed by the Judicial Branch, whether such person's sentence of probation should be continued for the duration of the original period of probation or be terminated. If such person is serving a period of probation concurrent with another period of probation, the probation officer shall submit a report only when such person becomes eligible for termination of the period of probation with the latest return date, at which time all of such person's probation cases shall be presented to the court for review. Not later than sixty days after receipt of such report, the sentencing court shall continue the sentence of probation or terminate the sentence of probation. Notwithstanding the provisions of section 53a-32, the parties may agree to waive the requirement of a court hearing. The Court Support Services Division shall establish within its policy and procedures a requirement that any victim be notified whenever a person's sentence of probation may be terminated pursuant to this subsection. The sentencing court shall permit such victim to appear before the sentencing court for the purpose of making a statement for the record concerning whether such person's sentence of probation should be terminated. In lieu of such appearance, the victim may submit a written statement to the sentencing court and the sentencing court shall make such statement a part of the record. Prior to ordering that such person's sentence of probation be continued or terminated, the sentencing court shall consider the statement made or submitted by such victim.

Sec. 7. Section 53a-167 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) A person is guilty of hindering prosecution in the third degree when such person renders criminal assistance to another person who has committed a class C<sub>2</sub> [or class] D or E felony or an unclassified felony for which the maximum penalty is imprisonment for ten years or less but more than one year.

(b) Hindering prosecution in the third degree is a class D felony.

Sec. 8. Subsection (b) of section 54-53a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Notwithstanding the provisions of subsection (a) of this section, any person who has not made bail and is detained in a community correctional center pursuant to the issuance of a bench warrant of arrest or for arraignment, sentencing or trial for an offense classified as a class D or E felony or as a misdemeanor, except a person charged with a crime in another state and detained pursuant to chapter 964 or a person detained for violation of his parole pending a parole revocation hearing, shall be presented to the court having cognizance of the offense within thirty days of the date of his detention. On such presentment, the court may reduce, modify or discharge the bail or may for cause shown remand the person to the custody of the Commissioner of Correction. On the expiration of each successive thirty-day period, the person shall again be presented to the court for such purpose.

Sec. 9. Subdivision (2) of subsection (b) of section 30-86 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(2) Any person who sells, ships, delivers or gives alcoholic liquor to a minor, by any means, including, but not limited to, the Internet or any other on-line computer network, except on the order of a practicing physician, shall be fined not more than [one] three thousand five hundred dollars or imprisoned not more than eighteen months, or both.

Sec. 10. Subsection (a) of section 10-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The fiscal year of a regional school district shall be July first to June thirtieth. Except as otherwise provided in this subsection, not less than two weeks before the annual meeting held pursuant to section 10-47, the board shall hold a public district meeting to present a proposed budget for the next fiscal year. Any person may recommend the inclusion or deletion of expenditures at such time. After the public hearing, the board shall prepare an annual budget for the next fiscal year, make available on request copies thereof and deliver a reasonable number to the town clerk of each of the towns in the district at least five days before the annual meeting. At the annual meeting on the first Monday in May, the board shall present a budget which includes a statement of (1) estimated receipts and expenditures for the next fiscal year, (2) estimated receipts and expenditures for the current fiscal year, (3) estimated surplus or deficit in operating funds at the end of the current fiscal year, (4) bonded or other debt, (5) estimated per pupil expenditure for the current and for the next fiscal year, and (6) such other information as is necessary in the opinion of

the board. Persons present and eligible to vote under section 7-6 may accept or reject the proposed budget except as provided below. No person who is eligible to vote in more than one town in the regional school district is eligible to cast more than one vote on any issue considered at a regional school district meeting or referendum held pursuant to this section. Any person who violates this section by fraudulently casting more than one vote or ballot per issue shall be fined not [less than three hundred dollars or] more than three thousand five hundred dollars and shall be imprisoned not [less than one year or] more than two years and shall be disenfranchised. The regional board of education may, in the call to the meeting, designate that the vote on the motion to adopt the budget shall be by paper ballots at the district meeting held on the budget or by a "yes" or "no" vote on the voting tabulators in each of the member towns on the day following the district meeting. If submitted to a vote by voting tabulator, questions may be included on the ballot for persons voting "no" to indicate whether the budget is too high or too low, provided the vote on such questions shall be for advisory purposes only and not binding upon the board. Two hundred or more persons qualified to vote in any regional district meeting called to adopt a budget may petition the regional board, in writing, at least three days prior to such meeting, requesting that any item or items on the call of such meeting be submitted to the persons qualified to vote in the meeting for a vote by paper ballot or on the voting tabulators in each of the member towns on the day following the district meeting and in accordance with the appropriate procedures provided in section 7-7. If a majority of such persons voting reject the budget, the board shall, within four weeks thereafter and upon notice of not less than one week, call a district meeting to consider the same or an amended budget. Such meetings shall be convened at such intervals until a budget is approved. If the budget is not approved before the beginning of a fiscal year, the disbursing officer for each member town, or the designee of such officer, shall make necessary expenditures to such district in amounts equal to the total of the town's appropriation to the district for the previous year and the town's proportionate share in any increment in debt service over the previous fiscal year, pursuant to section 7-405 until the budget is approved. The town shall receive credit for such expenditures once the budget is approved for the fiscal year. After the budget is approved, the board shall estimate the share of the net expenses to be paid by each member town in accordance with subsection (b) of this section and notify the treasurer thereof. With respect to adoption of a budget for the period from the organization of the board to the beginning of the first full fiscal year, the board may use the above procedure at any time within such period. If the board needs to submit a

supplementary budget, the general procedure specified in this section shall be used.

Sec. 11. Section 14-196 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) A person who, with fraudulent intent: (1) Alters, forges or counterfeits a certificate of title; (2) alters or forges an assignment of a certificate of title, or an assignment or release of a security interest, on a certificate of title or a form the commissioner prescribes; (3) has possession of or uses a certificate of title knowing it to have been altered, forged or counterfeited; or (4) uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title, shall be [fined not less than five hundred dollars or more than one thousand dollars or be imprisoned not less than one year or more than five years or be both fined and imprisoned] guilty of a class D felony.

(b) A person who: (1) With fraudulent intent, permits another, not entitled thereto, to use or have possession of a certificate of title; (2) wilfully fails to mail or deliver a certificate of title or application therefor to the commissioner within ten days after the time required by this chapter; (3) wilfully fails to deliver to his transferee a certificate of title within ten days after the time required by this chapter; or (4) wilfully violates any provision of this chapter, except as provided in subsection (a) of this section, shall be fined not more than [one] three thousand five hundred dollars or imprisoned not more than two years, or both.

Sec. 12. Section 21a-165 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

No person shall sell or give away, for use in this state in wick lamps or wick stoves, oil or liquid product of petroleum of any kind standing less than one hundred and ten degrees Fahrenheit flash test or one hundred and forty degrees Fahrenheit fire test, both of said tests to be determined by the use of C. J. Tagliabue's open test cup method, and either of said tests shall be the legal test. Any person who violates any provision of this section shall be fined not more than three thousand five hundred dollars or imprisoned not more than two years, or both.

Sec. 13. Section 21a-255 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):



(a) Any person who, either as principal or agent, refuses or fails to make, furnish or keep any record, notification, order form, statement, invoice or information required by sections 21a-243 to 21a-282, inclusive, or regulations adopted pursuant to section 21a-244, for the first offense may be fined not more than five hundred dollars and for each subsequent offense may be fined not more than one thousand dollars or imprisoned not more than thirty days or be both fined and imprisoned.

(b) Any person who fails to keep any record required by said sections 21a-243 to 21a-282, inclusive, or said regulations, with an intent to defeat the purpose of this chapter or any person who violates any other provision of said sections, except as to such violations for which penalties are specifically provided in sections 21a-277 and 21a-279, as amended by this act, may, for the first offense, be fined not more than [one] three thousand five hundred dollars or be imprisoned for not more than two years or be both fined and imprisoned; and for the second and each subsequent offense [may be fined not more than ten thousand dollars or be imprisoned not more than ten years or be both fined and imprisoned] shall be guilty of a class C felony.

Sec. 14. Section 29-152 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any provision of [sections] section 29-145, 29-148, 29-150 [and] or 29-151 shall be fined not more than [one] three thousand five hundred dollars or imprisoned not more than two years, or both, and such person's right to engage in the business of a professional bondsman in this state shall thereupon be permanently forfeited.

Sec. 15. Section 30-99 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who transports, manufactures, possesses, sells, keeps for sale or distills for beverage purposes any denatured alcohol or any alcoholic liquor, which is adulterated with any deleterious or poisonous substance, shall be fined not more than [one] three thousand five hundred dollars or imprisoned not more than two years, or both.

Sec. 16. Section 36b-28 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who wilfully violates any provision of subsection (a) of section 36b-4 or subsection (a) or (f) of section 36b-5 shall be fined not

more than ten thousand dollars or imprisoned for not more than ten years, or both.

(b) Any person who wilfully violates any other provision of sections 36b-2 to 36b-34, inclusive, shall be fined not more than [two] three thousand five hundred dollars or imprisoned for not more than two years, or both.

(c) No information may be returned under sections 36b-2 to 36b-34, inclusive, more than five years after the alleged violation.

Sec. 17. Section 36b-73 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who wilfully violates any provision of subdivision (6) of section 36b-67 shall be fined for each violation a maximum of twenty-five thousand dollars or imprisoned for not more than ten years, or both.

(b) Any person who wilfully violates any other provision of sections 36b-60 to 36b-80, inclusive, shall be fined for each violation a maximum of [two] three thousand five hundred dollars or imprisoned for not more than two years, or both.

(c) No information may be returned under sections 36b-60 to 36b-80, inclusive, more than five years after the alleged violation.

Sec. 18. Section 38a-658 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person, firm or corporation violating any provision of sections 38a-645 to 38a-658, inclusive, shall be fined not more than [one] three thousand five hundred dollars or imprisoned not more than two years, or both. The commissioner may revoke or suspend the license or certificate of authority of the person guilty of such violation. Such order for suspension or revocation shall be after notice and hearing, and shall be subject to judicial review as provided in section 38a-657.

Sec. 19. Section 53-201 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who is present at any prize fight, to aid, abet or assist therein, or give countenance thereto, or who aids or encourages such fight in this state, without being present thereat, shall be imprisoned not more than two years or fined not more than three thousand five hundred dollars, or

both. The provisions of this section shall not apply to boxing exhibitions held or conducted under the laws of this state, or to wrestling bouts, or to amateur boxing exhibitions held under the provisions of section 29-143j or the supervision of any school, college or university having an academic course of study or of the recognized athletic association connected with such school, college or university.

Sec. 20. Section 53a-209 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any defendant, or any officer, agent, servant or employee of such defendant, or any person in active concert or participation by contract or arrangement with such defendant, who receives actual notice, by personal service or otherwise, of any injunction or restraining order entered pursuant to section 53a-205 and who disobeys any of the provisions thereof shall be fined not more than [one] three thousand five hundred dollars or imprisoned not more than two years, or both.

Sec. 21. Section 9-355 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who, without reasonable cause, neglects to perform any of the duties required of him by the laws relating to elections or primaries and for which neglect no other punishment is provided, and any person who is guilty of fraud in the performance of any such duty, and any person who makes any unlawful alteration in any list required by law, shall be fined not more than three hundred dollars or be imprisoned not more than one year or be both fined and imprisoned. Any official who is convicted of fraud in the performance of any duty imposed upon him by any law relating to the registration or admission of electors or to the conduct of any election shall be disfranchised. Any public officer or any election official upon whom any duty is imposed by part I of chapter 147 and sections 9-308 to 9-311, inclusive, who wilfully omits or neglects to perform any such duty or does any act prohibited therein for which punishment is not otherwise provided shall be [fined not more than two thousand dollars or imprisoned not more than three years or both] guilty of a class E felony.

Sec. 22. Subsection (f) of section 14-149 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(f) Any person who violates any provision of this section shall, for the first offense, be [fined not more than two thousand five hundred dollars or

imprisoned not more than three years, or both] guilty of a class E felony, and, for the second or subsequent offense, be [fined not more than five thousand dollars or imprisoned not more than five years, or both] guilty of a class D felony.

Sec. 23. Section 22-126 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

No person shall enter or cause to be entered for competition for any purse, prize, premium, stake or sweepstakes, offered or given by any agricultural, trotting or other society, association or person in this state, any horse, mare, gelding, colt or filly under a false or assumed name, or out of its proper class, if such prize, purse, premium, stake or sweepstakes is to depend upon and be decided by a contest of speed. The class to which any such animal is deemed to belong, for the purpose of entry in any such contest of speed, or the class to which any owner, keeper or driver of any such animal has the right to nominate or enter it, shall be determined by some public performance of such animal in a former contest or trial of speed, as provided by the written or printed rules of the society or association under which the proposed contest is advertised to be conducted. Any person who knowingly misrepresents or fraudulently conceals the public performance of a horse, mare, gelding, colt or filly in any former contest or trial of speed for the purpose of securing an entry in any contest referred to in this section, or who violates any other provision of this section, shall be [fined not more than one thousand dollars or imprisoned not more than three years or both] guilty of a class E felony.

Sec. 24. Section 22-351 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who steals, confines or conceals any companion animal, as defined in section 22-351a, or who, with the intention of stealing such companion animal or concealing its identity or the identity of its owner or with the intention of concealing the fact that the companion animal is licensed, removes the collar or harness or tag from any licensed companion animal, or who unlawfully kills or injures any companion animal, shall be fined not more than one thousand dollars or imprisoned not more than six months, or both. For a second offense, or for an offense involving more than one companion animal, any such person shall be [fined not more than two thousand dollars or imprisoned not less than one year or more than three years or be both fined and imprisoned] guilty of a class E felony.

(b) Any person who violates the provisions of subsection (a) of this section shall be liable to the owner in a civil action, except that, if such person intentionally kills or injures any companion animal, such person shall be liable to the owner in a civil action as provided in section 22-351a.

Sec. 25. Section 29-37 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person violating any provision of section 29-28 or 29-31 shall be [fined not more than five hundred dollars or imprisoned not more than three years or both] guilty of a class E felony, and any pistol or revolver found in the possession of any person in violation of any of said provisions shall be forfeited.

(b) Any person violating any provision of subsection (a) of section 29-35 [may be fined not more than one thousand dollars and shall be imprisoned not less than one year or more than five years] shall be guilty of a class D felony, and, in the absence of any mitigating circumstances as determined by the court, one year of the sentence imposed may not be suspended or reduced by the court. The court shall specifically state the mitigating circumstances, or the absence thereof, in writing for the record. Any pistol or revolver found in the possession of any person in violation of any provision of subsection (a) of section 29-35 shall be forfeited.

(c) Any person violating any provision of subsection (b) of section 29-35 shall have committed an infraction and shall be fined thirty-five dollars.

Sec. 26. Subsection (a) of section 31-48a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) As used in this section, "professional strikebreaker" means any person who has been employed anywhere two or more times in the same craft or industry in place of employees involved in strikes or lockouts. No person, partnership, agency, firm or corporation, or officer or agent thereof, shall recruit, procure, supply or refer any professional strikebreaker for employment in place of an employee involved in a strike or lockout in which such person, partnership, agency, firm or corporation is not directly interested. No professional strikebreaker shall take or offer to take the place in employment of employees involved in a strike or lockout. Any person, partnership, agency, firm or corporation which violates this section shall be [fined not less than one hundred dollars or more than one thousand dollars or imprisoned not more than three years or both] guilty of a class E felony.

Sec. 27. Section 51-87 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who (1) pays, remunerates or rewards any other person with something of value to solicit or obtain a cause of action or client for an attorney-at-law or (2) employs an agent, runner or other person to solicit or obtain a cause of action or a client for an attorney-at-law or (3) pays, remunerates or rewards any other person with something of value for soliciting or bringing a cause of action or a client to an attorney-at-law or (4) pays, remunerates or rewards with something of value a police officer, court officer, correctional institution officer or employee, a physician, any hospital attache or employee, an automobile repairman, tower or wrecker, funeral director or any other person who induces any person to seek the services of an attorney or (5) pays, remunerates or rewards any other person with something of value to induce [him] such other person to bring a cause of action to, or to come to, an attorney or to seek [his] an attorney's professional services shall be [fined not more than one thousand dollars or imprisoned not more than three years or both] guilty of a class E felony. This subsection shall not apply to an attorney's engaging other or additional attorneys for professional assistance or to an attorney's referring a case to another attorney.

(b) Any person who knowingly receives or accepts any payment, remuneration or reward of value for referring or bringing a cause of action or prospective client to an attorney-at-law, or for inducing or influencing any other person to seek the professional advice or services of an attorney, shall be [fined not more than one thousand dollars or imprisoned not more than three years or both] guilty of a class E felony. This subsection shall not apply to the referral by an attorney-at-law of causes of action or clients or other persons to another attorney-at-law.

Sec. 28. Subsection (b) of section 51-87b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who violates the provisions of subsection (a) of this section shall be subject to the [provisions] penalties set forth in subsection (b) of section 51-87, as amended by this act.

Sec. 29. Subsection (a) of section 53-202f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) While transporting an assault weapon between any of the places mentioned in subdivisions (1) to (6), inclusive, of subsection (d) of section

53-202d, no person shall carry a loaded assault weapon concealed from public view or knowingly have, in any motor vehicle owned, operated or occupied by him (1) a loaded assault weapon, or (2) an unloaded assault weapon unless such weapon is kept in the trunk of such vehicle or in a case or other container which is inaccessible to the operator of or any passenger in such vehicle. Any person who violates the provisions of this subsection shall be [fined not more than five hundred dollars or imprisoned not more than three years or both] guilty of a class E felony.

Sec. 30. Subsection (a) of section 53-206 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who carries upon his or her person any BB. gun, blackjack, metal or brass knuckles, or any dirk knife, or any switch knife, or any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half inches in length, or stiletto, or any knife the edged portion of the blade of which is four inches or more in length, any police baton or nightstick, or any martial arts weapon or electronic defense weapon, as defined in section 53a-3, or any other dangerous or deadly weapon or instrument, shall be [fined not more than five hundred dollars or imprisoned not more than three years or both] guilty of a class E felony. Whenever any person is found guilty of a violation of this section, any weapon or other instrument within the provisions of this section, found upon the body of such person, shall be forfeited to the municipality wherein such person was apprehended, notwithstanding any failure of the judgment of conviction to expressly impose such forfeiture.

Sec. 31. Section 53-368 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person authorized by the laws of this state to administer oaths and affirmations, who falsely certifies that an oath or affirmation has been administered by him to any person in any matter where an oath or affirmation is by law required or falsely certifies that any affidavit, deposition or written statement of any kind required by law to be made upon oath or affirmation has been sworn or affirmed to before him by the person making such affidavit, deposition or written statement in any case where the same is required by law to be made, shall be [fined not more than one thousand dollars or be imprisoned not more than three years or both] guilty of a class E felony.

Sec. 32. Section 1-103 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who approaches the officers or agents of any corporation or any individual interested in the passage or defeat of any bill for a public or private act, pending before the General Assembly, or any committee thereof, and proposes or offers for any reward or compensation to aid or furnish assistance to such officers, agents or person, in the passage or defeat of any such bill, or threatens to oppose or hinder the passage thereof unless rewarded, compensated or employed, shall be [fined not more than one thousand dollars or be imprisoned not more than five years or both] guilty of a class D felony.

Sec. 33. Subsection (d) of section 4d-39 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(d) Any person who knowingly and wilfully violates any provision of section 4d-36, 4d-37 or 4d-38 shall, for each such violation, be [fined not more than five thousand dollars or imprisoned not less than one year or more than five years, or be both fined and imprisoned] guilty of a class D felony.

Sec. 34. Section 7-64 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The body of each person who dies in this state shall be buried, removed or cremated within a reasonable time after death. The person to whom the custody and control of the remains of any deceased person are granted by law shall see that the certificate of death required by law has been completed and filed in accordance with section 7-62b prior to final disposition of the body. An authorization for final disposition issued under the law of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state. The final disposition of a cremated body shall be recorded as the crematory. The provisions of this section shall not in any way impair the authority of directors of health in cases of death resulting from communicable diseases, nor conflict with any statutes regulating the delivery of bodies to any medical school, nor prevent the placing of any body temporarily in the receiving vault of any cemetery. The placing of any body in a family vault or tomb within any cemetery shall be deemed a burial under the provisions of this section. Any person who violates any provision of this section shall be [fined not more than five hundred dollars or imprisoned not more than five years] guilty of a class D felony.



Sec. 35. Subsection (d) of section 7-66 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(d) Any sexton who violates the provisions of subsections (a) and (b) of this section shall be [fined not more than five hundred dollars or imprisoned not more than five years] guilty of a class D felony. Any sexton who fails to make the appropriate filing of reports as required by subsection (c) of this section, by the end of the third week of a month to the registrar of the town where the cemetery is located, shall be subject to a fine of not more than one hundred dollars per day.

Sec. 36. Section 9-264 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

An elector who requires assistance to vote, by reason of blindness, disability or inability to write or to read the ballot, may be given assistance by a person of the elector's choice, other than (1) the elector's employer, (2) an agent of such employer, (3) an officer or agent of the elector's union, or (4) a candidate for any office on the ballot, unless the elector is a member of the immediate family of such candidate. The person assisting the elector may accompany the elector into the voting booth. Such person shall register such elector's vote upon the ballot as such elector directs. Any person accompanying an elector into the voting booth who deceives any elector in registering the elector's vote under this section or seeks to influence any elector while in the act of voting, or who registers any vote for any elector or on any question other than as requested by such elector, or who gives information to any person as to what person or persons such elector voted for, or how such elector voted on any question, shall be [fined not more than one thousand dollars or imprisoned not more than five years, or both] guilty of a class D felony. As used in this section, "immediate family" means "immediate family" as defined in section 9-140b.

Sec. 37. Section 9-352 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any election official who, with intent to cause or permit any voting tabulator to fail to correctly register all votes cast thereon, tampers with or disarranges such tabulator in any way or any part or appliance thereof, or causes such tabulator to be used or consents to its being used for voting at any election with knowledge of the fact that the same is not in order, or not perfectly set and adjusted to correctly register all votes cast thereon, or who, for the purpose of defrauding or deceiving any elector or of causing

it to be doubtful for what candidate or candidates or proposition any vote is cast, or causing it to appear upon such tabulator that votes cast for one candidate or proposition were cast for another candidate or proposition, removes, changes or mutilates any ballot shall be [fined not more than one thousand dollars or imprisoned not more than five years, or both] guilty of a class D felony.

Sec. 38. Section 9-353 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any election official who, at the close of the polls, purposely causes the vote registered on the tabulator to be incorrectly taken down as to any candidate or proposition voted on, or who knowingly causes to be made or signed any false statement, certificate or return of any kind, of such vote, or who knowingly consents to any such act, shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 39. Section 9-354 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who prints or causes to be printed upon any official ballot the name of any person not a candidate of a party whose name is printed at the head of the column containing such nominees or who prints or causes to be printed any authorized ballot in any manner other than that prescribed by the Secretary of the State shall be [fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned not more than five years or be both fined and imprisoned] guilty of a class D felony.

Sec. 40. Section 9-623 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who knowingly and wilfully violates any provision of this chapter shall be [fined not more than five thousand dollars or imprisoned not more than five years, or both] guilty of a class D felony. The Secretary of the State or the town clerk shall notify the State Elections Enforcement Commission of any such violation of which said secretary or such town clerk may have knowledge. Any such fine for a violation of any provision of this chapter applying to the office of the Treasurer shall be deposited on a pro rata basis in any trust funds, as defined in section 3-13c, affected by such violation.

(b) (1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars.

(2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608.

(3) In the case of any such statement or certification that is required to be filed with a town clerk, the town clerk shall forthwith after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than seven days after the town clerk mails such notice, the town clerk shall notify the State Elections Enforcement Commission that the person is in violation of section 9-603, 9-604 or 9-608.

(4) The penalty for any violation of section 9-603, 9-604 or 9-608 shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both.

Sec. 41. Section 10-390 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No person shall excavate, damage or otherwise alter or deface any archaeological or sacred site on state lands or within a state archaeological preserve unless such activity is in accordance with the terms and conditions of a permit issued under section 10-386 or in the case of an emergency.

(b) No person shall sell, exchange, transport, receive or offer to sell, any archaeological artifact or human remains collected, excavated or otherwise removed from state lands or a state archaeological preserve in violation of subsection (a) of this section.

(c) No person shall engage in any activity that will desecrate, disturb or alter any Native American burial, sacred site or cemetery, including any associated objects, unless the activity is engaged in pursuant to a permit issued under section 10-386 or under the direction of the State Archaeologist.

(d) Any person who violates any provision of this section shall be guilty of a class D felony, except that such person may be fined not more than five thousand dollars or twice the value of the site or artifact that was the subject of the violation, whichever is greater, [ and imprisoned not more than five years or both. ]

(e) Any person who violates any provision of this section shall be liable to the state for the reasonable costs and expenses of the state in restoring the site and any associated sacred objects or archaeological artifacts.

Sec. 42. Subsection (e) of section 12-206 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(e) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (d) and (e) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 43. Subsection (b) of section 12-231 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 44. Subsection (b) of section 12-268e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 45. Subsection (b) of section 12-304 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) (1) Any person, whether or not previously convicted of a violation of any provision of this section, who possesses, transports for sale, sells or offers for sale twenty thousand or more cigarettes, (A) subject to the tax imposed by this chapter in any unstamped or unlawfully packaged stamped packages, or (B) the stamping of which is prohibited by subsection (b) of section 12-302 or subsection (b) of section 12-303, and (2) any person, whether or not previously convicted of violation of any provision of this section, who wilfully attempts to evade the taxes imposed by this chapter or the payment thereof on twenty thousand or more cigarettes, shall be [fined not more than five thousand dollars or imprisoned not less than one year nor more than five years or both] guilty of a class D felony.

Sec. 46. Subsection (b) of section 12-306b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, report, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 47. Subsection (c) of section 12-330f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) (1) Any person, whether or not previously convicted of violation of any provision of this section, who transports for sale, sells or offers for sale tobacco products upon which a tax of two thousand five hundred dollars or more would be due under the provisions of this chapter, but upon which no tax has been paid, and (2) any person, whether or not previously convicted of violation of any provision of this section, who wilfully attempts to evade the taxes imposed by this chapter, or the payment thereof on tobacco products upon which a tax of two thousand five hundred dollars or more would be due but upon which no tax has been paid, shall be [fined not more than five thousand dollars or imprisoned not less than one year nor more than five years or both] guilty of a class D felony.

Sec. 48. Subsection (b) of section 12-330j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, report, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 49. Subsection (g) of section 12-405d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(g) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, affidavit, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (f) and (g) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 50. Subdivision (2) of section 12-428 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(2) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (1) and (2) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 51. Subsection (b) of section 12-452 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 52. Subsection (b) of section 12-464 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, report, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 53. Subsection (b) of section 12-482 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, report, account, statement or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 54. Subsection (b) of section 12-519 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsection (a) or (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 55. Subsection (b) of section 12-551 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 56. Subsection (b) of section 12-591 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement, or other document, known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more



than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 57. Subsection (b) of section 12-638g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any entity which wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement, or other document, known by it to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No entity shall be charged with an offense under both subsections (a) and (b) of this section in relation to the same tax period but such entity may be charged and prosecuted for both such offenses upon the same information.

Sec. 58. Subsection (b) of section 12-737 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully delivers or discloses to the commissioner or his authorized agent any list, return, account, statement or other document known by him to be fraudulent or false in any material matter, shall, in addition to any other penalty provided by law, be [fined not more than five thousand dollars or imprisoned not more than five years nor less than one year or both] guilty of a class D felony. No person shall be charged with an offense under both subsection (a) and (b) of this section in relation to the same tax period but such person may be charged and prosecuted for both such offenses upon the same information.

Sec. 59. Subsection (b) of section 14-149a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who knowingly owns, operates or conducts a chop shop or who knowingly aids and abets another person in owning, operating or conducting a chop shop shall, for a first offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both,] guilty of a class D felony and, for a second or subsequent offense, be guilty of a class D felony, except that such person shall be fined not less than ten thousand dollars. [and imprisoned not more than five years. ]

Sec. 60. Subsection (f) of section 14-299a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(f) Any person who violates any provision of subsection (b) of this section which violation results in a traffic accident shall be guilty of a class D felony, except that such person shall be fined not more than fifteen thousand dollars. [or imprisoned not more than five years, or both. ]

Sec. 61. Subsection (a) of section 15-69 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who interferes or tampers with any airport, heliport, landing field or airway or the equipment thereof or who interferes or tampers with or circumvents, attempts to circumvent or thwart any security device or equipment installed or who circumvents, attempts to circumvent or fails to comply with security measures or procedures in operation at any airport shall be [fined not less than two hundred dollars nor more than one thousand dollars or imprisoned not more than five years or be both fined and imprisoned] guilty of a class D felony.

Sec. 62. Section 16-33 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who wilfully makes any false return or report to the Public Utilities Regulatory Authority, or to any member thereof, or to any agent or any employee acting therefor, or who testifies falsely to any material fact in any matter wherein an oath or affirmation is required or authorized, or who makes any false entry or memorandum upon any account, book, paper, record, report or statement of any company, or who wilfully destroys, mutilates, alters or by any other means or device falsifies or destroys the record of any such account, book, paper, record, report or statement, with the intent to mislead or deceive the authority, or any member thereof, or any agent or employee acting therefor, or who wilfully obstructs or hinders the authority, or any of its members, agents or employees, in the making of any examination of the accounts, affairs or condition of any company, and any person who, with like intent, aids or abets another in any of the acts hereinbefore set forth, shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 63. Subsection (b) of section 16a-18 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person, firm, corporation, business or combination thereof violating any provision of subsection (a) of this section shall be guilty of a class D felony, except that such person shall be fined not more than two hundred fifty thousand dollars, [or imprisoned not more than five years, or both. ]

Sec. 64. Section 17a-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who wilfully files or attempts to file or conspires with any person to file a fraudulent or malicious application, order or request for the commitment, hospitalization or treatment of any child pursuant to section 17a-76, 17a-78 or 17a-79, and any person who wilfully certifies falsely to the mental disorder of any child in any certificate provided for in this part, and any person who, under the provisions of sections 17a-75 to 17a-83, inclusive, relating to mentally ill minors, wilfully reports falsely to any court or judge that any child is mentally disordered, shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 65. Subsection (m) of section 17a-274 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(m) Any person who wilfully files or attempts to file, or conspires with any person to file a fraudulent or malicious application for the placement of any person pursuant to this section, shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 66. Section 17a-504 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who wilfully and maliciously causes, or attempts to cause, or who conspires with any other person to cause, any person who does not have psychiatric disabilities to be committed to any hospital for psychiatric disabilities, and any person who wilfully certifies falsely to the psychiatric disabilities of any person in any certificate provided for in sections 17a-75 to 17a-83, inclusive, as amended by this act, 17a-450 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, and 17a-615 to 17a-618, inclusive, and any person who, under the provisions of said sections relating to persons with psychiatric disabilities, wilfully reports falsely to any court or judge that

any person has psychiatric disabilities, shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 67. Subsection (d) of section 17b-30 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(d) Biometric identifier information obtained pursuant to subsection (c) of this section shall be the proprietary information of the Department of Social Services and shall not be released or made available to any agency or organization and shall not be used for any purpose other than identification or fraud prevention in this or any other state, except that such information may be made available to the office of the Chief State's Attorney if necessary for the prosecution of fraud discovered pursuant to the biometric identifier system established in subsection (a) of this section or in accordance with section 17b-90. [The penalty for a violation of this subsection shall be up to a five-thousand-dollar fine or five years' imprisonment or both] Any person who violates any provision of this subsection shall be guilty of a class D felony and shall be liable for the cost of prosecution.

Sec. 68. Section 19a-32d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) As used in sections 19a-32d to 19a-32g, inclusive, and section 4-28e:

(1) "Embryonic stem cell research oversight committee" means a committee established in accordance with the National Academies' Guidelines for Human Embryonic Stem Cell Research, as amended from time to time.

(2) "Cloning of a human being" means inducing or permitting a replicate of a living human being's complete set of genetic material to develop after gastrulation commences.

(3) "Gastrulation" means the process immediately following the blastula state when the hollow ball of cells representing the early embryo undergoes a complex and coordinated series of movements that results in the formation of the three primary germ layers, the ectoderm, mesoderm and endoderm.

(4) "Embryonic stem cells" means cells created through the joining of a human egg and sperm or through nuclear transfer that are sufficiently

undifferentiated such that they cannot be identified as components of any specialized cell type.

(5) "Nuclear transfer" means the replacement of the nucleus of a human egg with a nucleus from another human cell.

(6) "Eligible institution" means (A) a nonprofit, tax-exempt academic institution of higher education, (B) a hospital that conducts biomedical research, or (C) any entity that conducts biomedical research or embryonic or human adult stem cell research.

(b) No person shall knowingly (1) engage or assist, directly or indirectly, in the cloning of a human being, (2) implant human embryos created by nuclear transfer into a uterus or a device similar to a uterus, or (3) facilitate human reproduction through clinical or other use of human embryos created by nuclear transfer. Any person who violates the provisions of this subsection shall be fined not more than one hundred thousand dollars or imprisoned not more than ten years, or both. Each violation of this subsection shall be a separate and distinct offense.

(c) (1) A physician or other health care provider who is treating a patient for infertility shall provide the patient with timely, relevant and appropriate information sufficient to allow that person to make an informed and voluntary choice regarding the disposition of any embryos or embryonic stem cells remaining following an infertility treatment.

(2) A patient to whom information is provided pursuant to subdivision (1) of this subsection shall be presented with the option of storing, donating to another person, donating for research purposes, or otherwise disposing of any unused embryos or embryonic stem cells.

(3) A person who elects to donate for stem cell research purposes any human embryos or embryonic stem cells remaining after receiving infertility treatment, or unfertilized human eggs or human sperm shall provide written consent for that donation and shall not receive direct or indirect payment for such human embryos, embryonic stem cells, unfertilized human eggs or human sperm. Consent obtained pursuant to this subsection shall, at a minimum, conform to the National Academies' Guidelines for Human Embryonic Stem Cell Research, as amended from time to time.

(4) Any person who violates the provisions of this subsection shall be guilty of a class D felony, except that such person shall be fined not more

than fifty thousand dollars. [or imprisoned not more than five years, or both. ] Each violation of this subsection shall be a separate and distinct offense.

(d) A person may conduct research involving embryonic stem cells, provided (1) the research is conducted with full consideration for the ethical and medical implications of such research, (2) the research is conducted before gastrulation occurs, (3) prior to conducting such research, the person provides documentation to the Commissioner of Public Health in a form and manner prescribed by the commissioner verifying: (A) That any human embryos, embryonic stem cells, unfertilized human eggs or human sperm used in such research have been donated voluntarily in accordance with the provisions of subsection (c) of this section, or (B) if any embryonic stem cells have been derived outside the state of Connecticut, that such stem cells have been acceptably derived as provided in the National Academies' Guidelines for Human Embryonic Stem Cell Research, as amended from time to time, and (4) all activities involving embryonic stem cells are overseen by an embryonic stem cell research oversight committee.

(e) The Commissioner of Public Health shall enforce the provisions of this section and may adopt regulations, in accordance with the provisions of chapter 54, relating to the administration and enforcement of this section. The commissioner may request the Attorney General to petition the Superior Court for such order as may be appropriate to enforce the provisions of this section.

(f) Any person who conducts research involving embryonic stem cells in violation of the requirements of subdivision (2) of subsection (d) of this section shall be guilty of a class D felony, except that such person shall be fined not more than fifty thousand dollars. [, or imprisoned not more than five years, or both. ]

Sec. 69. Section 19a-324 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who makes any false statement in procuring any permit required by chapter 93 or by this chapter, or who removes any body from this state for the purpose of cremation upon an ordinary removal permit, or who violates any provision of this chapter, shall be [fined not more than five hundred dollars or imprisoned not more than five years] guilty of a class D felony.

Sec. 70. Section 20-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

No provision of this section, sections 20-8, 20-9 to 20-13, inclusive, or 20-14a shall be construed to repeal or affect any of the provisions of any private charter, or to apply to licensed pharmacists. All physicians or surgeons and all physician assistants practicing under the provisions of this chapter shall, when requested, write a duplicate of their prescriptions in the English language. Any person who violates any provision of this section regarding prescriptions shall be fined ten dollars for each offense. Any person who violates any provision of section 20-9 shall be [fined not more than five hundred dollars or be imprisoned not more than five years or be both fined and imprisoned] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of section 20-9 shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section. Any person who swears to any falsehood in any statement required by section 20-10, 20-12, 20-12b or 20-12c to be filed with the Department of Public Health shall be guilty of false statement.

Sec. 71. Section 20-33 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person, except a physician or surgeon licensed under the provisions of chapter 370, who practices or attempts to practice chiropractic, or any person, including such physician or surgeon, who buys, sells or fraudulently obtains any diploma or license to practice chiropractic, whether recorded or not, or who uses the title "Chiropractor", "D. C. ", or any word or title to induce the belief that he is engaged in the practice of chiropractic, without complying with the provisions of this chapter, or any person who violates any provision of this chapter, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this chapter shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 72. Section 20-42 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person, except a licensed natureopath or a physician or surgeon licensed [to practice medicine as provided by] under the provisions of chapter 370, who practices or attempts to practice natureopathy, or any person who buys, sells or fraudulently obtains any diploma or license to practice natureopathy whether recorded or not, or any person who uses the title "natureopath" or any word or title to induce the belief that he is engaged in the practice of natureopathy, without complying with the provisions of this chapter, or any person who violates any of the provisions of this chapter, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this chapter shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 73. Section 20-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person, except a licensed podiatrist, a licensed natureopathic physician or a physician or surgeon licensed [to practice medicine or surgery] under the provisions of chapter 370, who practices or attempts to practice podiatry, or any person who buys, sells or fraudulently obtains any diploma or license to practice podiatry, or any person who uses the title "podiatrist" or any word or title to induce the belief that such person is engaged in the practice of podiatry, without complying with the provisions of this chapter, [upon the first conviction] shall be [fined not more than five hundred dollars or imprisoned not more than five years or be both fined and imprisoned, except that nothing herein contained] guilty of a class D felony. Nothing in this section shall be construed to prohibit or restrict the sale or fitting of corrective, orthopedic or arch-supporting shoes or commercial foot appliances by retail merchants and no such retail merchant shall be permitted to practice podiatry without being licensed for such practice. For the purposes of this section, each instance of patient contact or consultation that is in violation of any provision of this chapter shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 74. Subsection (c) of section 20-73 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) Any person who violates the provisions of this section or who obtains or attempts to obtain licensure as a physical therapist or physical therapist



assistant by any wilful misrepresentation or any fraudulent representation shall be [fined not more than five hundred dollars or imprisoned not more than five years, or both] guilty of a class D felony. A physical therapist, physical therapist assistant or dentist who violates the provisions of this section shall be subject to licensure revocation in the same manner as is provided under section 19a-17, or in the case of a healing arts practitioner, section 20-45. For purposes of this section each instance of patient contact or consultation in violation of any provision of this section shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 75. Subsection (b) of section 20-74f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) No person, unless registered under this chapter as an occupational therapist or an occupational therapy assistant or whose registration has been suspended or revoked, shall use, in connection with his name or place of business the words "occupational therapist", "licensed occupational therapist", "occupational therapist registered", "occupational therapy assistant", or the letters, "O. T. ", "L. O. T. ", "O. T. R. ", "O. T. A. ", "L. O. T. A. ", or "C. O. T. A. ", or any words, letters, abbreviations or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant or in any way, orally, in writing, in print or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant. Any person who violates the provisions of this section shall be [fined not more than five hundred dollars or imprisoned not more than five years, or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this chapter shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 76. Section 20-102 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

No person shall, for remuneration, (1) practice nursing<sub>z</sub> as defined in subsection (a) of section 20-87a, in this state unless such person has received a certificate as a registered nurse or a license as an advanced practice registered nurse; [and no person shall] or (2) practice advanced nursing practice<sub>z</sub> as defined in subsection (b) of said section<sub>z</sub> unless such person has received a license as an advanced practice registered nurse; [and no person shall, for remuneration,] or (3) practice nursing<sub>z</sub> as defined in subsection (c) of said section<sub>z</sub> unless such person has been certified as a

licensed practical nurse or a registered nurse or licensed as an advanced practice registered nurse. Any person who violates any provision of this chapter or who wilfully makes false representation to the Board of Examiners for Nursing shall be [fined not more than five hundred dollars or imprisoned for not more than five years or both] guilty of a class D felony. Said board shall cause to be presented to the prosecuting officer having jurisdiction evidence of any violation of any such provision. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this section shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 77. Section 20-126 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any provision of this chapter shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. Any person who continues to practice dentistry, dental medicine or dental surgery, after his license, certificate, registration or authority to so do has been suspended or revoked and while such disability continues, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this section shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 78. Section 20-126t of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any provision of sections 20-126h to 20-126w, inclusive, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. Any person who continues to practice dental hygiene or engage as a dental hygienist, after his license or authority to so do has been suspended or revoked and while such disability continues, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this section shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 79. Subsection (b) of section 20-138a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person [in violation of this section shall be fined not more than five hundred dollars or imprisoned not more than five years or both, for each offense] who violates any provision of this section shall be guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this section shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 80. Section 20-161 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any provision of this chapter, for the violation of which no other penalty has been provided, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any provision of this section shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 81. Subsection (b) of section 20-185i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) No person, unless certified by the Behavior Analyst Certification Board as a board certified behavior analyst or a board certified assistant behavior analyst, shall use in connection with his or her name or place of business: (1) The words "board certified behavior analyst", "certified behavior analyst", "board certified assistant behavior analyst" or "certified assistant behavior analyst", (2) the letters, "BCBA" or "BCABA", or (3) any words, letters, abbreviations or insignia indicating or implying that he or she is a board certified behavior analyst or board certified assistant behavior analyst or in any way, orally, in writing, in print or by sign, directly or by implication, represent himself or herself as a board certified behavior analyst or board certified assistant behavior analyst. Any person who violates the provisions of this section shall be [fined not more than five hundred dollars or imprisoned not more than five years, or both] guilty of a class D felony. For the purposes of this section, each instance of contact or consultation with an individual which is in violation of any provision of this section shall constitute a separate offense.

Sec. 82. Section 20-193 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person not licensed as provided in this chapter who, except as provided in section 20-195, represents himself as a psychologist or, having had his license suspended or revoked continues to represent himself as a psychologist, or carries on the practice of psychology as defined in sections 20-187a and 20-188, shall be [fined not more than five hundred dollars or imprisoned not more than five years or both, and each] guilty of a class D felony. Each instance of patient contact or consultation which is in violation of this section shall be deemed a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section. Any such person shall be enjoined from such practice by the Superior Court upon application by the board. The Department of Public Health may, on its own initiative or at the request of the board, investigate any alleged violation of the provisions of this chapter or any regulations adopted hereunder.

Sec. 83. Section 20-206p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

No person who is not certified by the Department of Public Health as a dietitian-nutritionist shall represent himself as being so certified or use in connection with his name the term "Connecticut Certified Dietitian-Nutritionist", "Connecticut Certified Dietitian", "Connecticut Certified Nutritionist", or the letters "C. D. -N. ", "C. D. ", "C. N. " or any other letters, words or insignia indicating or implying that he is a certified dietitian-nutritionist in this state. Any person who violates the provisions of this section or who obtains or attempts to obtain certification as a dietitian-nutritionist by any wilful misrepresentation or any fraudulent representation shall be [fined not more than five hundred dollars or imprisoned not more than five years, or both] guilty of a class D felony. Failure to renew a certificate in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 84. Section 20-329x of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person shall be [fined not more than five thousand dollars or imprisoned not less than one year and not more than five years, or both fined and imprisoned,] guilty of a class D felony if such person:

(1) In any application to the commission or in any proceeding before the commission, or in any examination, audit or investigation made by the Department of Consumer Protection under this chapter, knowingly makes any false statement or representation, or, with knowledge of its falsity, files or causes to be filed with the commission any false statement or representation in a required report;

(2) Issues, circulates or publishes, or causes to be issued, circulated or published any advertisement, pamphlet, prospectus or circular concerning any real property security which contains any statement that is false or misleading, or is otherwise likely to deceive a reader thereof, with knowledge that it contains such false, misleading or deceptive statement;

(3) In any respect wilfully violates or fails to comply with any provision of sections 20-329o to 20-329bb, inclusive, or wilfully violates or fails, omits or neglects to obey, observe or comply with all or any part of any order, decision, demand, requirement or permit of the commission under said sections; or

(4) With one or more other persons, conspires to violate any permit or order issued by the commission or any provision of said sections.

Sec. 85. Section 20-395h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any of the provisions of sections 20-395a to 20-395g, inclusive, or the regulations adopted under sections 20-395a to 20-395g, inclusive, shall be [fined not more than five hundred dollars or imprisoned not more than five years, or be both fined and imprisoned] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation, which is in violation of any provision of sections 20-395a to 20-395g, inclusive, shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 86. Section 20-417 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any of the provisions of this chapter or the regulations adopted hereunder shall be [fined not more than five hundred dollars or imprisoned not more than five years, or be both fined and imprisoned] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation which is in violation of any

provision of this chapter shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation for the purposes of this section.

Sec. 87. Section 20-581 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who violates any provision of sections 20-570 to 20-631, inclusive, and section 20-635 for the violation of which no other penalty has been provided shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation that is in violation of any provision of sections 20-570 to 20-631, inclusive, and section 20-635 shall be a separate offense. Failure to renew in a timely manner any license issued under said sections is not a violation for purposes of this section.

Sec. 88. Subsections (b) and (c) of section 21a-279 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who possesses or has under his control any quantity of a hallucinogenic substance other than marijuana or four ounces or more of a cannabis-type substance, except as authorized in this chapter, for a first offense, [may be imprisoned not more than five years or be fined not more than two thousand dollars or be both fined and imprisoned] shall be guilty of a class D felony, and for a subsequent offense [may be imprisoned not more than ten years or be fined not more than five thousand dollars or be both fined and imprisoned] shall be guilty of a class C felony.

(c) Any person who possesses or has under his control any quantity of any controlled substance other than a narcotic substance, or a hallucinogenic substance other than marijuana or who possesses or has under his control one-half ounce or more but less than four ounces of a cannabis-type substance, except as authorized in this chapter, (1) for a first offense, may be fined not more than one thousand dollars or be imprisoned not more than one year, or be both fined and imprisoned; and (2) for a subsequent offense, [may be fined not more than three thousand dollars or be imprisoned not more than five years, or be both fined and imprisoned] shall be guilty of a class D felony.

Sec. 89. Section 22a-131a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who (1) wilfully fails to prepare a manifest required in accordance with the provisions of the State Hazardous Waste Program promulgated under subsection (c) of section 22a-449 or any regulation adopted pursuant to said subsection, (2) knowingly makes any false material statement or representation on any application, label, manifest, record, report, permit or other document required in accordance with the provisions of subsection (c) of section 22a-449 or said regulations, including any such statement or representation for used oil that is regulated under said subsection, or (3) wilfully fails to maintain or knowingly destroys, alters or conceals any record required to be maintained in accordance with the provisions of subsection (c) of section 22a-449 or said regulations, including any record for used oil that is regulated under said subsection, shall be fined not more than fifty thousand dollars for each day of such violation or imprisoned not more than two years, or both. A subsequent conviction for any such violation shall be a class D felony, except that such conviction shall carry a fine of not more than fifty thousand dollars per day. [or imprisonment for not more than five years or both. ]

(b) Any person who knowingly transports or causes to be transported any hazardous waste to a facility which does not have a permit required under subsection (c) of section 22a-449 or any regulation adopted pursuant to said subsection, or who knowingly treats, stores or disposes of any hazardous wastes without a permit required under said subsection or said regulations, or who knowingly violates any material condition or requirement of such permit or an order issued by the commissioner regarding treatment, storage or disposal of hazardous waste, shall be guilty of a class D felony, except that such person shall be fined not more than fifty thousand dollars for each day of violation. [or imprisoned not more than five years or both. ] A subsequent conviction for any such violation shall be a class C felony, except that such conviction shall carry a fine of not more than one hundred thousand dollars per day. [or imprisonment for not more than ten years or both. ]

(c) Any person who knowingly stores, treats, disposes, recycles, transports or causes to be transported or otherwise handles any used oil that is regulated under subsection (c) of section 22a-449 but not identified or listed as hazardous waste in violation of any condition or requirement of a permit under said subsection or under any regulation adopted pursuant to said subsection shall be fined not more than fifty thousand dollars for

each day of violation or imprisoned not more than two years, or both. A subsequent conviction for any such violation shall be a class D felony, except that such conviction shall carry a fine of not more than one hundred thousand dollars per day. [or imprisonment for not more than five years or both. ]

(d) Any person, who in the commission of a violation for which a penalty would be imposed under subsection (a), (b) or (c) of this section, who knowingly places another person, by commission of such violation, in imminent danger of death or serious bodily injury, shall be fined not more than two hundred fifty thousand dollars or imprisoned not more than fifteen years, or both, and when the violator is an organization, the fine shall be not more than one million dollars. This subsection shall not be construed as a limitation on the amount of fines that may be imposed in accordance with subsection (a), (b) or (c) of this section. As used in this section, "organization" means any legal entity, other than the state or any of its political subdivisions, established for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union or any other association of persons.

(e) Any fine imposed pursuant to this section shall be deposited in the General Fund.

(f) Notwithstanding the provisions of section 22a-115, for the purposes of this section, the terms "treatment", "storage", "disposal", "facility", "hazardous waste" and "used oil" have the same meaning as provided in the State Hazardous Waste Program promulgated under subsection (c) of section 22a-449 and the regulations adopted pursuant to said subsection.

Sec. 90. Section 22a-226a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who knowingly violates any provision of section 22a-252, [section] 22a-208a [ , section] or 22a-208c, [any permit issued under said section 22a-208a,] subsection (c) or (d) of section 22a-250, any permit issued under section 22a-208a, any regulation adopted under section 22a-209 or 22a-231, or any order issued pursuant to section 22a-225, shall be fined not more than twenty-five thousand dollars per day for each day of violation or imprisoned not more than two years, or both. A subsequent conviction for any such violation shall be a class D felony, except that such conviction shall carry a fine of not more than fifty thousand dollars per



day for each day of violation. [or imprisonment for not more than five years or both. ]

Sec. 91. Section 22a-226b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who, in the commission of a violation for which a penalty would be imposed under section 22a-226a, as amended by this act, knowingly places another person, by commission of such violation, in imminent danger of death or serious bodily injury, shall be fined not more than one hundred thousand dollars or imprisoned not more than two years, or both. A subsequent conviction for any such violation shall be a class D felony, except that such conviction shall carry a fine of not more than two hundred fifty thousand dollars. [or imprisonment for not more than five years or both. ]

Sec. 92. Subsection (c) of section 22a-376 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) Any person who or municipality which knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under sections 22a-365 to 22a-378, inclusive, or who falsifies, tampers with or knowingly renders inaccurate any monitoring or method required to be maintained under said sections shall be subject to the provisions of sections 53a-155, [to 53a-157, inclusive,] 53a-156 and 53a-157b and in addition, upon conviction, shall be fined not more than ten thousand dollars.

Sec. 93. Section 28-22 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who, wilfully and without lawful authority, destroys or injures any device, wires or equipment used or maintained for transmitting or signalling an air raid warning or alarm or makes connection with or in any way tampers or interferes with the same, or any person who reports, transmits or circulates, or causes to be reported, transmitted or circulated, a false alarm or warning of an air raid or of any enemy action, knowing that the same is false, or any person who unlawfully poses as or impersonates a police officer, air raid warden or other person engaged in civilian preparedness emergency service, or who unlawfully and in violation of federal or state regulations manufactures, sells, offers for sale, wears or uses the uniform, insignia or identification,

or any simulation thereof, of any such police officer, warden or other person so engaged, or who wilfully impedes, interferes with or otherwise obstructs any lawful civil preparedness activity or other preparedness function of the national or state government or of the government of any political subdivision of the state, or who violates any provision of this chapter, shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 94. Subsection (a) of section 29-38 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who knowingly has, in any vehicle owned, operated or occupied by such person, any weapon, any pistol or revolver for which a proper permit has not been issued as provided in section 29-28 or any machine gun which has not been registered as required by section 53-202, shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony, and the presence of any such weapon, pistol or revolver, or machine gun in any vehicle shall be prima facie evidence of a violation of this section by the owner, operator and each occupant thereof. The word "weapon", as used in this section, means any BB. gun, any blackjack, any metal or brass knuckles, any police baton or nightstick, any dirk knife or switch knife, any knife having an automatic spring release device by which a blade is released from the handle, having a blade of over one and one-half inches in length, any stiletto, any knife the edged portion of the blade of which is four inches or more in length, any martial arts weapon or electronic defense weapon, as defined in section 53a-3, or any other dangerous or deadly weapon or instrument.

Sec. 95. Section 29-353 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who knowingly has in his possession any package of nitroglycerine, gunpowder, naphtha or other equally explosive material, not marked with a plain and legible label describing its contents, or who removes any such label or mark, or knowingly delivers to any carrier any such package without such label, shall be guilty of a class D felony, except that such person shall be fined not more than ten thousand dollars. [or imprisoned not more than five years. ]

Sec. 96. Section 31-15a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any employer, officer, agent or other person who violates any provision of section 31-12, 31-13 or 31-14, subsection (a) of section 31-15 or section 31-18, 31-23 or 31-24 shall be guilty of a class D felony for each offense, except that such person shall be fined not less than two thousand dollars or more than five thousand dollars [or imprisoned not more than five years, or both,] for each offense.

Sec. 97. Subsection (b) of section 31-69 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any employer or the officer or agent of any corporation who pays or agrees to pay to any employee less than the rates applicable to such employee under the provisions of this part or a minimum fair wage order shall be: (1) ~~[Fined]~~ Guilty of a class D felony, except that such employer, officer or agent shall be fined not less than four thousand nor more than ten thousand dollars [or imprisoned not more than five years or both] for each offense if the total amount of all unpaid wages owed to an employee is more than two thousand dollars; (2) fined not less than two thousand nor more than four thousand dollars or imprisoned not more than one year, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than one thousand dollars but not more than two thousand dollars; (3) fined not less than one thousand nor more than two thousand dollars or imprisoned not more than six months, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than five hundred but not more than one thousand dollars; or (4) fined not less than four hundred nor more than one thousand dollars or imprisoned not more than three months, or both, for each offense if the total amount of all unpaid wages owed to an employee is five hundred dollars or less.

Sec. 98. Section 31-71g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any employer or any officer or agent of an employer or any other person authorized by an employer to pay wages who violates any provision of this part: [may be: ] (1) ~~[Fined]~~ Shall be guilty of a class D felony, except that such employer, officer or agent shall be fined not less than two thousand nor more than five thousand dollars [or imprisoned not more than five years or both] for each offense if the total amount of all unpaid wages owed to an employee is more than two thousand dollars; (2) may be fined not less than one thousand nor more than two thousand dollars or imprisoned not more than one year, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than one

thousand dollars but not more than two thousand dollars; (3) may be fined not less than five hundred nor more than one thousand dollars or imprisoned not more than six months, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than five hundred but not more than one thousand dollars; or (4) may be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than three months, or both, for each offense if the total amount of all unpaid wages owed to an employee is five hundred dollars or less.

Sec. 99. Subsection (a) of section 36b-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person, including a controlling person of an offeror or target company, who violates any provision of sections 36b-40 to 36b-52, inclusive, or any regulation adopted under said sections or any order of which he has notice, [may be fined not more than five thousand dollars or imprisoned not more than five years or both] shall be guilty of a class D felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction for any other offense.

Sec. 100. Subsection (c) of section 38a-140 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) (1) Whenever it appears to the commissioner that any insurance company or any director, officer, employee or agent thereof has committed a wilful violation of sections 38a-129 to 38a-140, inclusive, the commissioner may cause criminal proceedings to be instituted by the state's attorney for the judicial district in which the principal office of the insurance company is located or, if such insurance company has no such office in the state, by the state's attorney for the judicial district of Hartford against such insurance company or the responsible director, officer, employee or agent thereof. Any insurance company that wilfully violates said sections shall be fined not more than fifty thousand dollars. Any individual who wilfully violates said sections shall be fined not more than fifteen thousand dollars or, if such wilful violation involves the deliberate perpetration of a fraud upon the commissioner, shall be imprisoned not more than two years or so fined, or both.

(2) Any officer, director or employee of an insurance holding company system who wilfully and knowingly subscribes to or makes or causes to be made any false statement or false report or false filing with the intent to

deceive the commissioner in the performance of [his or her] the commissioner's duties under sections 38a-129 to 38a-140, inclusive, upon conviction thereof, shall be [imprisoned not more than five years or] guilty of a class D felony, except that such officer, director or employee shall be fined not more than fifty thousand dollars. [or both. ] Any fines imposed shall be paid by the officer, director or employee in his or her individual capacity.

Sec. 101. Section 40-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

A warehouseman, or any officer, agent or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his actual control at the time of issuing such receipt, shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 102. Section 40-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

A warehouseman, or any officer, agent or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate", except in the case of a lost, stolen or destroyed receipt after proceedings as provided for in subsection (a) of section 42a-7-601, shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 103. Section 41-47 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any officer, agent or servant of a carrier, who, with intent to defraud, issues or aids in issuing a bill, knowing that all or any part of the goods for which such bill is issued have not been received by such carrier, or by an agent of such carrier, or by a connecting carrier, or are not under the carrier's control at the time of issuing such bill, shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 104. Section 41-49 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any officer, agent or servant of a carrier, who, with intent to defraud, issues or aids in issuing a duplicate or additional negotiable bill for goods which constitutes an overissue and upon which the carrier may be liable under section 42a-7-402, knowing that a former negotiable bill for the same goods or any part thereof is outstanding and uncanceled, shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 105. Section 41-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who, with intent to deceive, negotiates or transfers for value a bill, knowing that any or all of the goods which, by the terms of such bill, appear to have been received for transportation by the carrier which issued the bill are not in the possession or control of such carrier, or of a connecting carrier, without disclosing such fact, shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 106. Section 41-52 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who, with intent to defraud, secures the issue, by a carrier, of a bill, knowing that any or all of the goods described in such bill as received for transportation have not, at the time of such issue, been received by such carrier, or an agent of such carrier, or a connecting carrier, or are not under the carrier's control, by inducing an officer, agent or servant of such carrier falsely to believe that such goods have been received by such carrier or are under its control, shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 107. Section 41-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who, with intent to defraud, issues or aids in issuing a nonnegotiable bill without the word "nonnegotiable" or the words "not negotiable" appearing plainly upon the face thereof shall, for each offense, be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 108. Subsection (d) of section 42-232 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(d) Any person who violates the provisions of this section or any order issued pursuant to section 42-231 shall be fined not more than one thousand dollars or imprisoned not more than one year, or both, for each offense, except that any person who intentionally violates the provisions of this section or any order issued pursuant to section 42-231 or engages in a pattern of activity constituting repeated violations of this section or any such order shall be [fined not more than five thousand dollars or imprisoned not more than five years, or both,] guilty of a class D felony for each offense. Each violation and each day on which the violation occurs or continues shall be a separate offense.

Sec. 109. Section 45a-729 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who places a child for adoption in violation of section 45a-727 or 45a-764 or assists in such a placement shall be [fined not more than five thousand dollars or imprisoned not less than one year or more than five years, or both] guilty of a class D felony.

Sec. 110. Subsection (h) of section 49-8a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(h) Any person who causes an affidavit to be recorded in the land records of any town in accordance with this section having actual knowledge that the information and statements therein contained are false shall be [fined not more than five thousand dollars or imprisoned not less than one year or more than five years, or both fined and imprisoned] guilty of a class D felony.

Sec. 111. Section 53-20 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) (1) Any person who intentionally tortures, torments or cruelly or unlawfully punishes another person or intentionally deprives another person of necessary food, clothing, shelter or proper physical care shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

(2) Any person who, with criminal negligence, deprives another person of necessary food, clothing, shelter or proper physical care shall be fined not

more than five hundred dollars or imprisoned not more than one year, or both.

(b) (1) Any person who, having the control and custody of any child under the age of nineteen years, in any capacity whatsoever, intentionally maltreats, tortures, overworks or cruelly or unlawfully punishes such child or intentionally deprives such child of necessary food, clothing or shelter shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

(2) Any person who, having the control and custody of any child under the age of nineteen years, in any capacity whatsoever, with criminal negligence, deprives such child of necessary food, clothing or shelter shall be fined not more than five hundred dollars or imprisoned not more than one year, or both.

Sec. 112. Section 53-23 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person having the charge of any child under the age of six years who exposes such child in any place, with intent wholly to abandon such child, shall be [fined not more than five hundred dollars and imprisoned not more than five years] guilty of a class D felony.

(b) The act of a parent or agent leaving an infant thirty days or younger with a designated employee pursuant to section 17a-58 shall not constitute a violation of this section.

Sec. 113. Section 53-200 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who is principal or second in any prize fight in this state shall be [imprisoned not more than five years or fined not more than one thousand dollars or both] guilty of a class D felony. A contest in which blows are struck which are intended or calculated to stun, disable or knock out either of the contestants, or in which either contestant is counted out or otherwise declared defeated because of failure to resume the contest within a certain time, shall be deemed a prize fight within the meaning of this section. The provisions of this section shall not apply to boxing exhibitions held or conducted under the laws of this state, or to wrestling bouts or amateur boxing exhibitions held under the provisions of section 29-143j, or under the supervision of any school, college or



university having an academic course of study or of the recognized athletic association connected with such school, college or university.

Sec. 114. Section 53-247 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall, for a first offense, be fined not more than one thousand dollars or imprisoned not more than one year or both, and for each subsequent offense, shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

(b) Any person who maliciously and intentionally maims, mutilates, tortures, wounds or kills an animal shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony. The provisions of this subsection shall not apply to any licensed veterinarian while following accepted standards of practice of the profession or to any person while following approved methods of slaughter under section 22-272a, while performing medical research as an employee of, student in or person associated with any hospital, educational institution or laboratory, while following generally accepted agricultural practices or while lawfully engaged in the taking of wildlife.

(c) Any person who knowingly (1) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting for amusement or gain, (2) possesses, keeps or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, (3) permits an act described in subdivision (1) or (2) of this subsection to take place on premises under his control, (4) acts as judge or spectator at an exhibition of animal fighting for amusement or gain, or (5) bets or wagers on the

outcome of an exhibition of animal fighting for amusement or gain, shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

(d) Any person who intentionally injures any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally injures a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be [fined not more than five thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

(e) Any person who intentionally kills any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally kills a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

Sec. 115. Section 53-320 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

No person shall spread, distribute, sow, have in his possession or deliver to another, with malicious intent, any seeds of foul or noxious plants, or spread or distribute poisons upon the land or trees of another except for the purpose of spraying such trees. Any person who violates any of the provisions of this section shall be [fined not more than one thousand dollars or imprisoned not more than five years or both] guilty of a class D felony.

Sec. 116. Section 53-334 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any person who opens the grave or tomb where any corpse has been deposited, or removes any corpse from its place of sepulture, without the consent of the husband or wife or the near relatives of the deceased, or receives, conceals or secretes any corpse so removed, or assists in any surgical or anatomical experiments or demonstrations therewith or dissection thereof, knowing it to have been so removed, except as provided in section 19a-413, shall be [fined not more than two thousand

dollars and imprisoned not more than five years] guilty of a class D felony.

Sec. 117. Subsection (c) of section 53-341 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) Any person who violates the provisions of this section or section 20-9, 20-12d or 20-12n shall be [fined not more than five hundred dollars or imprisoned not more than five years, or both] guilty of a class D felony. For the purposes of this section, each instance of patient contact or consultation that is in violation of chapter 370 shall constitute a separate offense. Failure to renew a license in a timely manner shall not constitute a violation of this section.

Sec. 118. Section 53-347a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who uses, forges or counterfeits the individual stamp or label of any mechanic or manufacturer, with intent to defraud another, or vends or offers to vend any goods having any such forged or counterfeited stamp or label thereon, knowing it to be forged or counterfeited, without disclosing the fact to the purchaser, shall be [imprisoned not more than five years or] guilty of a class D felony, except that such person shall be fined not more than two hundred fifty thousand dollars. [or both. ]

(b) Any person who, fraudulently and with intent to deceive, affixes any mark recorded under chapter 621a or any imitation thereof calculated to deceive, to any goods, receptacle or package similar in descriptive properties to those to which such mark is appropriated; or who, fraudulently and with intent to deceive, places, in any receptacle or package to which is lawfully affixed a recorded mark, goods other than those which such mark is designed and appropriated to protect; or who, fraudulently and with intent to deceive, deals in or keeps for sale any goods with a mark fraudulently affixed as above described in this section, or any goods contained in any package or receptacle having a lawful mark, which are not such goods as such mark was designed and appropriated to protect, shall be guilty of a class D felony, except that such person shall be fined not more than two hundred fifty thousand dollars. [or imprisoned not more than five years or both. ]

(c) Any person, firm, partnership, corporation, association, union or other organization (1) who wilfully and knowingly counterfeits or imitates, or

offers for sale or otherwise utters or circulates any counterfeit or imitation of a mark recorded under chapter 622a; or (2) who uses or displays a genuine mark recorded under said chapter in a manner not authorized by the registrant and knowing that such use or display is not so authorized; or (3) who in any way uses the name or mark, whether recorded under said chapter or not, of any individual, firm, partnership, corporation, association, union or other organization, in and about the sale of goods or otherwise not being authorized to use the same and knowing that such use is unauthorized, shall be guilty of a class D felony, except that such person, firm, partnership, corporation, association, union or organization shall be fined not more than two hundred fifty thousand dollars. [or imprisoned not more than five years or be both fined and imprisoned. ] In all cases where such association, union or other organization is not incorporated, complaint may be made by any officer or member of such association, union or organization on behalf of such union, association or organization.

Sec. 119. Subsection (b) of section 54-142c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Notwithstanding any other provisions of this chapter, within two years from the date of disposition of any case, the clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records may disclose to the victim of a crime or the victim's legal representative the fact that the case was dismissed. If such disclosure contains information from erased records, the identity of the defendant or defendants shall not be released, except that any information contained in such records, including the identity of the person charged may be released to the victim of the crime or the victim's representative upon written application by such victim or representative to the court stating (1) that a civil action has been commenced for loss or damage resulting from such act, or (2) the intent to bring a civil action for such loss or damage. Any person who obtains criminal history record information by falsely representing to be the victim of a crime or the victim's representative shall be [fined not more than five thousand dollars or imprisoned not less than one year or more than five years or both] guilty of a class D felony.

Sec. 120. Subsection (b) of section 12-428a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who wilfully and knowingly sells, purchases, installs, transfers or possesses any automated sales suppression device or phantom-ware shall (1) be guilty of a class D felony, except that such person shall be fined not more than one hundred thousand dollars, [or imprisoned for not less than one or more than five years, or both,] (2) be liable for all taxes, penalties and interest due to the state as a result of such sale, purchase, installation, transfer or possession, and (3) forfeit all profits resulting from the sale or use of such automated sales suppression device or phantom-ware.

Sec. 121. Section 22a-438 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) Any person who or municipality which violates any provision of this chapter, or section 22a-6 or 22a-7 shall be assessed a civil penalty not to exceed twenty-five thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon complaint of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty. In determining the amount of any penalty assessed under this subsection, the court may consider the nature, circumstances, extent and gravity of the violation, the person or municipality's prior history of violations, the economic benefit resulting to the person or municipality from the violation, and such other factors deemed appropriate by the court. The court shall consider the status of a person or municipality as a persistent violator. The provisions of this section concerning a continuing violation shall not apply to a person or municipality during the time when a hearing on the order pursuant to section 22a-436 or an appeal pursuant to section 22a-437 is pending.

(b) Any person who with criminal negligence violates any provision of this chapter, or section 22a-6 or 22a-7 shall be fined not more than twenty-five thousand dollars per day for each day of violation or be imprisoned not more than one year or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than two years, or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(c) Any person who knowingly violates any provision of this chapter, or section 22a-6 or 22a-7 shall be fined not more than fifty thousand dollars

per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall be a class C felony, except that such conviction shall carry a fine of not more than one hundred thousand dollars per day for each day of violation. [or imprisonment for not more than ten years or both. ] For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(d) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or section 22a-6 or 22a-7 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, or section 22a-6 or 22a-7 shall upon conviction be fined not more than twenty-five thousand dollars for each violation or imprisoned not more than two years for each violation, or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(e) Any person who wilfully or with criminal negligence discharges gasoline in violation of any provision of this chapter, shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall be a class C felony, except that such conviction shall carry a fine of not more than one hundred thousand dollars per day for each day of violation. [or imprisonment for not more than ten years or both. ] For the purposes of this subsection, person includes any responsible corporate officer or municipal officer.

Sec. 122. Subsection (b) of section 22a-628 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Any person who knowingly violates any provision of this chapter, including, but not limited to, any regulation adopted or order issued pursuant to this chapter, or who makes any false statement, representation, or certification in any application, notification, request for exemption, record, plan, report or other document filed or required to be maintained under this chapter, shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall be a class C felony, except that such conviction shall carry a fine of not

more than fifty thousand dollars per day for each day of violation. [or imprisonment for not more than ten years, or both. ]

Approved July 11, 2013

**APPENDIX K:**  
**PUBLIC ACT 13-144**



**Public Act No. 13-144**

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
CONNECTICUT SENTENCING COMMISSION REGARDING FALSE  
STATEMENT.**

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

Section 1. Section 53a-157a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) A person is guilty of false statement [in the first degree] on a certified payroll when [he] such person intentionally makes a false written statement on a certified payroll submitted pursuant to section 31-53 which [he] such person does not believe to be true and which statement is intended to mislead a contracting authority or the labor commissioner in the exercise of his authority or the fulfillment of his duties under chapter 557.

(b) False statement [in the first degree] on a certified payroll is a class D felony.

Sec. 2. Section 53a-157b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) A person is guilty of false statement [in the second degree] when [he] such person (1) intentionally makes a false written statement that such person does not believe to be true with the intent to mislead a public servant in the performance of such public servant's official function, and (2) makes such statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable. [, which he does not believe to be true and which statement is intended to mislead a public servant in the performance of his official function. ]

(b) False statement [in the second degree] is a class A misdemeanor.

Sec. 3. Subdivision (2) of subsection (c) of section 7-294d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(2) The council may cancel or revoke any certificate if: (A) The certificate was issued by administrative error, (B) the certificate was obtained through misrepresentation or fraud, (C) the holder falsified any document in order to obtain or renew any certificate, (D) the holder has been convicted of a felony, (E) the holder has been found not guilty of a felony by reason of mental disease or defect pursuant to section 53a-13, (F) the holder has been convicted of a violation of subsection (c) of section 21a-279, (G) the holder has been refused issuance of a certificate or similar authorization or has had his or her certificate or other authorization cancelled or revoked by another jurisdiction on grounds which would authorize cancellation or revocation under the provisions of this subdivision, (H) the holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used a firearm in an improper manner which resulted in the death or serious physical injury of another person, or (I) the holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have committed any act that would constitute tampering with or fabricating physical evidence in violation of section 53a-155, perjury in violation of section 53a-156 or false statement [in the second degree] in violation of section 53a-157b, as amended by this act. Whenever the council believes there is a reasonable basis for cancellation or revocation of the certification of a police officer, police training school or law enforcement instructor, it shall give notice and an adequate opportunity for a hearing prior to such cancellation or revocation. The council may cancel or revoke any certificate if, after a de novo review, it finds by clear and convincing evidence (i) a basis set forth in subparagraphs (A) to (G), inclusive, of this subdivision, or (ii) that the holder of the certificate committed an act set forth in subparagraph (H) or (I) of this subdivision. Any police officer or law enforcement instructor whose certification is cancelled or revoked pursuant to this section may reapply for certification no sooner than two years after the date on which the cancellation or revocation order becomes final. Any police training school whose certification is cancelled or revoked pursuant to this section may reapply for certification at any time after the date on which such order becomes final.

Sec. 4. Subsection (c) of section 22a-376 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) Any person who or municipality which knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under sections 22a-365 to 22a-378, inclusive, or who falsifies, tampers with or

knowingly renders inaccurate any monitoring or method required to be maintained under said sections shall be subject to the provisions of sections 53a-155, [to 53a-157, inclusive] 53a-156 and 53a-157b, as amended by this act, and in addition, upon conviction, shall be fined not more than ten thousand dollars.

Approved June 24, 2013

# **APPENDIX L:**

## **PUBLIC ACT 13-68**

***House Bill No. 5602***

***Public Act No. 13-68***

***AN ACT EXEMPTING INSTITUTIONS OF HIGHER EDUCATION THAT  
OFFER FREE COURSES TO INMATES FROM STATE CONTRACTING  
REQUIREMENTS.***

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

Section 1. (NEW) (*Effective October 1, 2013*) An institution of higher  
education that enters into an agreement with the Department of  
Correction for an employee or agent of such institution to teach one or  
more for-credit courses to inmates of a correctional facility at no charge to  
said department or to the participating inmates shall not be considered a  
state contractor for the purposes of such agreement.

Approved June 3, 2013