

STATE OF CONNECTICUT

# SENTENCING COMMISSION

2014 ANNUAL REPORT



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# CONNECTICUT SENTENCING COMMISSION

April 8, 2015

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 2014.

This report highlights the work of the Commission during the past year and includes one proposal for consideration at the 2015 legislative session along with information regarding the activity of its committees and staff.

I would like to express the Commission's gratitude to the following entities for their assistance in fulfilling our mission: the 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,

A handwritten signature in cursive script that reads "David M. Borden".

David M. Borden  
Chair,  
Connecticut Sentencing Commission

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# PART I: EXECUTIVE SUMMARY

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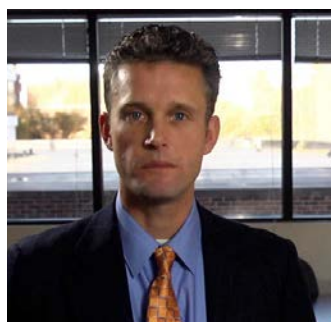
This report is organized into seven parts beginning with the Executive Summary. The second part addresses the Commission's creation, membership, and legislative mandate. The third part examines the national landscape of Sentencing Commissions and their funding mechanisms. Part four provides an update on the Commission's 2014 legislative proposals. Part five highlights the work of the Commission and its five standing committees. Part six describes legislative proposals unanimously approved by the Commission for consideration by the General Assembly during the 2015 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>



### 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

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

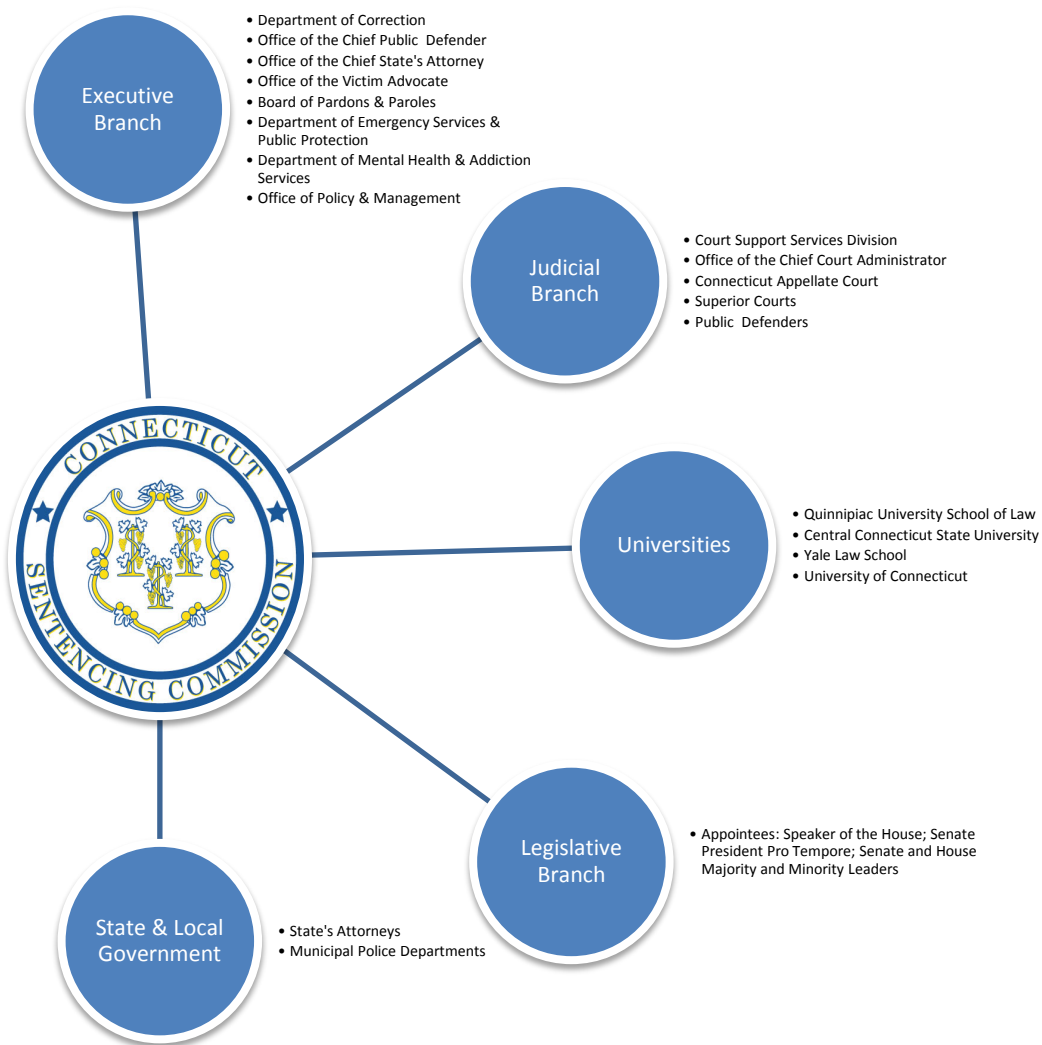
<sup>2</sup> See Appendix A for the full text of C.G.S. § 54-300.



## 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:

**The Honorable David M. Borden**

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

## 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, David Borden, Patrick 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:** Robert J. Devlin (Chair), Patrick Carroll, Tracey Meares, Mark Palmer, David Shepack, Susan Storey, Gary 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), Stephen Grant, Peter Gioia, Robert Farr, John Santa, Vilmaris Diaz-Doran, Michael Norko, David Rentler, Deborah Fuller, 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), Scott Semple, Steven Grant, Peter Gioia, John Santa, Steve Lanza, Lauren Siembab (on behalf of Pat Rehmer).

#### 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:** William Dyson (Chair), Stephen Grant, Michelle Cruz, Kevin Kane, Mike Lawlor, Mark Palmer, Susan Storey



## Working Groups

### Classification

(Reports to Sentence Structure Committee)

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

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

### Substance Abuse Treatment

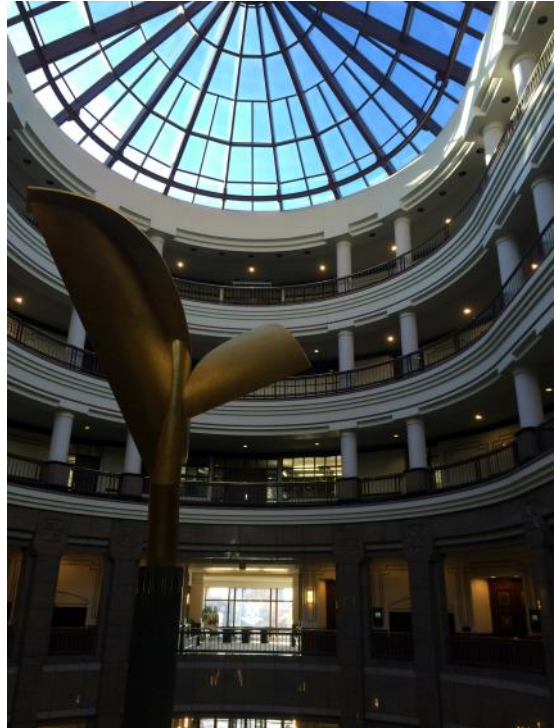
(Reports to Recidivism Reduction Committee)

**Members:** Alana Rosenberg, Andrea Reischerl, alyse Chin,  
Colleen Gallagher, Craig Burns, Dainia Sharma, David Rentler,  
Deborah Henault, Erin Leavitt-Smith, John Hamilton, Lauren  
Siembab, Loel Meckel, Monte Radler, Randy Braren, Steve  
Lanza, Thomas Kocienda, Vivien Blackford.

### Post-incarceration Employment and Training

(Reports to Recidivism Reduction Committee)

**Members:** Linda Meyer, Sarah Russell, Karl Lewis, Monica  
Rinaldi, Brian Hill, Lauren Siembab  
Ivan Kuzyk.



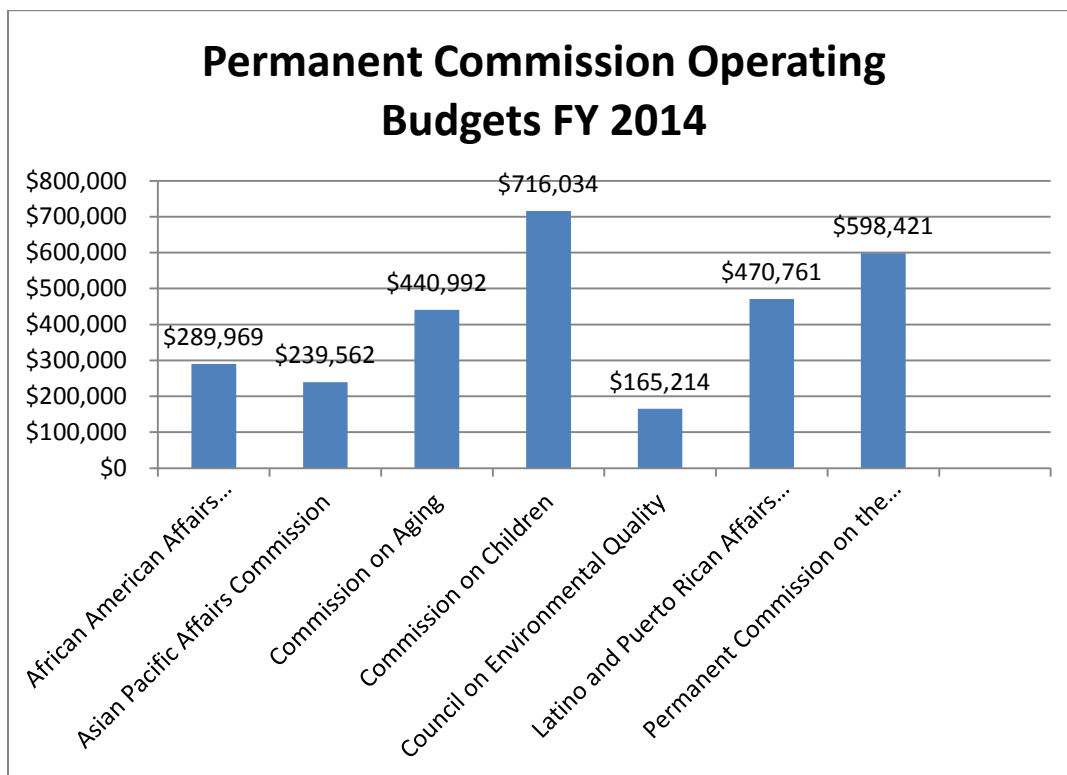
## BUDGET

The Commission's enabling legislation provides no funding for staff or research assistance to support the Commission in the performance of its tasks. However, it does permit the Commission to accept grants of federal or private funds made available for any purposes consistent with the statute.

**FY 2014:** During 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:** During the 2014 Session, the Legislature allocated \$100,000 to IMRP "to assist with activities related to the sentencing commission" in FY 2015. These funds are being utilized to hire a full-time Executive Director position during FY 2015. Additionally, the IMRP will receive a portion of the \$100,000 allocation from the Judicial Branch to assist the Commission as it has in previous years.

**FY 2016:** 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 \$302,931.37. This increase is primarily due to the Commission's need for a full-time executive director and additional support staff. If approved, the request will provide resources sufficient to adequately staff essential Commission activities, strengthen research capabilities, and allow the commission to better fulfill its mission.<sup>3</sup>



<sup>3</sup> See Appendix B for FY 2016 Budget Proposal.

# PART III: NATIONAL OVERVIEW OF SENTENCING COMMISSIONS

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## OVERVIEW OF SENTENCING COMMISSIONS

There are 24 active 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 states that have established commissions in the past ten years, none have been charged with implementing sentencing guidelines.<sup>4</sup>

For example, 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.<sup>5</sup>

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

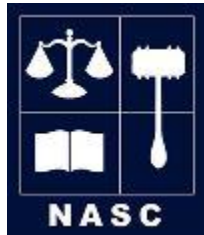
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<sup>4</sup> The New York State Sentencing Commission on Reform was a temporary Commission which recommended in its final report on January 30, 2009 the creation of a permanent Sentencing Commission.

<sup>5</sup> “Commission” refers to the Colorado Commission on Criminal and Juvenile Justice. The work of the Colorado Comprehensive Sentencing Task Force concluded on September 3<sup>rd</sup>, 2014. Sentencing issues are now addressed by the Colorado Commission on Criminal and Juvenile Justice.

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 National Association of Sentencing Commissions is a non-profit organization that was created to facilitate the exchange and sharing of information, ideas, data, expertise, and experiences and to educate on issues related to sentencing policies, guidelines and commissions.<sup>6</sup>

NASC does not endorse any single sentencing structure but rather supports the development of rational and effective sentencing policy, which can be achieved in various forms. NASC membership includes states with or without sentencing guidelines, states with presumptive or voluntary guidelines, and states with determinate or indeterminate sentencing practices. It is not the structure of the sentencing system but rather the goals of that system that are important to the development of good sentencing policy

NASC concentrates on providing its membership with the tools to develop a sentencing system that reflects the priorities and values of individual states. By sharing research findings on topics associated with sentencing policy, such as the use of intermediate punishment options, the effectiveness of substance abuse treatment, and recidivism rates, states are able to incorporate these findings into the development of a sentencing system that appropriately addresses specific areas of concern or need.

In addition, NASC provides a forum to exchange experiences among the states regarding both successes and failures in sentencing reform. Seldom does a state face a problem that has not been dealt with in some fashion or form by another state. Sharing information and learning from one another has been the primary focus of NASC activities since its inception.

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<sup>6</sup> Additional information about the National Association of Sentencing Commissions (NASC) is available at: <http://thenasc.org/aboutnasc.html>.



## 2014 Annual Conference

Pursuant to this mission, the Association holds an annual conference to examine our nation's experiences with sentencing laws and practices and to discuss emerging issues and innovations. In 2014, the Connecticut Sentencing Commission, along with Yale University, hosted NASC's 2014 Annual Conference. The Conference, entitled, "Lessons Learned: Guiding Shifts in Sentencing Policy," was held in August at Yale Law School in New Haven, Connecticut. Commission Chair David M. Borden, Executive Director Andrew Clark, and Research and Policy Specialist Jason DePatie were instrumental in shaping the conference. Yale Law School and the Institute for Municipal and Regional Policy provided sponsorships.



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### Conference Highlights

The three-day conference brought together a diverse group of professionals to sentencing policy and research. The conference consisted of three plenary sessions, a keynote, three presentations, and six breakout sessions. Below are a few of the many topics addressed during this event.

#### Plenary Sessions

- Current Drug Sentencing Policies: Interaction and Enforcement of State and Federal Laws
- Sentencing Policy and the Effect on Incarceration: Views From Corrections Administrators

#### Presentations

- Bureau of Justice Statistics' National Judicial Reporting Program.
- The ARK: Annals of Research and Knowledge Presentation
- Film Screening & Discussion: *The Worst of the Worst: Portrait of a Super-max Prison*

#### Breakout Sessions

- Integration of Risk Assessment into Sentencing Guidelines
- Advisory vs. Mandatory Guidelines
- Disparity and Discrimination in Sentencing

# PART IV: UPDATE ON 2014 LEGISLATIVE PROPOSALS

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Photo credit to Sage Ross

## Summary

During 2013, the Commission developed and submitted four proposals to 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 parcel perimeter and codify State v. Lewis to require a specific intent to commit a drug violation within that zone.<sup>7</sup>
- 4) Increase the penalty for fraudulent use of an ATM and double the monetary thresholds for the different penalties that apply to issuing bad checks based on the value of the checks issued, thereby reducing the penalty in some cases.

Out of these four proposals, two were enacted, one was referred to Committee, and one failed to gain the approval of the Senate.

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<sup>7</sup> State v. Lewis, 303 Conn. 760 (2012)

## Proposals



### 1. Reconsidering Sentences Imposed on Juveniles

**Title:** H.B. No. 5221, 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 passed in the House but was not called for a vote in the Senate.<sup>8</sup>

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

**Title:** S.B. No. 153, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

**Status:** Enacted by the legislature and signed into law by the Governor as P.A. 14-27.<sup>9</sup>

### 3. Drug-Free School Zones

**Title:** S.B. No. 259, 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 was referred by the Senate to the Senate Committee on Education where no further action was taken.<sup>10</sup>

### 4. Revisions to Fraudulent Use of an ATM and Bad Check Statutes

**Title:** H.B. 5586, AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.

**Status:** Enacted by the legislature and signed into law by the Governor as P.A. 14-233.<sup>11</sup>

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<sup>8</sup> See Appendix F for H.B. 5221.

<sup>9</sup> See Appendix G for P.A. 14-27.

<sup>10</sup> See Appendix H for S.B. 259.

<sup>11</sup> See Appendix I for P.A. 14-233

# PART V: 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 2014, the Commission hosted a retreat for its members and held three regular meetings. The Commission postponed its December meeting to January, due to unanticipated scheduling conflicts. The retreat was held at Central Connecticut State University on October 23 and the Commission's regular meetings were held in the Legislative Office Building on March 20, June 26, and September 18.

## Certificates of Employability Program Evaluation

On October 1, 2014, the Board of Pardons and Paroles (BOPP) and the Court Support Services Division of the judicial branch (CSSD) were authorized to award certificates of employability to eligible offenders.<sup>12</sup> The Commission is required to collect and disseminate data on the program and conduct a four-year longitudinal evaluation. In preparation for the evaluation, Commission staff is in the process of conducting background research, developing a shared database with BOPP and CSSD, and creating a scope of study.

## Presentations

Presentations given at Commission meetings during 2014:

- The Art of the Possible: Criminal Justice Initiatives—John Santa.
- Developments in Juvenile Sentencing Law—Sarah Russell
- Report on Justice Reinvestment National Summit—Andrew Clark

## 2014 Commission Retreat

On October 23, Commission members, staff, and invited guests met at Central Connecticut State University for a daylong discussion of the Commission's purpose, direction, and priorities.<sup>13</sup> The retreat

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<sup>12</sup> See notes on P.A. 14-27 in previous section and text of P.A. 14-27 in Appendix G.

<sup>13</sup> See Appendix E for Retreat Agenda.

was facilitated by District of Columbia Sentencing and Criminal Code Revision Commission Executive Director Barbara Tombs-Souvey. Commission members identified several priority focus areas for the Commission in the following 18 months, including:

- the employment of a full time Executive Director;
- securing an adequate operating budget;
- the development of a strategic plan and vision statement; and
- the development of a state-wide sentencing database.

## Committee Highlights

### Steering Committee

In 2014, the Committee worked with Andrew Clark and Central Connecticut State University to complete a job description for a full-time executive director position. It is anticipated that the search process will be completed by spring 2015.

The Committee also voted and approved a new Commission logo and approved and submitted its FY 2015 budget request to the Office of Policy and Management for consideration in the Governor's budget. The final FY 2015 budget request of \$329,159 was based on largely on the Commission's administrative and staffing needs.

### Committee on Sentencing Structure, Policy and Practices

The 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.

- a. **Mandatory Minimum Sentences:** The committee examined the question of whether the mandatory minimum sentences prescribed in Connecticut's child pornography statutory scheme, should be amended. The committee is looking at the number of child pornography offenders who have documented mental disease or mental defect histories as well as the number of repeat child pornography offenders. The objective is to determine whether there is evidence-based support for a "good cause" exception to the imposition of a mandatory prison sentence.
- b. **Persistent Offender Statutes:** The committee considered ways in which Connecticut's persistent offender statute can be redrafted and simplified. The present statutory scheme is complex and difficult to apply.
- c. **Offense Classification:** The classification work group continued to examine the feasibility of applying penal code classification to unclassified offenses.

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

The Committee on Research, Measurement, and Evaluation worked on a variety of issues during 2014, including, mandatory minimum sentencing, the role of risk assessment instruments in sentencing, and the use of cognitive behavioral therapy by criminal justice professionals.

The Committee worked closely with Joe Greelish from Judicial and Vilmaris Diaz-Doran from Parole to examine data related to mandatory minimum sentencing. The data set is rather large and consists of the current statutes that have mandatory minimum sentences and those prisoners serving such sentences. We continue to work to organize the data in a manner to be presented to the Commission.

Last year the Committee had expressed an interest in cognitive behavioral therapy (CBT) and its use by criminal justice professionals to impact behavioral change of offenders. Dr. Raymond “Chip” Tafrate of Central Connecticut State University presented a summary of his work that involved training staff at Court Support Services Division (CSSD) in CBT and motivational interviewing. The preliminary findings appear encouraging and the Committee looks forward to an update regarding CSSD’s use of CBT with probationers.

Linda Frisman prepared a Request for a Proposal (RFP) to examine the 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.

Commissioners Maureen Price-Borland and Vivien Blackford expressed an interest in examining educational opportunities for incarcerated offenders. The Committee plans to contact the appropriate personnel at Department of Correction to assist with the organization of the data.

Finally, the Committee plans to recommend that the Commission adopt guidelines regarding the review, submission, and acceptance of academic research. Furthermore, the Committee intends to review the evaluation of the certificate of employability program in accordance with these guidelines.

## **Committee on Recidivism Reduction**

The Committee on Recidivism Reduction met four times during 2014 and dedicated its efforts towards addressing two major contributors to recidivism: the absence of post-incarceration employment and the prevalence of substance abuse among offender populations.

### *1. Post-Incarceration Employment & Training*

In 2014, the Committee began a preliminary review of existing educational and training resources within the Department of Correction to assist in identifying opportunities for maximizing educational and vocational success.

The Committee, in conjunction with the Department of Correction’s (DOC) staff Kim Holley and Monica Rinaldi, reviewed data on the Department’s educational achievements along with the career-technical education programs currently offered. The Committee utilized this information to identify three critical factors: (1) inmate educational and vocational attainment; (2) educational resources/facility capacity, and (3) training resources/technological capacity.

The Committee plans to draw upon existing resources, such as the Commission's Research Committee, to develop a methodology that will inform future research. Considerations for further study include but are not limited to: best practice models in other states, existing DOC resources, skill marketability and transferability, and skill development opportunities available within the department.

## *2. Substance Abuse*

The Committee's working group on Substance Abuse Treatment for Justice-Involved People met five times in 2014. The working group enjoyed the strong participation of staff from the DOC, the Department of Mental Health and Addiction Services (DMHAS), the CSSD and the BOPP. Participants also came from Family Reentry, Recovery Network of Programs, and the Yale School of Public Health.

Discussions led to the formulation of a problem statement and seven recommendations for changes to produce better outcomes for more people. It also studied earlier reports with similar aims, and found that similar recommendations had been issued but many were not implemented. This implementation issue has led the working group to the challenge of making recommendations that will address the obstacles to implementation. Meetings with two agency commissioners have produced some direction. The working group will continue to address this issue in 2015.

## **Legislative Committee**

The Legislative Committee did not meet in 2014.

# PART VI: 2015 LEGISLATIVE PROPOSALS

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Photo credit to Pixonomy

## Summary

During 2014, the Commission developed and submitted a single proposal the General Assembly for consideration at its 2015 session. This recommendation provides 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 eliminates mandatory sentences of life imprisonment without release for juveniles convicted of capital felony or murder with special circumstances.

## Reconsidering Sentences Imposed on Juveniles

### Proposal Background

At its September 18 meeting, the Commission unanimously agreed to pursue its juvenile justice reform proposal during the 2015 legislative session. The proposal was recommended by the Commission in 2013 and introduced during the 2014 legislative session as House Bill 5221. The bill passed in the House 129-15, but was not called in the Senate.

### 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. 48, 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, again on December 19, 2013, and again on September 18, 2014. 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>14</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

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<sup>14</sup> Please note this column does not take into account the time from arrest until sentencing.

## PART VII: CONCLUSION

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During 2014, the Connecticut Sentencing Commission renewed its commitment to juvenile justice reform and compliance with federal constitutional law by unanimously re-recommending its legislative proposal on juvenile sentencing. 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 three 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.

INSTITUTE FOR MUNICIPAL AND REGIONAL POLICY  
Central Connecticut State University

*Andrew J. Clark, Director*

*Leland J. Moore, Esq., Research & Policy Associate*

*Madonna Burns, Staff Assistant*

*Renee LaMark Muir, Research Analyst*

Established in 2002, The Institute for Municipal and Regional Policy (IMRP) works to effectively advance and ensure a just, equitable, and inclusive Connecticut through research, public policy analysis and development, and community engagement.

The IMRP accomplishes its mission through a variety of targeted approaches such as: public education and dialogue; trainings; 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 is a university-based organization that adheres to non-partisan, evidence-based practices and conducts and disseminates its scientific research in accordance with strict, ethical standards. 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.



**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 non-conviction 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 2016 PROPOSED BUDGET**  
**ADJUSTMENTS**

CONNECTICUT SENTENCING COMMISSION

FY 2016/2017 PROPOSED BUDGET  
ADJUSTMENTS

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## **FY 2016/2017 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 and is thereby requesting an ongoing appropriation of \$302,931.37. These funds will allow the Commission to more fully address its statutorily designated tasks, thereby increasing its capacity as a criminal justice resource to the state.

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.

Additionally, section 4 of P.A. 14-27 requires that the Commission:

- Conduct a 3 year evaluation the effectiveness of provisional pardons and certificates of rehabilitation at promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, the safety of crime victims and the protection of property.
- Post data on its website regarding the administration of the certificates of rehabilitation program, including data on the number of certificates issued by the division and the number of certificates revoked by the division.

### **Similarly Situated Sentencing Commissions**

The amounts allocated to the state sentencing commissions in Pennsylvania, New Mexico, and Maryland are instructive because they share a university partnership similar to that which the Connecticut Sentencing Commission currently utilizes.

The Pennsylvania Commission on Sentencing is staffed by employees at the Pennsylvania State University (PSU) and operates under memoranda of understanding with Duquesne University School of Law, Villanova University School of Law, and PSU. The Commission is “charged with the responsibility of serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Commonwealth sentencing practices, and with assisting courts and agencies in the development, maintenance, and coordination of sound sentencing policies.”<sup>15</sup> The Commission employs 16 full-time staff and consists of 11 members appointed for two-year terms.<sup>16</sup> The mean average state appropriation for the Pennsylvania Commission on Sentencing has been \$1,229,583 over the last 12 fiscal years.<sup>17</sup> During the 2012/2013 fiscal year, the Commission received a state appropriation of \$1.8 million.<sup>18</sup> The Commission used this appropriation for numerous projects, including but not limited to: the development of a beta model risk assessment tool for use at sentencing; the completion of impact

<sup>15</sup> Steven L. Chanenson & Sheila A. Woods-Skipper, *Introduction* to Pennsylvania Commission on Sentencing, 2013 ANNUAL REPORT.

<sup>16</sup> Pennsylvania Commission on Sentencing, 2013 ANNUAL REPORT 3.

<sup>17</sup> Pennsylvania Commission on Sentencing, 2013 ANNUAL REPORT 8. (Does not include federal funding or grants).

<sup>18</sup> *Id.* (Note: two employees are funded by federal grants).

analyses on proposed legislation, maintaining a sentencing database, and conducting research on Pennsylvania's recidivism risk reduction incentive program.<sup>19</sup>

Similarly, the New Mexico Sentencing Commission (NMSC) is housed in and staffed by the University of New Mexico and utilizes university resources to maintain high-quality work while keeping costs at a minimum. The purpose of the NMSC "is to provide information, analysis, recommendations and assistance from a coordinated cross-agency perspective to the three branches of government and interested citizens, so they have the resources they need to make policy decisions that benefit the criminal justice system."<sup>20</sup> The Commission employs two full time staff and two part-time staff and utilizes master's and doctoral-level researchers to complete projects.<sup>21</sup> The Commission is composed of 24 members from a variety of criminal-justice related backgrounds. During the 2012/2013 fiscal year, the NMSC received a state appropriation of \$559,800, which they used to analyze 100% of the criminal and juvenile justice bills proposed during the legislative session, complete more than a dozen research projects, and calculate the annual incarceration percentage and distribution amount for each eligible county.<sup>22</sup>

Correspondingly, the Maryland State Commission on Criminal Sentencing Policy operates under a partnership with the University of Maryland in College Park with its staff office set up under the guidance of the Department of Criminology and Criminal Justice.<sup>23</sup> The Commission was created to oversee sentencing policy in Maryland and is primarily responsible for maintaining and monitoring the state's voluntary sentencing guidelines. The Commission consists of 19 members, including members of the state legislature, members of the judiciary, and members who are active in the state's criminal justice system.<sup>24</sup> The Commission generally employs 5 full-time staff including an Executive Director and Research Director. The Commission received a state budget appropriation of \$352,249 during the 2012/2013 fiscal year, an appropriation of \$447,197 during the 2013/2014 fiscal year, and an appropriation of \$460,000 during the 2014/2015 fiscal year.<sup>25,26,27</sup> In 2013, the Commission used its resources to track judicial compliance with Maryland's voluntary guidelines, respond to information/data requests, review and classify previously unclassified offenses, and provide training and education.<sup>28</sup>

The Commissions in Maryland, Pennsylvania, and New Mexico all require an annual appropriation to complete their respective missions--even while operating under a cost-efficient university partnership. These Commissions are able to utilize this funding, along with university

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<sup>19</sup> Pennsylvania Commission on Sentencing, 2013 ANNUAL REPORT 12-29.

<sup>20</sup> STATE OF N.M. LEGIS. FINANCE COMM., 51<sup>ST</sup> LEG., REP. OF THE LEGIS. FINANCE COMM. TO THE FIFTY FIRST LEGISLATURE 354-355 (2013).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Maryland State Commission on Criminal Sentencing Policy, 2013 ANNUAL REPORT 6.

<sup>24</sup> Maryland State Commission on Criminal Sentencing Policy, 2013 ANNUAL REPORT 4.

<sup>25</sup> STATE OF MD. DEP'T OF BUDGET AND MGMT., FISCAL DIGEST FOR FISCAL YEAR 2013 C.2 (2012).

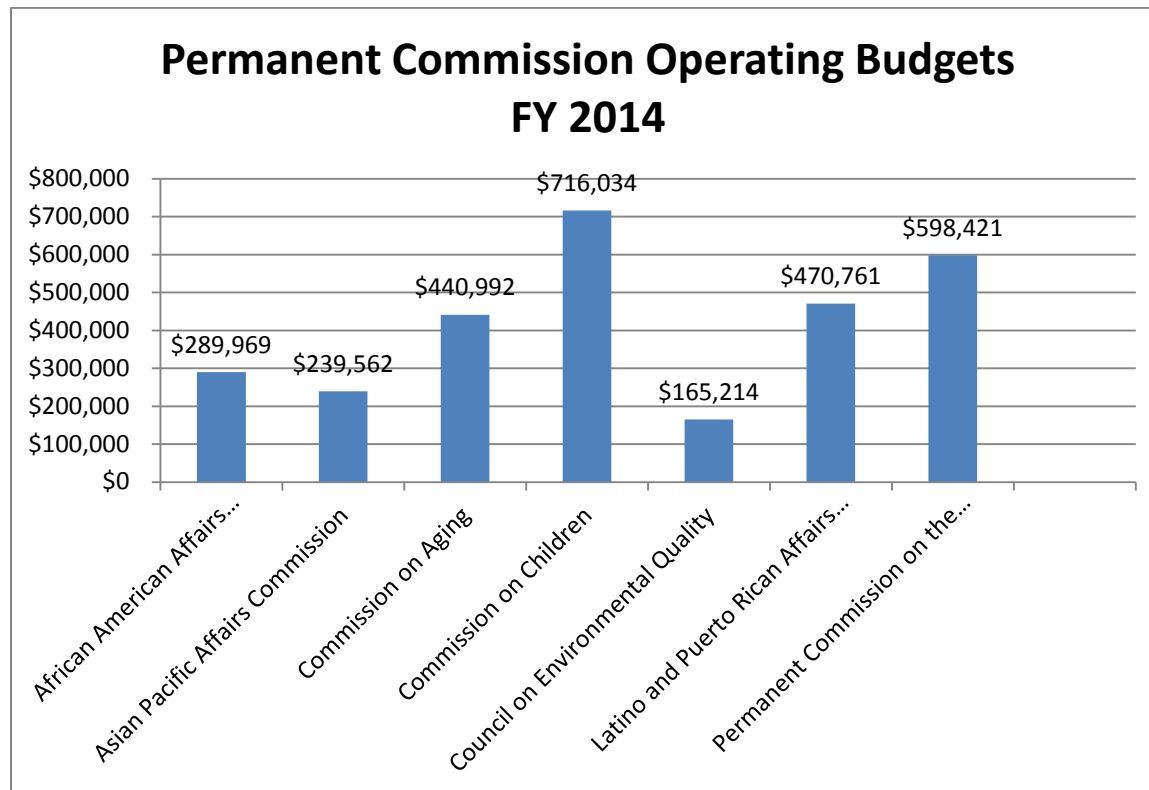
<sup>26</sup> STATE OF MD. DEP'T OF BUDGET AND MGMT., FISCAL DIGEST FOR FISCAL YEAR 2014 C.3 (2013).

<sup>27</sup> STATE OF MD. DEP'T OF BUDGET AND MGMT., FISCAL DIGEST FOR FISCAL YEAR 2015 C.3 (2014).

<sup>28</sup> Maryland State Commission on Criminal Sentencing Policy, 2013 ANNUAL REPORT.

resources, to continue to serve as a vehicle for the betterment of their home-state's criminal justice system.

### CT Permanent Commissions



### Current Appropriation

**FY 2013:** At the beginning of 2013, legislative appropriations were set aside within the Connecticut Judicial Branch to enter 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:** During the 2014 Session, the Legislature allocated \$100,000 to IMRP "to assist with activities related to the sentencing commission" in FY 2015. These funds are being utilized to hire a full-time Executive Director position during FY 2015.

Additionally, the IMRP will receive a portion of the \$100,000 allocation from the Judicial Branch to assist the Commission as it has in previous years.

### **FY 2016/17 Request**

The Commission requests an ongoing appropriation of \$302,931.37, beginning in FY 2016. This represents an increase of \$202,931.37 above the agency's 2015 appropriation. The FY 2016 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 support its full-time Executive Director in FY 2016 along with two additional full-time staff positions, two university assistant positions, two student worker positions, and other administrative expenses.

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

Continued 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 new 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, 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**

Since its inception, the Commission has provided an impartial and consensus-driven platform for the analysis and development of policies and practices that maximize public safety and reduce recidivism in a cost-effective manner. With increased support and additional resources, the Commission can expand its analytical capacity and further its goal of developing data driven policy decisions that ensure fairness and consistency in sentencing. An investment in Connecticut's Sentencing Commission is not only an investment in a reasoned decision-making process; it is an investment in a safer, fairer, and more cost-efficient criminal justice system.

**APPENDIX C:**  
**NATIONAL SENTENCING**  
**COMMISSIONS**

State	Year Created	Affiliation	Members	Staff	Budget YR	Budget	Funding Source
Alabama	2000	Judicial	21	4	FY 2013	311,299	General Fund
Alaska	1959	Judicial /Independent	7	8	FY 2014	1,106,500	General Fund
Arkansas	1993	Independent	11	5	FY 2014	470,190	General Revenue/Other Funds
Colorado	2007	Executive	27	10			
Delaware	1984	Executive	11	1	FY 2014	51,900	General Fund and Federal Grants
Illinois	2009	Executive	18	3	FY 2014	\$668,000	General Fund
Iowa*	1974	Human Rights Department	23		FY 2014	1,260,105	General Fund
Kansas	1989	Hybrid/Independent	17	12	FY 2014	\$7,576,753	General Fund
Louisiana	1987	Executive	20	1			No funding or external financial support
Maryland	1996	Executive	19	5	FY 2014	447,197	General Fund
Massachusetts	1994	Judicial	15	4	FY2009	232,000	Federal Grant
Minnesota	1978	Executive	11	6	FY 2014	886,000	General Fund
Missouri	1994	Independent	11	1	FY 2013	47,192	General Revenue
New Mexico	2001	Executive	23	2	FY 2014	529,800	General Fund
New York	2010	Executive	20	3			
North Carolina	1990	Independent (Housed in Judicial)	28	10	FY 2009	900,000	
Ohio	1990	Judicial	31	1	FY 2011	206,766	General Fund
Oregon*	1995	Independent	9	8	FY 2012-2016	2,389,346	Federal Grant
Pennsylvania	1978	Legislative	14	17	FY 2013	2,371,024	General Fund and Federal Grants
Utah	1993	Executive	27	1	FY 2011	127,200	Crime Victim Reparations Fund
Virginia	1995	Judicial	17	9	FY 2014	1,050,457	General Fund
District of Columbia	2006	Independent	20	10	FY 2013	1,388,813	General Fund
United States	1984	Independent	7	100	FY 2013	15,637,000	Federal Funding

**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:**

## **RETREAT AGENDA**

## **Retreat**

Thursday, October 23rd, 2014

9:00am - 3:00pm

*Connecticut Room*

*Central Connecticut State University*

*1615 Stanley St, New Britain, CT 06053*

### **AGENDA**

#### **I. Introduction**

(9:00 am - 9:15 am)

- a. Logistics
- b. Ground Rules
- c. Retreat Goals

#### **II. Brief Review and Discussion of enabling statute and mission statement**

(9:15 am -10:15 am)

- a. Purpose/Role of the Sentencing Commission
- b. Goals of Sentencing in Connecticut
- c. How are the tasks listed in (f) 1-9 of the enabling statute linked to the stated goals?

#### **II. Discussion of Commission Activities Related its Mission and Goals**

(10:15am – 12:00 pm)

- a. Analyze data to identify sentencing trends and practices and create offender profiles
- b. Conduct research and evaluation studies
- c. Develop and analyze sentencing policy
- d. Analyze and respond to legislative initiatives
- e. Develop and introduce sentencing related legislation
- f. Identify current gaps, needs or solutions to current sentencing related issues
- g. Serve as an educational resource on sentencing related matters
- h. Collaborate with criminal justice partners to address system wide problems/issues
- i. Other?

#### **III. Lunch**

(12:00pm – 12:30pm)

#### **IV. Overview of Commissions Activities to Date – Andrew Clark**

(12:30 pm – 1:00 pm)

- a. Successes
- b. Lessons Learned

#### **V. Identify Three Priority Areas for Commission to Focus on in 2015 & 2016.**

(1:00 pm - 2:45 pm)

- a. What is most needed in the short term?
- b. Where are the Commission strengths?
- c. What will have the greatest impact for state?
- d. Define one goal for each priority area

#### **VI. Wrap up and next steps**

(2:45 pm – 3:00 pm)

**APPENDIX F:**  
**HOUSE BILL 5221**

*House of Representatives, March 27, 2014*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES.***

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

Section 1. Section 54-125a of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) A person convicted of one or more crimes who is incarcerated on or after October 1, 1990, who received a definite sentence or aggregate sentence of more than two years, and who has been confined under such sentence or sentences for not less than one-half of the aggregate sentence less any risk reduction credit earned under the provisions of section 18-98e or one-half of the most recent sentence imposed by the court less any risk reduction credit earned under the provisions of section 18-98e, whichever is greater, may be allowed to go at large on parole in the discretion of the panel of the Board of Pardons and Paroles for the institution in which the person is confined, if (1) it appears from all available information, including any reports from the Commissioner of Correction that the panel may require, that there is a reasonable probability that such inmate will live and remain at liberty without violating the law, and (2) such release is not incompatible with the welfare of society. At the discretion of the panel, and under the terms and conditions as may be prescribed by the panel including requiring the parolee to submit personal reports, the parolee shall be allowed to return to the parolee's home or to reside in a residential community center, or to go elsewhere. The parolee shall, while on parole, remain under the jurisdiction of the board until the expiration of the maximum term or terms for which the parolee

was sentenced less any risk reduction credit earned under the provisions of section 18-98e. Any parolee released on the condition that the parolee reside in a residential community center, may be required to contribute to the cost incidental to such residence. Each order of parole shall fix the limits of the parolee's residence, which may be changed in the discretion of the board and the Commissioner of Correction. Within three weeks after the commitment of each person sentenced to more than two years, the state's attorney for the judicial district shall send to the Board of Pardons and Paroles the record, if any, of such person.

(b) (1) No person convicted of any of the following offenses, which was committed on or after July 1, 1981, shall be eligible for parole under subsection (a) of this section: (A) Capital felony, as provided under the provisions of section 53a-54b, as amended by this act, in effect prior to April 25, 2012, (B) murder with special circumstances, as provided under the provisions of section 53a-54b, as amended by this act, in effect on or after April 25, 2012, (C) felony murder, as provided in section 53a-54c, (D) arson murder, as provided in section 53a-54d, as amended by this act, (E) murder, as provided in section 53a-54a, as amended by this act, or (F) aggravated sexual assault in the first degree, as provided in section 53a-70a. (2) A person convicted of (A) a violation of section 53a-100aa or 53a-102, or (B) an offense, other than an offense specified in subdivision (1) of this subsection, where the underlying facts and circumstances of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed.

(c) The Board of Pardons and Paroles shall, not later than July 1, 1996, adopt regulations in accordance with chapter 54 to ensure that a person convicted of an offense described in subdivision (2) of subsection (b) of this section is not released on parole until such person has served eighty-five per cent of the definite sentence imposed by the court. Such regulations shall include guidelines and procedures for classifying a person as a violent offender that are not limited to a consideration of the elements of the offense or offenses for which such person was convicted.

(d) The Board of Pardons and Paroles may hold a hearing to determine the suitability for parole release of any person whose

eligibility for parole release is not subject to the provisions of subsection (b) of this section upon completion by such person of seventy-five per cent of such person's definite or aggregate sentence less any risk reduction credit earned under the provisions of section 18-98e. An employee of the board or, if deemed necessary by the chairperson, a panel of the board shall assess the suitability for parole release of such person based on the following standards: (1) Whether there is reasonable probability that such person will live and remain at liberty without violating the law, and (2) whether the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration. If a hearing is held, and if the board determines that continued confinement is necessary, the board shall articulate for the record the specific reasons why such person and the public would not benefit from such person serving a period of parole supervision while transitioning from incarceration to the community. If a hearing is not held, the board shall document the specific reasons for not holding a hearing and provide such reasons to such person. No person shall be released on parole without receiving a hearing. The decision of the board under this subsection shall not be subject to appeal.

(e) The Board of Pardons and Paroles may hold a hearing to determine the suitability for parole release of any person whose eligibility for parole release is subject to the provisions of subdivision (2) of subsection (b) of this section upon completion by such person of eighty-five per cent of such person's definite or aggregate sentence. An employee of the board or, if deemed necessary by the chairperson, a panel of the board shall assess the suitability for parole release of such person based on the following standards: (1) Whether there is a reasonable probability that such person will live and remain at liberty without violating the law, and (2) whether the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration. If a hearing is held, and if the board determines that continued confinement is necessary, the board shall articulate for the record the specific reasons why such person and the public would not benefit from such person serving a period of parole supervision while transitioning from incarceration to the community. If a

hearing is not held, the board shall document the specific reasons for not holding a hearing and provide such reasons to such person. No person shall be released on parole without receiving a hearing. The decision of the board under this subsection shall not be subject to appeal.

(f) (1) Notwithstanding the provisions of subsections (a) to (e), inclusive, of this section, a person convicted of one or more crimes committed while such person was under eighteen years of age, who is incarcerated on or after October 1, 2014, and who received a definite sentence or aggregate sentence of more than ten years for such crimes prior to, on or after October 1, 2014, may be allowed to go at large on parole in the discretion of the panel of the Board of Pardons and Paroles for the institution in which such person is confined. If such person is serving a sentence of fifty years or less, such person shall be eligible for parole after serving sixty per cent of the sentence or twelve years, whichever is greater. If such person is serving a sentence of more than fifty years, such person shall be eligible for parole after serving thirty years. Nothing in this subsection shall limit a person's eligibility for parole release under the provisions of subsections (a) to (e), inclusive, of this section if such person would be eligible for parole release at an earlier date under any of such provisions.

(2) The board shall apply the parole eligibility rules of this subsection only with respect to the sentence for a crime or crimes committed while a person was less than eighteen years of age. Any portion of a sentence that is based on a crime or crimes committed while a person was eighteen years of age or older shall be subject to the applicable parole eligibility, suitability and release rules set forth in subsections (a) to (e), inclusive, of this section.

(3) Whenever a person becomes eligible for parole release pursuant to this subsection, the board shall hold a hearing to determine such person's suitability for parole release. At least twelve months prior to such hearing, the board shall notify the office of Chief Public Defender, the appropriate state's attorney, the Victim Services Unit within the Department of Correction, the Office of the Victim Advocate and the Office of Victim Services within the Judicial Department of such person's eligibility for parole release pursuant to this subsection. The office of Chief Public Defender shall assign counsel for such person pursuant to section 51-296 if such person is indigent. At any hearing to determine such person's suitability for

parole release pursuant to this subsection, the board shall permit (A) such person to make a statement on such person's behalf, (B) counsel for such person and the state's attorney to submit reports and other documents, and (C) any victim of the crime or crimes to make a statement pursuant to section 54-126a. The board may request testimony from mental health professionals or other relevant witnesses, and reports from the Commissioner of Correction or other persons, as the board may require. The board shall use validated risk assessment and needs assessment tools and its risk-based structured decision making and release criteria established pursuant to subsection (d) of section 54-124a in making a determination pursuant to this subsection.

(4) After such hearing, the board may allow such person to go at large on parole with respect to any portion of a sentence that was based on a crime or crimes committed while such person was under eighteen years of age if the board finds that such parole release would be consistent with the factors set forth in subdivisions (1) to (4), inclusive, of subsection (c) of section 54-300 and if it appears, from all available information, including, but not limited to, any reports from the Commissioner of Correction, that (A) there is a reasonable probability that such person will live and remain at liberty without violating the law; (B) the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration; and (C) such person has demonstrated substantial rehabilitation since the date such crime or crimes were committed considering such person's character, background and history, as demonstrated by factors, including, but not limited to, such person's correctional record, the age and circumstances of such person as of the date of the commission of the crime or crimes, whether such person has demonstrated remorse and increased maturity since the date of the commission of the crime or crimes, such person's contributions to the welfare of other persons through service, such person's efforts to overcome substance abuse, addiction, trauma, lack of education or obstacles that such person may have faced as a child or youth in the adult correctional system, the opportunities for rehabilitation in the adult correctional system and the overall degree of such person's rehabilitation considering the nature and circumstances of the crime or crimes.

(5) After such hearing, the board shall articulate for the record its decision and the reasons for its decision. If the board determines that continued confinement is necessary, the board may reassess such person's suitability for a new parole hearing at a later date to be determined at the discretion of the board, but not earlier than two years after the date of its decision.

(6) The decision of the board under this subsection shall not be subject to appeal.

~~[(f)]~~ (g) Any person released on parole under this section shall remain in the custody of the Commissioner of Correction and be subject to supervision by personnel of the Department of Correction during such person's period of parole.

Sec. 2. (NEW) (*Effective October 1, 2014*) (a) If the case of a child, as defined in section 46b-120 of the general statutes, is transferred to the regular criminal docket of the Superior Court pursuant to section 46b-127 of the general statutes, as amended by this act, and the child is convicted of a class A, B or C felony pursuant to such transfer, at the time of sentencing, the court shall:

(1) Consider, in addition to any other information relevant to sentencing, any scientific and psychological evidence showing the differences between a child's brain development and an adult's brain development, including, but not limited to, evidence showing, as compared to an adult: (A) A child's lack of maturity and underdeveloped sense of responsibility, including evidence showing a child's recklessness, impulsivity and risk-taking tendencies; (B) a child's vulnerability to negative influences and outside pressures from peers or family members, or both; (C) a child's increased capacity for change and rehabilitation; and (D) a child's reduced competency in (i) appreciating the risks and consequences of his or her own actions, (ii) negotiating the complexities of the criminal justice system, and (iii) assisting in his or her own defense; and

(2) Consider, if the court proposes to sentence the child to a lengthy sentence under which it is likely that the child will die while incarcerated, how the scientific and psychological evidence described in subdivision (1) of this subsection counsels against such a sentence.

(b) Notwithstanding the provisions of section 54-91a of the general statutes, no presentence investigation or report may be waived with respect to a child convicted of a class A or B felony. With respect to a child convicted of a class C felony, the presentence investigation and report may be waived by the child only upon approval by the court. Any presentence report prepared with respect to a child convicted of a class A, B or C felony shall address the factors set forth in subparagraphs (A) to (D), inclusive, of subdivision (1) of subsection (a) of this section.

(c) The Court Support Services Division of the Judicial Branch shall establish reference materials relating to adolescent psychological and brain development to assist courts in sentencing children pursuant to this section.

Sec. 3. Subsection (c) of section 46b-127 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(c) Upon the effectuation of the transfer, such child shall stand trial and be sentenced, if convicted, as if such child were eighteen years of age, subject to the requirements of section 2 of this act. Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer. A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume such child's status as a juvenile regarding such offense. If the action is dismissed or nulled or if such child is found not guilty of the charge for which such child was transferred or of any lesser included offenses, the child shall resume such child's status as a juvenile until such child attains the age of eighteen years.

Sec. 4. Subsection (f) of section 46b-133c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(f) Whenever a proceeding has been designated a serious juvenile repeat offender prosecution pursuant to subsection (b) of this section and the child does not waive such child's right to a trial by jury, the court shall transfer the case from the docket for juvenile matters to the regular criminal docket of the Superior Court. Upon

transfer, such child shall stand trial and be sentenced, if convicted, as if such child were eighteen years of age, subject to the requirements of section 2 of this act, except that no such child shall be placed in a correctional facility but shall be maintained in a facility for children and youths until such child attains eighteen years of age or until such child is sentenced, whichever occurs first. Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer. A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume such child's status as a juvenile regarding such offense. If the action is dismissed or nulled, or if such child is found not guilty of the charge for which such child was transferred, the child shall resume such child's status as a juvenile until such child attains eighteen years of age.

Sec. 5. Subsection (f) of section 46b-133d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(f) When a proceeding has been designated a serious sexual offender prosecution pursuant to subsection (c) of this section and the child does not waive the right to a trial by jury, the court shall transfer the case from the docket for juvenile matters to the regular criminal docket of the Superior Court. Upon transfer, such child shall stand trial and be sentenced, if convicted, as if such child were eighteen years of age, subject to the requirements of section 2 of this act, except that no such child shall be placed in a correctional facility but shall be maintained in a facility for children and youths until such child attains eighteen years of age or until such child is sentenced, whichever occurs first. Such child shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer. A child who has been transferred may enter a guilty plea to a lesser offense if the court finds that such plea is made knowingly and voluntarily. Any child transferred to the regular criminal docket who pleads guilty to a lesser offense shall not resume such child's status as a juvenile regarding such offense. If the action is dismissed or nulled, or if such child is found not guilty of the charge for which such child was transferred, the child shall resume such child's status as a juvenile until such child attains eighteen years of age.

Sec. 6. Section 53a-46a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014, and applicable to any person convicted prior to, on or after said date*):

(a) A person shall be subjected to the penalty of death for a capital felony committed prior to April 25, 2012, under the provisions of section 53a-54b, as amended by this act, in effect prior to April 25, 2012, only if (1) a hearing is held in accordance with the provisions of this section, and (2) such person was eighteen years of age or older at the time the offense was committed.

(b) For the purpose of determining the sentence to be imposed when a defendant is convicted of or pleads guilty to a capital felony, the judge or judges who presided at the trial or before whom the guilty plea was entered shall conduct a separate hearing to determine the existence of any mitigating factor concerning the defendant's character, background and history, or the nature and circumstances of the crime, and any aggravating factor set forth in subsection (i) of this section. Such hearing shall not be held if the state stipulates that none of the aggravating factors set forth in subsection (i) of this section exists or that any factor set forth in subsection (h) of this section exists. Such hearing shall be conducted (1) before the jury which determined the defendant's guilt, or (2) before a jury impaneled for the purpose of such hearing if (A) the defendant was convicted upon a plea of guilty; (B) the defendant was convicted after a trial before three judges as provided in subsection (b) of section 53a-45; or (C) if the jury which determined the defendant's guilt has been discharged by the court for good cause, or (3) before the court, on motion of the defendant and with the approval of the court and the consent of the state.

(c) In such hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report which may have been prepared. No presentence information withheld from the defendant shall be considered in determining the existence of any mitigating or aggravating factor. Any information relevant to any mitigating factor may be presented by either the state or the defendant, regardless of its admissibility under the rules governing admission of evidence in trials of criminal matters, but the admissibility of information relevant to any of the aggravating factors set forth in subsection (i) of this section shall be governed by the rules governing the admission of evidence in such trials. The state and the defendant shall be permitted to rebut any information

received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any mitigating or aggravating factor. The burden of establishing any of the aggravating factors set forth in subsection (i) of this section shall be on the state. The burden of establishing any mitigating factor shall be on the defendant.

(d) In determining whether a mitigating factor exists concerning the defendant's character, background or history, or the nature and circumstances of the crime, pursuant to subsection (b) of this section, the jury or, if there is no jury, the court shall first determine whether a particular factor concerning the defendant's character, background or history, or the nature and circumstances of the crime, has been established by the evidence, and shall determine further whether that factor is mitigating in nature, considering all the facts and circumstances of the case. Mitigating factors are such as do not constitute a defense or excuse for the capital felony of which the defendant has been convicted, but which, in fairness and mercy, may be considered as tending either to extenuate or reduce the degree of his culpability or blame for the offense or to otherwise constitute a basis for a sentence less than death.

(e) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence of any factor set forth in subsection (h) of this section, the existence of any aggravating factor or factors set forth in subsection (i) of this section and whether any aggravating factor or factors outweigh any mitigating factor or factors found to exist pursuant to subsection (d) of this section.

(f) If the jury or, if there is no jury, the court finds that (1) none of the factors set forth in subsection (h) of this section exist, (2) one or more of the aggravating factors set forth in subsection (i) of this section exist, and (3) (A) no mitigating factor exists, or (B) one or more mitigating factors exist but are outweighed by one or more aggravating factors set forth in subsection (i) of this section, the court shall sentence the defendant to death.

(g) If the jury or, if there is no jury, the court finds that (1) any of the factors set forth in subsection (h) of this section exist, or (2) none of the aggravating factors set forth in subsection (i) of this section exists, or (3) one or more of the aggravating factors set forth in subsection (i) of this section exist and one or more mitigating

factors exist, but the one or more aggravating factors set forth in subsection (i) of this section do not outweigh the one or more mitigating factors, the court shall impose a sentence of life imprisonment without the possibility of release.

(h) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict, as provided in subsection (e) of this section, that at the time of the offense (1) the defendant was [under the age of eighteen years, or (2) the defendant was] a person with intellectual disability, as defined in section 1-1g, or [(3)] (2) the defendant's mental capacity was significantly impaired or the defendant's ability to conform the defendant's conduct to the requirements of law was significantly impaired but not so impaired in either case as to constitute a defense to prosecution, or [(4)] (3) the defendant was criminally liable under sections 53a-8, 53a-9 and 53a-10 for the offense, which was committed by another, but the defendant's participation in such offense was relatively minor, although not so minor as to constitute a defense to prosecution, or [(5)] (4) the defendant could not reasonably have foreseen that the defendant's conduct in the course of commission of the offense of which the defendant was convicted would cause, or would create a grave risk of causing, death to another person.

(i) The aggravating factors to be considered shall be limited to the following: (1) The defendant committed the offense during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, a felony and the defendant had previously been convicted of the same felony; or (2) the defendant committed the offense after having been convicted of two or more state offenses or two or more federal offenses or of one or more state offenses and one or more federal offenses for each of which a penalty of more than one year imprisonment may be imposed, which offenses were committed on different occasions and which involved the infliction of serious bodily injury upon another person; or (3) the defendant committed the offense and in such commission knowingly created a grave risk of death to another person in addition to the victim of the offense; or (4) the defendant committed the offense in an especially heinous, cruel or depraved manner; or (5) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value; or (6) the defendant committed the offense as consideration for the receipt, or in expectation of the

receipt, of anything of pecuniary value; or (7) the defendant committed the offense with an assault weapon, as defined in section 53-202a; or (8) the defendant committed the offense set forth in subdivision (1) of section 53a-54b, as amended by this act, to avoid arrest for a criminal act or prevent detection of a criminal act or to hamper or prevent the victim from carrying out any act within the scope of the victim's official duties or to retaliate against the victim for the performance of the victim's official duties.

Sec. 7. Section 53a-54b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014, and applicable to any person convicted prior to, on or after said date*):

A person is guilty of murder with special circumstances who is convicted of any of the following and was eighteen years of age or older when such person committed the murder: (1) Murder of a member of the Division of State Police within the Department of Emergency Services and Public Protection or of any local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal who is exercising authority granted under any provision of the general statutes, a judicial marshal in performance of the duties of a judicial marshal, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, a conservation officer or special conservation officer appointed by the Commissioner of Energy and Environmental Protection under the provisions of section 26-5, an employee of the Department of Correction or a person providing services on behalf of said department when such employee or person is acting within the scope of such employee's or person's employment or duties in a correctional institution or facility and the actor is confined in such institution or facility, or any firefighter, while such victim was acting within the scope of such victim's duties; (2) murder committed by a defendant who is hired to commit the same for pecuniary gain or murder committed by one who is hired by the defendant to commit the same for pecuniary gain; (3) murder committed by one who has previously been convicted of intentional murder or of murder committed in the course of commission of a felony; (4) murder committed by one who was, at the time of commission of the murder, under sentence of life imprisonment; (5) murder by a kidnapper of a kidnapped person during the course of the kidnapping or before such person is able to return or be returned to safety; (6) murder committed in the course of the commission of sexual assault in the first degree;

(7) murder of two or more persons at the same time or in the course of a single transaction; or (8) murder of a person under sixteen years of age.

Sec. 8. Section 53a-54d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014, and applicable to any person convicted prior to, on or after said date*):

A person is guilty of murder when, acting either alone or with one or more persons, he commits arson and, in the course of such arson, causes the death of a person. Notwithstanding any other provision of the general statutes, any person convicted of murder under this section who was eighteen years of age or older at the time of the offense shall be punished by life imprisonment and shall not be eligible for parole.

Sec. 9. Subsection (c) of section 53a-54a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014, and applicable to any person convicted prior to, on or after said date*):

(c) Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a unless it is (1) a capital felony committed prior to April 25, 2012, by a person who was eighteen years of age or older at the time of the offense, punishable in accordance with subparagraph (A) of subdivision (1) of section 53a-35a, (2) murder with special circumstances committed on or after April 25, 2012, by a person who was eighteen years of age or older at the time of the offense, punishable as a class A felony in accordance with subparagraph (B) of subdivision (1) of section 53a-35a, or (3) murder under section 53a-54d, as amended by this act, committed by a person who was eighteen years of age or older at the time of the offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	54-125a
Sec. 2	October 1, 2014	New section
Sec. 3	October 1, 2014	46b-127(c)
Sec. 4	October 1, 2014	46b-133c(f)
Sec. 5	October 1, 2014	46b-133d(f)
Sec. 6	October 1, 2014, and	53a-46a

	<i>applicable to any person convicted prior to, on or after said date</i>	
Sec. 7	<i>October 1, 2014, and applicable to any person convicted prior to, on or after said date</i>	53a-54b
Sec. 8	<i>October 1, 2014, and applicable to any person convicted prior to, on or after said date</i>	53a-54d
Sec. 9	<i>October 1, 2014, and applicable to any person convicted prior to, on or after said date</i>	53a-54a(c)

**APPENDIX G:**  
**PUBLIC ACT 14-27**

**Public Act No. 14-27**

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO  
CERTIFICATES OF REHABILITATION.**

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

Section 1. Section 54-130a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

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

such person from disclosing the existence of such conviction as may be required.

(f) In the case of any person convicted of a violation for which a sentence to a term of imprisonment may be imposed, the board shall have authority to grant a pardon, conditioned, provisional or absolute, or a certificate of rehabilitation in the same manner as in the case of any person convicted of an offense against the state.

Sec. 2. Section 54-130e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) For the purposes of this section and sections 31-51i, as amended by this act, 46a-80, as amended by this act, [and] 54-130a, as amended by this act, and sections 3 and 4 of this act:

(1) "Barrier" means a denial of employment or a license based on an eligible offender's conviction of a crime without due consideration of whether the nature of the crime bears a direct relationship to such employment or license;

(2) "Direct relationship" means that the nature of criminal conduct for which a person was convicted has a direct bearing on the person's fitness or ability to perform one or more of the duties or responsibilities necessarily related to the applicable employment or license;

(3) "Certificate of rehabilitation" means a form of relief from barriers or forfeitures to employment or the issuance of licenses, other than a provisional pardon, that is granted to an eligible offender by (A) the Board of Pardons and Paroles pursuant to this section, or (B) the Court Support Services Division of the Judicial Branch pursuant to section 3 of this act;

[(2)] (4) "Eligible offender" means a person who has been convicted of a crime or crimes in this state or another jurisdiction and who is a resident of this state and (A) is applying for a provisional pardon or is under the jurisdiction of the Board of Pardons and Paroles, or (B) with respect to a certificate of rehabilitation under section 3 of this act, is under the supervision of the Court Support Services Division of the Judicial Branch;

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

[(4)] (6) "Forfeiture" means a disqualification or ineligibility for employment or a license by reason of law based on an eligible offender's conviction of a crime;

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

[(6)] (8) "Provisional pardon" means a form of relief from barriers or forfeitures to employment or the issuance of licenses granted to an eligible offender by the Board of Pardons and Paroles pursuant to subsections (b) to (i), inclusive, of this section.

(b) The Board of Pardons and Paroles may issue a provisional pardon or a certificate of rehabilitation to relieve an eligible offender of barriers or forfeitures by reason of such person's conviction of the crime or crimes specified in such provisional pardon or certificate of rehabilitation. Such provisional pardon or certificate of rehabilitation may be limited to one or more enumerated barriers or forfeitures or may relieve the eligible offender of all barriers and forfeitures. Such certificate of rehabilitation shall be labeled by the board as a "Certificate of Employability" or a "Certificate of Suitability for Licensure", or both, as deemed appropriate by the board. No provisional pardon or certificate of rehabilitation shall apply or be construed to apply to the right of such person to retain or be eligible for public office.

(c) The Board of Pardons and Paroles may, in its discretion, issue a provisional pardon or a certificate of rehabilitation to an eligible offender upon verified application of such [person] eligible offender. The board may issue a provisional pardon or a certificate of rehabilitation at any time after the sentencing of an eligible offender, including, but not limited to, any time prior to the eligible offender's date of release from the custody of the Commissioner of Correction, probation or parole. Such provisional pardon or certificate of rehabilitation may be issued by a pardon panel of the board or a parole release panel of the board.

(d) The board shall not issue a provisional pardon or a certificate of rehabilitation unless the board is satisfied that:

(1) The person to whom the provisional pardon or the certificate of rehabilitation is to be issued is an eligible offender;

(2) The relief to be granted by the provisional pardon or the certificate of rehabilitation may promote the public policy of rehabilitation of ex-offenders through employment; and

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

(e) In accordance with the provisions of subsection (d) of this section, the board may limit the applicability of the provisional pardon or the certificate of rehabilitation to specified types of employment or [licenses] licensure for which the eligible offender is otherwise qualified.

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

(g) If a provisional pardon or a certificate of rehabilitation is issued by the board [while an eligible offender is on probation or parole] pursuant to this section before an eligible offender has completed service of the offender's term of incarceration, probation or parole, or any combination thereof, the provisional pardon or the certificate of rehabilitation shall be deemed to be temporary until the [person] eligible offender completes such [person's period of] eligible offender's term of incarceration, probation or parole. During the period that such provisional pardon or certificate of rehabilitation is temporary, the board may revoke such provisional pardon or certificate of rehabilitation for a violation of the conditions of such [person's] eligible offender's probation or parole. After the eligible offender completes such eligible offender's term of incarceration, probation or parole, the temporary provisional pardon or certificate of rehabilitation shall become permanent.

(h) The board may at any time issue a new provisional pardon or certificate of rehabilitation to enlarge the relief previously granted, and the provisions of subsections (b) to (f), inclusive, of this section shall apply to the issuance of any new provisional pardon or certificate of rehabilitation.

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

(j) If a temporary certificate of rehabilitation issued under this section or section 3 of this act is revoked, barriers and forfeitures thereby relieved shall be reinstated as of the date the person to whom the temporary certificate of rehabilitation was issued receives written notice of the revocation. Any such person shall surrender the temporary certificate of rehabilitation to the issuing board or division upon receipt of the notice.

(k) The board shall revoke a provisional pardon or certificate of rehabilitation if the person to whom it was issued is convicted of a crime, as defined in section 53a-24, after the issuance of the provisional pardon or certificate of rehabilitation.

(l) Not later than October 1, 2015, and annually thereafter, the board shall submit to the Office of Policy and Management and the Connecticut Sentencing Commission, in such form as the office may prescribe, data on the number of applications received for provisional pardons and certificates of rehabilitation, the number of applications denied, the number of applications granted and the number of provisional pardons and certificates of rehabilitation revoked.

Sec. 3. (NEW) (*Effective October 1, 2014*) (a) The Court Support Services Division of the Judicial Branch may issue a certificate of rehabilitation to an eligible offender who is under the supervision of the division while on probation or other supervised release, or may issue a new certificate of rehabilitation to enlarge the relief previously granted under such certificate of rehabilitation or revoke any such certificate of rehabilitation in accordance with the provisions of section 54-130e of the general statutes, as amended by this act, that are applicable to certificates of rehabilitation. If the division issues, enlarges the relief previously granted under a certificate of rehabilitation or revokes a certificate of rehabilitation under this section, the division shall immediately file written notice of such action with the Board of Pardons and Paroles.

(b) Not later than October 1, 2015, and annually thereafter, the Court Support Services Division shall submit to the Office of Policy and Management and the Connecticut Sentencing Commission, in such form

as the office may prescribe, data regarding the administration of certificates of rehabilitation, which shall include data on the number of certificates issued by the division and the number of certificates revoked by the division.

Sec. 4. (NEW) (*Effective October 1, 2014*) (a) Not later than January 1, 2016, the Connecticut Sentencing Commission shall post data on its Internet web site that the commission received from the Board of Pardons and Paroles pursuant to subsection (l) of section 54-130e of the general statutes, as amended by this act, and the Court Support Services Division of the Judicial Branch pursuant to section 3 of this act, and shall update such data on its Internet web site annually thereafter.

(b) The Connecticut Sentencing Commission, or its designee, shall evaluate the effectiveness of provisional pardons and certificates of rehabilitation issued pursuant to section 54-130e of the general statutes, as amended by this act, and certificates of rehabilitation issued pursuant to section 3 of this act, at promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, the safety of crime victims and the protection of property. Such evaluation shall continue for a period of three years from October 1, 2015. The commission shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary not later than January 15, 2016, January 15, 2017, and January 15, 2018, on the effectiveness of such provisional pardons and certificates of rehabilitation at promoting such public policy and public interest. Such report shall include recommendations, if any, for amendments to the general statutes governing such provisional pardons and certificates of rehabilitation in order to promote such public policy and public interest.

Sec. 5. Subsections (d) and (e) of section 31-51i of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(d) No employer or [an] employer's agent, representative or designee shall deny employment to a prospective employee solely on the basis that the prospective employee had a prior arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the prospective employee had a prior conviction for which the prospective employee has received a provisional pardon or certificate of rehabilitation pursuant to section 54-130a, as amended by this act, or a certificate of rehabilitation pursuant to section 3 of this act.

(e) No employer or [an] employer's agent, representative or designee shall discharge, or cause to be discharged, or in any manner discriminate against, any employee solely on the basis that the employee had, prior to being employed by such employer, an arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the employee had, prior to being employed by such employer, a prior conviction for which the employee has received a provisional pardon or certificate of rehabilitation pursuant to section 54-130a, as amended by this act, or a certificate of rehabilitation pursuant to section 3 of this act.

Sec. 6. Subsection (c) of section 46a-80 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(c) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if, after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state [.] or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought. In making a determination under this subsection, the state or any of its agencies shall give consideration to a provisional pardon issued pursuant to section 54-130e, as amended by this act, or a certificate of rehabilitation issued pursuant to section 54-130e, as amended by this act, or section 3 of this act, and such provisional pardon or certificate of rehabilitation shall establish a presumption that such applicant has been rehabilitated. If an application is denied based on a conviction for which the applicant has received a provisional pardon or certificate of rehabilitation, the state or any of its agencies, as the case may be, shall provide a written statement to the applicant of its reasons for such denial.

Sec. 7. (NEW) (*Effective October 1, 2014*) There shall be a rebuttable presumption against admission of evidence of the prior criminal conviction of an applicant or employee in an action alleging that an employer has been negligent in hiring an applicant or retaining an employee, or in supervising the employer's agent, representative or designee with respect to hiring an applicant or retaining an employee, if the applicant or employee held a valid provisional pardon or certificate of

rehabilitation at the time such alleged negligence occurred and a party establishes, by a preponderance of the evidence, that the employer knew that the applicant or employee held a valid provisional pardon or certificate of rehabilitation at the time such alleged negligence occurred. For the purposes of this section, "employer" has the same meaning as provided in section 31-51i of the general statutes, as amended by this act.

Sec. 8. Subsection (d) of section 54-124a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(d) The chairperson shall be the executive and administrative head of said board and shall have the authority and responsibility for (1) overseeing all administrative affairs of the board, (2) assigning members to panels, (3) establishing procedural rules for members to follow when conducting hearings, reviewing recommendations made by employees of the board and making decisions, (4) adopting policies in all areas of pardons and paroles including, but not limited to, granting pardons, commutations of punishments or releases, conditioned or absolute, in the case of any person convicted of any offense against the state and commutations from the penalty of death, risk-based structured decision making and release criteria, (5) consulting with the Department of Correction on shared issues including, but not limited to, prison overcrowding, (6) consulting with the Judicial [Department] Branch on shared issues of community supervision, and (7) signing and issuing subpoenas to compel the attendance and testimony of witnesses at parole proceedings. Any such subpoena shall be enforceable to the same extent as subpoenas issued pursuant to section 52-143.

Sec. 9. Subsection (b) of section 31-51i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(b) No employer or [an] employer's agent, representative or designee may require an employee or prospective employee to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

Approved May 16, 2014

# **APPENDIX H:**

## **SENATE BILL 259**

Senate, April 17, 2014

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**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.**

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

Section 1. Section 21a-267 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) No person shall use or possess with intent to use drug paraphernalia, as defined in subdivision (20) of section 21a-240, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, as defined in subdivision (9) of section 21a-240, other than a cannabis-type substance in a quantity of less than one-half ounce. Any person who violates any provision of this subsection shall be guilty of a class C misdemeanor.

(b) No person shall deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, other than a cannabis-type substance in a quantity of less than one-half ounce. Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor.

(c) Any person who violates subsection (a) or (b) of this section (1) with intent to commit such violation in or on [, or within one thousand five hundred feet of,] a specific location, (2) which location the trier of fact determines is the real property comprising a public or private elementary or secondary school or within two hundred feet of the perimeter of the real property comprising a public or private elementary or secondary school, and (3) who is not enrolled as a student in such school, shall be imprisoned for a term of one year which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of subsection (a) or (b) of this section.

(d) No person shall (1) use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, less than one-half ounce of a cannabis-type substance, or (2) deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, less than one-half ounce of a cannabis-type substance. Any person who violates any provision of this subsection shall have committed an infraction.

(e) The provisions of subsection (a) of this section shall not apply to any person (1) who in good faith, seeks medical assistance for another person who such person reasonably believes is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, (2) for whom another person, in good faith, seeks medical assistance, reasonably believing such person is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, or (3) who reasonably believes he or she is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance and, in good faith, seeks medical assistance for himself or herself, if evidence of the use or possession of drug paraphernalia in violation of said subsection was obtained as a result of the seeking of such medical assistance. For the purposes of this subsection, "good faith" does

not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

Sec. 2. Section 21a-278a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Any person eighteen years of age or older who violates section 21a-277 or 21a-278, and who is not, at the time of such action, a drug-dependent person, by distributing, selling, prescribing, dispensing, offering, giving or administering any controlled substance to another person who is under eighteen years of age and is at least two years younger than such person who is in violation of section 21a-277 or 21a-278, shall be imprisoned for a term of two years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of section 21a-277 or 21a-278.

(b) Any person who violates section 21a-277 or 21a-278 by manufacturing, distributing, selling, prescribing, dispensing, compounding, transporting with the intent to sell or dispense, possessing with the intent to sell or dispense, offering, giving or administering to another person any controlled substance (1) with intent to commit such violation in or on [, or within one thousand five hundred feet of,] a specific location, and (2) which specific location the trier of fact determines is (A) the real property comprising (i) a public or private elementary or secondary school, (ii) a public housing project, or (iii) a licensed child day care center, as defined in section 19a-77, that is identified as a child day care center by a sign posted in a conspicuous place, or (B) within two hundred feet of the perimeter of the real property comprising such public or private elementary or secondary school, public housing project or licensed child day care center, shall be imprisoned for a term of three years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of section 21a-277 or 21a-278. To constitute a violation of this subsection, an act of transporting or possessing a controlled substance shall be with intent to sell or dispense in or on, or within [one thousand five] two hundred feet of the perimeter of, the real property comprising a public or private elementary or secondary school, a public housing project or a licensed child day care center, as defined in section 19a-77, that is identified as a child day care center by a sign posted in a conspicuous place. For the purposes of this subsection, "public housing project" means 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.

(c) Any person who employs, hires, uses, persuades, induces, entices or coerces a person under eighteen years of age to violate section 21a-277 or 21a-278 shall be imprisoned for a term of three years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of section 21a-277 or 21a-278.

Sec. 3. Section 21a-279 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Any person who possesses or has under his control any quantity of any narcotic substance, except as authorized in this chapter, for a first offense, may be imprisoned not more than seven years or be fined not more than fifty thousand dollars, or be both fined and imprisoned; and for a second offense, may be imprisoned not more than fifteen years or be fined not more than one hundred thousand dollars, or be both fined and imprisoned; and for any subsequent offense, may be imprisoned not more than twenty-five years or be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned.

(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, shall be guilty of a class D felony, and for a subsequent offense 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, shall be guilty of a class D felony.

(d) Any person who violates subsection (a), (b) or (c) of this section in or on, or within [one thousand five] two hundred feet of [.] the perimeter of the real property comprising (1) a public or private elementary or secondary school and who is not enrolled as a student in such school, or (2) a licensed child day care center, as defined in section 19a-77, that is identified as a child day care center by a sign posted in a conspicuous place shall be imprisoned for a term of two years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of subsection (a), (b) or (c) of this section.

(e) As an alternative to the sentences specified in subsections (a) and (b) and specified for a subsequent offense under subsection (c) of this section, the court may sentence the person to the custody of the Commissioner of Correction for an indeterminate term not to exceed three years or the maximum term specified for the offense, whichever is the lesser, and at any time within such indeterminate term and without regard to any other provision of law regarding minimum term of confinement, the Commissioner of Correction may release the convicted person so sentenced subject to such conditions as he may impose including, but not limited to, supervision by suitable authority. At any time during such indeterminate term, the Commissioner of Correction may revoke any such conditional release in his discretion for violation of the conditions imposed and return the convicted person to a correctional institution.

(f) To the extent that it is possible, medical treatment rather than criminal sanctions shall be afforded individuals who breathe, inhale, sniff or drink the volatile substances defined in subdivision (49) of section 21a-240.

(g) The provisions of subsections (a) to (c), inclusive, of this section shall not apply to any person (1) who in good faith, seeks medical assistance for another person who such person reasonably believes is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, (2) for whom another person, in good faith, seeks medical assistance, reasonably believing such person is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, or (3) who reasonably believes he or she is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance and, in good faith,

seeks medical assistance for himself or herself, if evidence of the possession or control of a controlled substance in violation of subsection (a), (b) or (c) of this section was obtained as a result of the seeking of such medical assistance. For the purposes of this subsection, "good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	21a-267
Sec. 2	<i>October 1, 2014</i>	21a-278a
Sec. 3	<i>October 1, 2014</i>	21a-279

**APPENDIX I:**  
**PUBLIC ACT 14-233**

**Public Act No. 14-233**

**AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES  
CONCERNING THE CRIMINAL JUSTICE SYSTEM.**

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

Section 1. Section 54-33g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) When any property believed to be possessed, controlled, designed or intended for use or which is or has been used or which may be used as a means of committing any criminal offense, or which constitutes the proceeds of the commission of any criminal offense, except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, has been seized as a result of a lawful arrest or lawful search, which the state claims to be a nuisance and desires to have destroyed or disposed of in accordance with the provisions of this section, the [judge or court issuing the warrant or before whom the arrested person is to be arraigned shall, within ten days after such seizure, cause to be left with the owner of, and with any person claiming of record a bona fide mortgage, assignment of lease or rent, lien or security interest in, the property so seized, or at his usual place of abode, if he is known, or, if unknown, at the place where the property was seized, a summons notifying the owner and any such other person claiming such interest and all others whom it may concern to appear before such judge or court, at a place and time named in such notice, which shall be not less than six nor more than twelve days after the service thereof. Such summons may be signed by a clerk of the court or his assistant and service may be made by a local or state police officer. It shall describe such property with reasonable certainty and state when and where and why the same was seized] Chief State's Attorney or a deputy chief state's attorney, state's attorney or assistant or deputy assistant state's attorney may petition the court not later than ninety days after the seizure, in the nature of a proceeding in rem, to order forfeiture of such property. Such proceeding shall be deemed a civil suit in equity, in which the state shall have the burden of proving all material facts by clear and convincing evidence. The court shall identify the owner of such property and any other person as appears to have an interest in such property, and order the state to give notice to such owner and any interested person by certified or registered mail. The court shall promptly, but not less than two weeks after such notice, hold a hearing on the petition.

[(b) If the owner of such property or any person claiming any interest in the same appears, he shall be made a party defendant in such case. Any state's attorney or assistant state's attorney may appear and prosecute such complaint and shall have the burden of proving all material facts by clear and convincing evidence. ]

[(c)] (b) If the [judge or] court finds the allegations made in such [complaint] petition to be true and that the property has been possessed, controlled or designed for use, or is or has been or is intended to be used, with intent to violate or in violation of any of the criminal laws of this state, or constitutes the proceeds of a violation of any of the criminal laws of this state, except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, [he] the court shall render judgment that such property is a nuisance and order the [same] property to be destroyed or disposed of to a charitable or educational institution or to a governmental agency or institution, [provided,] except that if any such property is subject to a bona fide mortgage, assignment of lease or rent, lien or security interest, such property shall not be so destroyed or disposed of in violation of the rights of the holder of such mortgage, assignment of lease or rent, lien or security interest.

(c) (1) When [any money or valuable prize has been seized upon such warrant and condemned under the provisions of this section, such money or valuable prize shall become the property of the state and when the property is money it shall be deposited in the General Fund, provided any such property, which at the time of such order] the condemned property is money (A) on and after October 1, 2014, and prior to July 1, 2016, the court shall order that such money be distributed as follows: (i) Seventy per cent shall be allocated to the law enforcement agency, including the Department of Emergency Services and Public Protection and local police departments, responsible for investigating the criminal violation and seizing the money, and such local police departments shall use such money for the detection, investigation, apprehension and prosecution of persons for the violation of criminal laws, and any money allocated to the Department of Emergency Services and Public Protection shall be deposited in the General Fund; (ii) twenty per cent shall be deposited in the Criminal Injuries Compensation Fund established in section 54-215; and (iii) ten per cent shall be allocated to the Division of Criminal Justice and deposited in the General Fund; and (B) on and after July 1, 2016, such money shall be deposited in the General Fund.

(2) When the condemned property is a valuable prize, which is subject to a bona fide mortgage, assignment of lease or rent, lien or security interest,

such property shall remain subject to such mortgage, assignment of lease or rent, lien or security interest.

(d) When any property or valuable prize has been declared a nuisance and condemned under this section, the court may also order that such property be sold [by sale at public auction in which case the proceeds shall become the property of the state and shall be deposited in the General Fund; provided, any person who has a bona fide mortgage, assignment of lease or rent, lien or security interest shall have the same right to the proceeds as he had in the property prior to sale. Final destruction or disposal of such property shall not be made until any criminal trial in which such property might be used as evidence has been completed] in accordance with procedures approved by the Commissioner of Administrative Services. Proceeds of such sale shall first be allocated toward the balance of any mortgage, assignment of lease or rent, lien or security interest, and the remaining proceeds of such sale, if any, shall be allocated in accordance with subparagraphs (A) to (C), inclusive, of subdivision (1) of subsection (c) of this section. In any criminal prosecution, secondary evidence of property condemned and destroyed pursuant to this section shall be admissible against the defendant to the same extent as such evidence would have been admissible had the property not been condemned and destroyed.

[(d)] (e) If the [judge or] court finds the allegations not to be true, or that the property has not been kept with intent to violate or in violation of the criminal laws of this state, or that the property does not constitute the proceeds of a violation of the criminal laws of this state, or that [it] the property is the property of a person who is not a defendant, [he] the court shall order the property returned to the owner forthwith and the party in possession of such property pending such determination shall be responsible and personally liable for such property from the time of seizure and shall immediately comply with such order.

[(e)] (f) Failure of the state to proceed against such property in accordance with the provisions of this section shall not prevent the use of such property as evidence in any criminal trial.

Sec. 2. Subsection (a) of section 54-36p of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) The following property shall be subject to forfeiture to the state pursuant to subsection (b) of this section:

(1) All moneys used, or intended for use, in a violation of subdivision (3) of subsection (a) of section 53-21 or section 53a-82, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

(2) All property constituting the proceeds obtained, directly or indirectly, from a violation of subdivision (3) of subsection (a) of section 53-21 or section 53a-82, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

(3) All property derived from the proceeds obtained, directly or indirectly, [from any sale or exchange for pecuniary gain] from a violation of subdivision (3) of subsection (a) of section 53-21 or section 53a-82, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

(4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation [for pecuniary gain] of subdivision (3) of subsection (a) of section 53-21 or section 53a-82, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i.

Sec. 3. Section 54-63c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Except in cases of arrest pursuant to a bench warrant of arrest in which the court or a judge thereof has indicated that bail should be denied or ordered that the officer or indifferent person making such arrest shall, without undue delay, bring such person before the clerk or assistant clerk of the superior court for the geographical area under section 54-2a, when any person is arrested for a bailable offense, the chief of police, or the chief's authorized designee, of the police department having custody of the arrested person or any probation officer serving a violation of probation warrant shall promptly advise such person of the person's rights under section 54-1b, and of the person's right to be interviewed concerning the terms and conditions of release. Unless the arrested person waives or refuses such interview, the police officer or probation officer shall promptly interview the arrested person to obtain information relevant to the terms and conditions of the person's release from custody, and shall seek independent verification of such information where necessary. At the request of the arrested person, the person's counsel may be present during the interview. No statement made by the arrested person in response to any question during the interview related to the

terms and conditions of release shall be admissible as evidence against the arrested person in any proceeding arising from the incident for which the conditions of release were set. After such a waiver, refusal or interview, the police officer or probation officer shall promptly order release of the arrested person upon the execution of a written promise to appear or the posting of such bond as may be set by the police officer or probation officer, except that no condition of release set by the court or a judge thereof may be modified by such [officer] officers and no person shall be released upon the execution of a written promise to appear or the posting of a bond without surety if the person is charged with the commission of a family violence crime, as defined in section 46b-38a, and in the commission of such crime the person used or threatened the use of a firearm.

(b) If the person is charged with the commission of a family violence crime, as defined in section 46b-38a, and the police officer does not intend to impose nonfinancial conditions of release pursuant to this subsection, the police officer shall, pursuant to the procedure set forth in subsection (a) of this section, promptly order the release of such person upon the execution of a written promise to appear or the posting of such bond as may be set by the police officer. If such person is not so released, the police officer shall make reasonable efforts to immediately contact a bail commissioner or an intake, assessment and referral specialist employed by the Judicial Branch to set the conditions of such person's release pursuant to section 54-63d. If, after making such reasonable efforts, the police officer is unable to contact a bail commissioner or an intake, assessment and referral specialist or contacts a bail commissioner or an intake, assessment and referral specialist but such bail commissioner or intake, assessment and referral specialist is unavailable to promptly perform such bail commissioner's or intake, assessment and referral specialist's duties pursuant to section 54-63d, the police officer shall, pursuant to the procedure set forth in subsection (a) of this section, order the release of such person upon the execution of a written promise to appear or the posting of such bond as may be set by the police officer and may impose nonfinancial conditions of release which may require that the arrested person do one or more of the following: (1) Avoid all contact with the alleged victim of the crime, (2) comply with specified restrictions on the person's travel, association or place of abode that are directly related to the protection of the alleged victim of the crime, or (3) not use or possess a dangerous weapon, intoxicant or controlled substance. Any such nonfinancial conditions of release shall be indicated on a form prescribed by the Judicial Branch and sworn to by the police officer. Such form shall articulate (A) the efforts that were made to contact a bail commissioner or

an intake, assessment and referral specialist, (B) the specific factual basis relied upon by the police officer to impose the nonfinancial conditions of release, and (C) if the arrested person was non-English-speaking, that the services of a translation service or interpreter were used. A copy of that portion of the form that indicates the nonfinancial conditions of release shall immediately be provided to the arrested person. A copy of the entire form shall be provided to counsel for the arrested person at arraignment. Any nonfinancial conditions of release imposed pursuant to this subsection shall remain in effect until the arrested person is presented before the Superior Court pursuant to subsection (a) of section 54-1g. On such date, the court shall conduct a hearing pursuant to section 46b-38c at which the defendant is entitled to be heard with respect to the issuance of a protective order.

(c) When cash bail in excess of ten thousand dollars is received for a detained person accused of a felony, where the underlying facts and circumstances of the felony involve the use, attempted use or threatened use of physical force against another person, the police officer shall prepare a report that contains (1) the name, address and taxpayer identification number of the accused person, (2) the name, address and taxpayer identification number of each person offering the cash bail, other than a person licensed as a professional bondsman under chapter 533 or a surety bail bond agent under chapter 700f, (3) the amount of cash received, and (4) the date the cash was received. Not later than fifteen days after receipt of such cash bail, the police officer shall file the report with the Department of Revenue Services and mail a copy of the report to the state's attorney for the judicial district in which the alleged offense was committed and to each person offering the cash bail.

(d) No police officer or probation officer serving a violation of probation warrant shall set the terms and conditions of a person's release, set a bond for a person or release a person from custody under this section unless the police officer or probation officer has first checked the National Crime Information Center (NCIC) computerized index of criminal justice information to determine if such person is listed in such index.

(e) If the arrested person has not posted bail, the police officer or probation officer serving a violation of probation warrant shall immediately notify a bail commissioner or an intake, assessment and referral specialist.

(f) The chief, acting chief, superintendent of police, the Commissioner of Emergency Services and Public Protection, any captain or lieutenant of

any local police department or the Division of State Police within the Department of Emergency Services and Public Protection or any person lawfully exercising the powers of any such officer may take a written promise to appear or a bond with or without surety from an arrested person as provided in subsection (a) of this section, or as fixed by the court or any judge thereof, may administer such oaths as are necessary in the taking of promises or bonds and shall file any report required under subsection (c) of this section.

Sec. 4. Subsections (a) and (b) of section 53a-182b of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) A person is guilty of harassment in the first degree when, with the intent to harass, annoy, alarm or terrorize another person, he threatens to kill or physically injure that person or any other person, and communicates such threat by telephone, or by telegraph, mail, computer network, as defined in section 53a-250, or any other form of written communication, in a manner likely to cause annoyance or alarm and has been convicted of a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For the purposes of this section, "convicted" means having a judgment of conviction entered by a court of competent jurisdiction.

(b) For the purposes of this section, such offense may be deemed to have been committed either at the place where the [telephone call was made or] communication originated or at the place where it was received.

Sec. 5. Section 53a-127b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) A person is guilty of fraudulent use of an automated teller machine when, with intent to deprive another of property or to appropriate the same to himself or herself or a third person, such person knowingly uses in a fraudulent manner an automated teller machine for the purpose of obtaining property. For the purposes of this section, "automated teller machine" means an unmanned device at which banking transactions including, without limitation, deposits, withdrawals, advances, payments

and transfers may be conducted, and includes, without limitation, a satellite device and point of sale terminal as defined in section 36a-2.

(b) In any prosecution under this section, the crime shall be deemed to have been committed in the town in which the automated teller machine was located.

(c) Fraudulent use of an automated teller machine is a class [C] A misdemeanor.

Sec. 6. Section 53a-128 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) A person is guilty of issuing a bad check when: (1) As a drawer or representative drawer, he issues a check knowing that he or his principal, as the case may be, does not then have sufficient funds with the drawee to cover it, and (A) he intends or believes at the time of issuance that payment will be refused by the drawee upon presentation, and (B) payment is refused by the drawee upon presentation; or (2) he passes a check knowing that the drawer thereof does not then have sufficient funds with the drawee to cover it, and (A) he intends or believes at the time the check is passed that payment will be refused by the drawee upon presentation, and (B) payment is refused by the drawee upon presentation.

(b) For the purposes of this section, an issuer is presumed to know that the check or order, other than a postdated check or order, would not be paid, if: (1) The issuer had no account with the drawee at the time the check or order was issued; or (2) payment was refused by the drawee for insufficient funds upon presentation within thirty days after issue and the issuer failed to make good within eight days after receiving notice of such refusal. For the purposes of this subsection, an issuer is presumed to have received notice of such refusal if the drawee or payee provides proof of mailing such notice by certified mail, return receipt requested, to the issuer at his last known address.

(c) Issuing a bad check is: (1) A class D felony if the amount of the check was more than [one] two thousand dollars; (2) a class A misdemeanor if the amount of the check was more than [five hundred] one thousand dollars but not more than [one] two thousand dollars; (3) a class B misdemeanor if the amount of the check was more than [two hundred fifty] five hundred dollars but not more than [five hundred] one thousand

dollars; or (4) a class C misdemeanor if the amount of the check was [two hundred fifty] five hundred dollars or less.

Sec. 7. Subsections (a) to (c), inclusive, of section 54-56e of the 2014 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) There shall be a pretrial program for accelerated rehabilitation of persons accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature. Upon application by any such person for participation in the program, the court shall, but only as to the public, order the court file sealed.

(b) The court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to a defendant (1) who, the court believes, will probably not offend in the future, (2) who has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) of section 14-224 or section 14-227a, and (3) who states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury, (A) that the defendant has never had such program invoked [in] on the defendant's behalf or [,] that the defendant was charged with a misdemeanor or a motor vehicle violation for which a term of imprisonment of one year or less may be imposed and ten or more years have passed since the date that any charge or charges for which the program was invoked on the defendant's behalf were dismissed by the court, or (B) with respect to a defendant who is a veteran, that the defendant has not had such program invoked in the defendant's behalf more than once previously, provided the defendant shall agree thereto and provided notice has been given by the defendant, on a form approved by rule of court, to the victim or victims of such crime or motor vehicle violation, if any, by registered or certified mail and such victim or victims have an opportunity to be heard thereon. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars. No defendant shall be allowed to participate in the pretrial program for accelerated rehabilitation more than two times. For the purposes of this section, "veteran" means a person who is [(A)] (i) a veteran, as defined in subsection (a) of section 27-103, or [(B)] (ii) eligible to receive services from the United States Department of Veterans Affairs pursuant to Title 38 of the United States Code.

(c) This section shall not be applicable: (1) To any person charged with a class A felony, a class B felony, except a violation of subdivision (1), (2) or (3) of subsection (a) of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of subdivision (4) of subsection (a) of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person and does not involve a violation by a person who is a public official, as defined in section 1-110, or a state or municipal employee, as defined in section 1-110, or a violation of section 14-227a, subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged with a crime or motor vehicle violation who, as a result of the commission of such crime or motor vehicle violation, causes the death of another person, (3) to any person accused of a family violence crime as defined in section 46b-38a who (A) is eligible for the pretrial family violence education program established under section 46b-38c, or (B) has previously had the pretrial family violence education program invoked in such person's behalf, (4) to any person charged with a violation of section 21a-267 or 21a-279 who (A) is eligible for the pretrial drug education and community service program established under section 54-56i, or (B) has previously had the pretrial drug education program or the pretrial drug education and community service program invoked on such person's behalf, (5) unless good cause is shown, to (A) any person charged with a class C felony, or (B) any person charged with committing a violation of subdivision (1) of subsection (a) of section 53a-71 while such person was less than four years older than the other person, (6) to any person charged with a violation of section 9-359 or 9-359a, or (7) to any person charged with a motor vehicle violation (A) while operating a commercial motor vehicle, as defined in section 14-1, or (B) who holds a commercial driver's license or commercial driver's instruction permit at the time of the violation.

Sec. 8. Subsection (b) of section 17a-696 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(b) The court may order suspension of prosecution and order treatment for alcohol or drug dependency as provided in this section and sections 17a-697 and 17a-698 if it, after considering information before it concerning the alcohol or drug dependency of the person, including the examination report made pursuant to the provisions of section 17a-694, finds that (1) the accused person was an alcohol-dependent or drug-dependent person at the time of the crime, (2) the person presently needs

and is likely to benefit from treatment for the dependency, and (3) suspension of prosecution will advance the interests of justice. Treatment may begin no earlier than the date the clinical examiner reports under the provisions of section 17a-694 that space is available in a treatment program. Upon application by any such person for participation in a treatment program, the court shall, but only as to the public, order the court file sealed.

Sec. 9. Section 54-33a of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) As used in sections 54-33a to 54-33g, inclusive, as amended by this act, "property" includes, [without limitation] but is not limited to, documents, books, papers, films, recordings, records, data and any other tangible thing; and "tracking device" means an electronic or mechanical device that permits the tracking of the movement of a person or object.

(b) Upon complaint on oath by any state's attorney or assistant state's attorney or by any two credible persons, to any judge of the Superior Court or judge trial referee, that such state's attorney or assistant state's attorney or such persons have probable cause to believe that any property (1) possessed, controlled, designed or intended for use or which is or has been used or which may be used as the means of committing any criminal offense; or (2) which was stolen or embezzled; or (3) which constitutes evidence of an offense, or which constitutes evidence that a particular person participated in the commission of an offense, is within or upon any place, thing or person, such judge or judge trial referee, except as provided in section 54-33j, may issue a warrant commanding a proper officer to enter into or upon such place or thing, search [the same or the] such place, thing or person and take into such officer's custody all such property named in the warrant.

(c) Upon complaint on oath by any state's attorney or assistant state's attorney or by any two credible persons, to any judge of the Superior Court or judge trial referee, that such state's attorney or assistant state's attorney or such persons have probable cause to believe that a criminal offense has been, is being, or will be committed and that the use of a tracking device will yield evidence of the commission of that offense, such judge or judge trial referee may issue a warrant authorizing the installation and use of a tracking device. The complaint shall identify the person on which or the property to, in or on which the tracking device is to be installed, and, if known, the owner of such property.

[(c)] (d) A warrant may issue only on affidavit sworn to by the complainant or complainants before the judge or judge trial referee and establishing the grounds for issuing the warrant, which affidavit shall be part of the arrest file. If the judge or judge trial referee is satisfied that grounds for the application exist or that there is probable cause to believe that [they] grounds for the application exist, the judge or judge trial referee shall issue a warrant identifying the property and naming or describing the person, place or thing to be searched or authorizing the installation and use of a tracking device and identifying the person on which or the property to, in or on which the tracking device is to be installed. The warrant shall be directed to any police officer of a regularly organized police department or any state police officer, to an inspector in the Division of Criminal Justice, to a conservation officer, special conservation officer or patrolman acting pursuant to section 26-6 or to a sworn motor vehicle inspector acting under the authority of section 14-8. [The] Except for a warrant for the installation and use of a tracking device, the warrant shall state the date and time of its issuance and the grounds or probable cause for its issuance and shall command the officer to search within a reasonable time the person, place or thing named, for the property specified. A warrant for the installation and use of a tracking device shall state the date and time of its issuance and the grounds or probable cause for its issuance and shall command the officer to complete the installation of the device within a specified period not later than ten days after the date of its issuance and authorize the installation and use of the tracking device, including the collection of data through such tracking device, for a reasonable period of time not to exceed thirty days from the date the tracking device is installed. Upon request and a showing of good cause, a judge or judge trial referee may authorize the use of the tracking device for an additional period of thirty days.

(e) A judge or judge trial referee may issue a warrant pursuant to this section for records or data that are in the actual or constructive possession of a foreign corporation or business entity that transacts business in this state, including, but not limited to, a foreign corporation or business entity that provides electronic communication services or remote computing services to the public. Such a warrant may be served on an authorized representative of the foreign corporation or business entity by hand, mail, commercial delivery, facsimile or electronic transmission, provided proof of delivery can be established. When properly served with a warrant issued pursuant to this section, the foreign corporation or business entity shall provide to the applicant all records or data sought by the warrant within fourteen business days of being served with the warrant, unless the

judge or judge trial referee determines that a shorter or longer period of time is necessary or appropriate.

(f) The inadvertent failure of the issuing judge or judge trial referee to state on the warrant the time of its issuance shall not in and of itself invalidate the warrant.

Sec. 10. Section 54-33c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) The applicant for [the] a search warrant shall file the application for the warrant and all affidavits upon which the warrant is based with the clerk of the court for the geographical area within which any person who may be arrested in connection with or subsequent to the execution of the search warrant would be presented with the return of the warrant. Upon the arrest of any person in connection with or subsequent to the execution of the search warrant, the law enforcement agency that arrested the person shall notify the clerk of such court of the return of the warrant by completing a form prescribed by the Chief Court Administrator and filing such form with the clerk together with any applicable uniform arrest report or misdemeanor summons.

(b) Except for a warrant for the installation and use of a tracking device:  
(1) The warrant shall be executed within ten days and returned with reasonable promptness consistent with due process of law and shall be accompanied by a written inventory of all property seized; [ . A] (2) a copy of such warrant shall be given to the owner or occupant of the dwelling, structure, motor vehicle or place designated [therein] in the warrant, or the person named [therein. Within] in the warrant; and (3) within forty-eight hours of such search, a copy of the application for the warrant and a copy of all affidavits upon which the warrant is based shall be given to such owner, occupant or person. The judge or judge trial referee may, by order, dispense with the requirement of giving a copy of the affidavits to such owner, occupant or person at such time if the applicant for the warrant files a detailed affidavit with the judge or judge trial referee which demonstrates to the judge or judge trial referee that [(1)] (A) the personal safety of a confidential informant would be jeopardized by the giving of a copy of the affidavits at such time, or [(2)] (B) the search is part of a continuing investigation which would be adversely affected by the giving of a copy of the affidavits at such time, or [(3)] (C) the giving of [such] a copy of the affidavits at such time would require disclosure of information or material prohibited from being disclosed by chapter 959a.

(c) A warrant for the installation and use of a tracking device shall be returned with reasonable promptness consistent with due process of law and after the period authorized for tracking, including any extension period authorized under subsection (d) of section 54-33a, as amended by this act, has expired. Within ten days after the use of the tracking device has ended, a copy of the application for the warrant and a copy of all affidavits upon which the warrant is based shall be given to the person who was tracked or the owner of the property to, in or on which the tracking device was installed. The judge or judge trial referee may, by order, dispense with the requirement of giving a copy of the affidavits to the person who was tracked or the owner of the property to, in or on which the tracking device was installed if the applicant for the warrant files a detailed affidavit with the judge or judge trial referee which demonstrates to the judge or judge trial referee that (1) the personal safety of a confidential informant would be jeopardized by the giving of a copy of the affidavits at such time, or (2) the search is part of a continuing investigation which would be adversely affected by the giving of a copy of the affidavits at such time, or (3) the giving of a copy of the affidavits at such time would require disclosure of information or material prohibited from being disclosed by chapter 959a.

(d) If the judge or judge trial referee dispenses with the requirement of giving a copy of the affidavits at such time pursuant to subsection (b) or (c) of this section, such order shall not affect the right of such owner, occupant or person to obtain such copy at any subsequent time. No such order shall limit the disclosure of such affidavits to the attorney for a person arrested in connection with or subsequent to the execution of a search warrant unless, upon motion of the prosecuting authority within two weeks of such person's arraignment, the court finds that the state's interest in continuing nondisclosure substantially outweighs the defendant's right to disclosure.

[(b)] (e) Any order entered pursuant to subsection (b) or (c) of this section dispensing with the requirement of giving a copy of the [warrant application and accompanying] affidavits to such owner, occupant or person [within forty-eight hours] shall be for a specific period of time, not to exceed (1) two weeks beyond the date the warrant is executed, or (2) with respect to a warrant for the installation and use of a tracking device, two weeks after any extension period authorized under subsection (d) of section 54-33a, as amended by this act, has expired. Within [that] the applicable time period set forth in subdivision (1) or (2) of this subsection, the prosecuting authority may seek an extension of such period of time. Upon the execution and return of the warrant, affidavits which have been

the subject of such an order shall remain in the custody of the clerk's office in a secure location apart from the remainder of the court file.

Sec. 11. Section 2 of public act 11-252, as amended by section 3 of public act 12-111, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established an Eyewitness Identification Task Force to study issues concerning eyewitness identification in criminal investigations and the use of sequential live and photo lineups. The task force shall examine:

(1) The science of sequential methods of conducting a live lineup and a photo lineup, (2) the use of sequential lineups in other states, (3) the practical implications of a state law mandating sequential lineups, and (4) such other topics as the task force deems appropriate relating to eyewitness identification and the provision of sequential lineups.

(b) The task force shall consist of the following members or their designees: The chairpersons and ranking members of the joint standing committee of the General Assembly on the judiciary; the Chief State's Attorney; the Chief Public Defender; the Victim Advocate; an active or retired judge appointed by the Chief Justice of the Supreme Court; a municipal police chief appointed by the president of the Connecticut Police Chiefs Association; a representative of the Police Officer Standards and Training Council; a representative of the State Police Training School appointed by the Commissioner of Emergency Services and Public Protection; a representative of the criminal defense bar appointed by the president of the Connecticut Criminal Defense Lawyers Association; a representative from the Connecticut Innocence Project; and six public members, including the dean of a law school located in this state and a social scientist, appointed one each by the president pro tempore of the Senate, the speaker of the House of Representatives, the majority leader of the Senate, the majority leader of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) The task force may solicit and accept gifts, donations, grants or funds from any public or private source to assist the task force in carrying out its duties.

(d) The task force shall report its findings and recommendations to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than April 1, 2012.

(e) After submitting the report required under subsection (d) of this section, the task force shall continue in existence for the purpose of (1) assisting the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection in the development of policies and guidelines for the conducting of eyewitness identification procedures by law enforcement agencies as required by subsection (b) of section 54-1p of the general statutes, [as amended by this act,] (2) researching and evaluating best practices in the conducting of eyewitness identification procedures as such practices may change from time to time, and recommending such revised best practices to the Police Officer Standards and Training Council and the Division of State Police within the Department of Emergency Services and Public Protection, (3) collecting statistics concerning the conducting of eyewitness identification procedures by law enforcement agencies, and (4) monitoring the implementation of section 54-1p of the general statutes. [ as amended by this act. ] The task force shall report the results of such monitoring, including any recommendations for proposed legislation, to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than February 5, 2014.

(f) After submitting the report required under subsection (e) of this section, the task force may continue in existence until June 30, 2016, for the purpose set forth in subdivision (3) of subsection (e) of this section, to collect and assist in the archiving of eyewitness identification procedures used by law enforcement agencies in this state, and to consider best practices in eyewitness identification procedures adopted by law enforcement agencies in other states, provided members of the task force and advisors to the task force shall receive no compensation for their services.

Approved June 13, 2014