

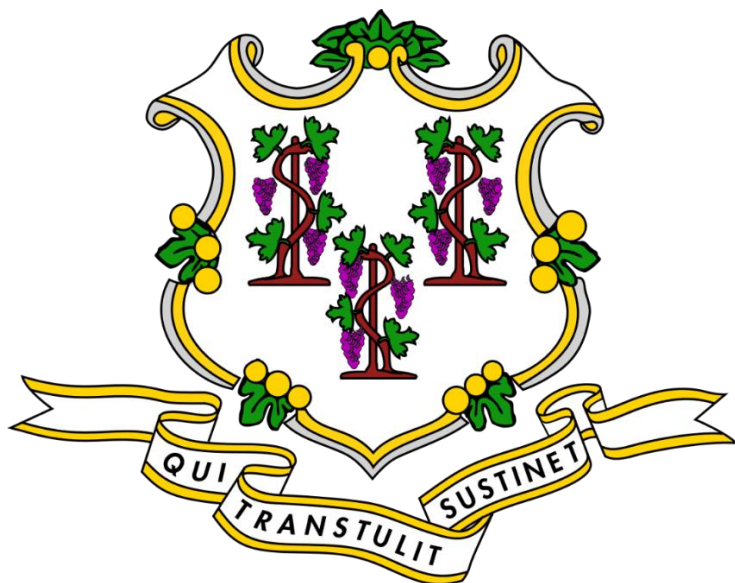


2022 ANNUAL REPORT

Connecticut Sentencing Commission

2022 Annual Report

Connecticut Sentencing Commission



Report to
The Governor of the State of Connecticut,
The Speaker of the House of Representatives,
The President Pro Tempore of the Senate,
and the Chief Justice of the Connecticut Supreme Court,
Submitted pursuant to Conn. Gen. Stat. § 54-300(p)

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Chair

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Acknowledgments

In 2022, the Connecticut Sentencing Commission (Commission) completed its twelfth year of work. The Commission was established by Public Act 10-129, codified in CGS § 54-300, and became effective on February 1, 2011.

Although the Commission receives assistance from sources too numerous to mention, the authors wish to recognize the dedication of the Steering Committee, Commission subcommittees, and working groups. The consistent commitment and exceptional public service of these groups promote the success of the Commission and its accomplishments. The Commission and its staff thank all the chairs of these committees, subcommittees, and working groups. Their contributions are invaluable to the work of the Commission.

Under Judge Pavia's leadership, with her years of experience as a criminal trial judge and former state's attorney, the Commission is tackling difficult issues, such as pretrial justice reform, animal cruelty, and mental illness in the justice system. The Commission thanks Judge Pavia for her continued guidance and direction.

Lastly, the Connecticut Sentencing Commission extends its sincere appreciation to numerous state agencies, universities, and community organizations for their partnership and support. The Commission looks forward to continuing these partnerships in 2023.

Commission Members

Robin Pavia, Chair

Administrative Judge for the Judicial District of Danbury

Appointed by the Chief Justice of the Supreme Court

John Santa, Vice Chair

Chairman, Malta Justice Initiative

Appointed by the Minority Leader of the Senate

Sarah Russell

Professor of Law, Quinnipiac University School of Law

Appointed by the Governor

Patrick L. Carroll, III

Chief Court Administrator

Appointed by the Chief Justice of the Supreme Court

Anna VanCleave

Associate Professor of Law, University of Connecticut

Appointed by the President Pro Tempore of the Senate

William R. Dyson

Retired State Representative

Appointed by the Speaker of the House of Representatives

Subira Gordon

Executive Director, ConnCAN

Appointed by the Majority Leader of the Senate

Michael Chase

Defense Attorney

Appointed by the Majority Leader of the House of Representatives

Robert Farr

Retired Attorney

Appointed by the Minority Leader of the House of Representatives

Vernon D. Oliver

Superior Court Judge, J.D. & G.A. 9 Courthouse

Appointed by the Chief Justice of the Supreme Court

Gary Roberge

Executive Director, Judicial Branch Court Support Services Division

Appointed by the Chief Justice of the Supreme Court

Commission Members, Continued

Angel Quiros

Commissioner, Department of Correction

Ex officio, Commissioner of the Department of Correction

Patrick Griffin

Chief State's Attorney

Ex officio, Chief State's Attorney

TaShun Bowden-Lewis

Chief Public Defender

Ex officio, Chief Public Defender

Margaret Kelley

State's Attorney, Judicial District of Ansonia-Milford

Appointed by the Chief State's Attorney

Jennifer L. Zito

Criminal Defense Attorney

Appointed by the President of the Connecticut Criminal Defense Lawyers Association

Natasha Pierre

State Victim Advocate

Ex officio, State Victim Advocate

Carleton Giles

Chair, Board of Pardons and Paroles

Ex officio, Chair of the Board of Pardons and Paroles

James Rovella

Commissioner, Department of Emergency Services & Public Protection

Ex officio, Commissioner of Emergency Services & Public Protection

Scott Sansom

Chief of Police, East Hartford Police Department

Appointed by the Connecticut Police Chiefs Association

Nancy Navarretta

Commissioner, Department of Mental Health and Addiction Services

Ex officio, Commissioner of the Department of Mental Health and Addiction Services

Marc Pelka

Undersecretary, Criminal Justice Policy and Planning Division, Office of Policy and Management

Ex officio, Undersecretary for Criminal Justice Policy and Planning

Committee & Work Group Membership

STEERING COMMITTEE

<i>Name</i>	<i>Affiliation</i>
Judge Pavia, <i>Chair</i>	Judicial District of Danbury
John Santa, <i>Vice Chair</i>	Malta Justice Initiative
Judge Carroll	Office of the Chief Court Administrator
Patrick J. Griffin	Division of Criminal Justice
William Dyson	
Robert Farr	
Marc Pelka	Office of Policy and Management
Tashun Bowden-Lewis	Division of Public Defender Services
Sarah Russell	Quinnipiac University School of Law

SUBCOMMITTEE ON INCARCERATION AND THE COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION

<i>Name</i>	<i>Affiliation</i>
John Santa, <i>Chair</i>	Malta Justice Initiative
Sarah Russell, <i>Vice Chair</i>	Quinnipiac University School of Law
Lisa D'Angelo	Division of Criminal Justice
Michael Hines	Judicial Branch Court Support Services Division
Deborah Del Prete Sullivan	Division of Public Defender Services
Gary Roberge	Judicial Branch Court Support Services Division
Richard Sparaco	Board of Pardon and Paroles
Jennifer Zito	Connecticut Criminal Defense Lawyers Association
David Bothwell	Board of Pardons and Paroles
Michael Chase	
Michael Norko	Department of Mental Health and Addiction Services
Anna Van Cleave	University of Connecticut School of Law

ANIMAL CRUELTY STATUTES REVIEW WORKING GROUP

<i>Name</i>	<i>Affiliation</i>
Judge Oliver, <i>Chair</i>	J.D. & G.A. 9 Courthouse
Jennifer Zito	Connecticut Criminal Defense Lawyers Association
Deborah Del Prete Sullivan	Division of Public Defender Services
Lisa Stevens	Division of Public Defender Services
Jessica Rubin	University of Connecticut School of Law

SUBCOMMITTEE ON CRIMINAL PROCEDURE & SENTENCING

<i>Name</i>	<i>Affiliation</i>
Anna Van Cleave, <i>Chair</i>	University of Connecticut School of Law
Lisa D'Angelo, <i>Vice Chair</i>	Division of Criminal Justice
Judge Pavia	Judicial District of Danbury
Bryan Sperry	Judicial Branch Court Support Services Division
Angel Quiros	Department of Correction
Sarah Russell	Quinnipiac University School of Law
John Santa	Malta Justice Initiative
Michael Hines	Judicial Branch Court Support Services Division
Deborah Del Prete Sullivan	Division of Public Defender Services
Tashun Bowden-Lewis	Chief Public Defender
Gary Roberge	Judicial Branch Court Support Services Division
Richard Sparaco	Board of Pardon and Paroles
Jennifer Zito	Connecticut Criminal Defense Lawyers Association
David Bothwell	Board of Pardons and Paroles
Michael Chase	
Michael Norko	Department of Mental Health and Addiction Services
Scott Sansom	East Hartford Police Department

COMMISSION STAFF

<i>Name</i>	<i>Affiliation</i>
Alex Tsarkov	Executive Director
Andrew Clark	Commission Advisor
F. V. Augur	Research & Policy Associate
Louise Nadeau	Research and Policy Specialist
Patricia O'Rourke	Research and Policy Associate
Chloe Dysart	Graduate Research Assistant
Kemrodge Bell	Graduate Research Assistant

Executive Summary

In 2022, the Sentencing Commission advanced research and policy reform efforts on multiple criminal justice initiatives in the State of Connecticut.

Proposals Enacted in 2022

The Connecticut General Assembly enacted two Sentencing Commission proposals in 2022. [Public Act 22-36, An Act Concerning Sentence Modification](#), complemented the Commission's 2021 proposal, which significantly expanded eligibility for sentence modification. The 2022 act clarified that the 2021 eligibility expansion had retroactive effect. The Sentencing Commission had always intended for these reforms to be retroactive.

The General Assembly also enacted [Public Act 22-118, An Act Adjusting the State Budget for the Biennium Ending June 30, 2023, Concerning Provisions Related to Revenue, School Construction and Other Items to Implement the State Budget and Authorizing and Adjusting Bonds of the State](#), which included provisions of the Commission's proposal to repeal portions of the Connecticut General Statutes authorizing the Department of Correction (DOC) and Attorney General to charge incarcerated people for costs related to their term of incarceration.

Ongoing Proposals

The Commission continued to advocate for its longstanding proposals regarding the sexual offender registry. In 2022, the Commission introduced a narrower version its reform package. This proposal would retain the current offense-based registration requirements and provide ten-year registrants a removal mechanism if certain requirements are met. The proposal would also give discretion at the time of conviction to judges to place registrants on the law enforcement-only registry rather than the public registry. The Judiciary Committee did not raise this proposal.

The Commission also continued to work on voting rights and access reforms. In 2022, the Commission resubmitted its comprehensive 2020 proposal, which would expand suffrage to most incarcerated felons and eliminated logistical barriers to voting from a jail or prison. The Government Administration and Elections committee did not raise this proposal.

New Proposals for 2023

For the 2023 legislative session, the Commission has developed four new proposals:

1. *An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Sexual Assault in the Fourth Degree.*
2. *An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Appointment of an Advocate in a Criminal Proceeding Regarding the Welfare or Custody of an Animal.*
3. *An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Parole Eligibility for an Individual Serving a Lengthy Sentence for a Crime Committed Before the Individual Reached the Age of Twenty-One.*

4. *An Act Concerning the Recommendations of the Connecticut Sentencing Commission Providing Judicial Discretion for Certain Motor Vehicle Offenses with Mandatory Minimum Sentence*

These proposals are discussed in greater detail in Section VI of this report, *2023 Legislative Session*.

Research Initiatives

In addition to its legislative work, the Commission continued its research on reforms to Connecticut's pretrial justice system. The Commission continues to monitor the implementation of its ten-percent cash bail reforms, which were adopted in the Connecticut Practice Book in 2020. Additionally, the Commission released an [updated report](#) on bail reform efforts across the United States that discussed possible pathways forward for Connecticut.

In 2022, the Commission also made significant progress researching mental illness in Connecticut's justice system. Building on the Commission's 2020 memorandum on DOC mental health treatment needs classifications of the incarcerated population, the Commission developed a more comprehensive report, *Mental Health Disorders in Connecticut's Incarcerated Population*, to be released in early 2023. This report includes analysis of specific diagnoses, demographics, controlling offenses, and sentence length. The Commission intends to do more research in this area, supported by a \$500,000 appropriation from the General Assembly.

Beyond this, the Commission continues to work in other policy areas including human trafficking, animal cruelty, juvenile and young adult parole, and felony murder.



Judge Robin Pavia, Chair of the Connecticut Sentencing Commission

I. Mission and Membership

The General Assembly established the Connecticut Sentencing Commission, effective February 1, 2011, in Public Act 10-129. The Commission's mission, as stated in 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."

The Commission works at the state level to affect policy changes that will improve Connecticut's criminal justice system. The Commission draws on its members' expertise and experience and works closely with elected officials and state agency leaders to promote comprehensive, data-driven policies that enhance public safety, hold offenders accountable, and reduce crime.

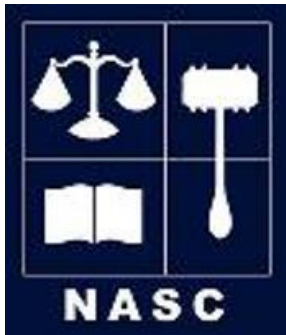
The Commission is composed of 23 voting members, including judges, prosecutors, criminal defense counsel, the Chief Public Defender, the commissioners of Correction (DOC), Emergency Services and Public Protection (DESPP), and Mental Health and Addiction Services (DMHAS), the Victim Advocate (OVA), the executive director of the Court Support Services Division of the Judicial Branch (JB-CSSD), a municipal police chief, the chairperson of the Board of Pardons and Paroles (BOPP), the Undersecretary of the Criminal Justice Policy and Planning Division of the Office of Policy and Management (OPM-CJPPD), and members of the public appointed by the governor and the leaders of the General Assembly.

As of the date of this report, one of the Chief Justice's appointed judicial positions on the Commission is vacant.

In 2022, the Commission welcomed four new members: Professor Anna VanCleave of the University of Connecticut School of Law; Subira Gordon of ConnCan; Patrick Griffin, the new Chief State's Attorney; and TaShun Bowden-Lewis, the new Chief Public Defender. The Commission thanks Sergeant Jeremiah Johnson from the Darien Police Department, Judge Joan Alexander, Chief State's Attorney Richard Colangelo, Chief Public Defender Christine Rapiello, and Commissioner Miriam Delphin-Rittmon for their years of service.

The administrative work and policy research of the Commission is supported by an Executive Director, part-time staff, researchers and academics, and interns through the Institute for Municipal and Regional Policy (IMRP) in the School of Public Policy at the University of Connecticut's Hartford Campus.

II. National Overview



The National Association of Sentencing Commissions (NASC) is a nonprofit organization whose mission is “to facilitate the exchange and sharing of information, ideas, data, expertise, and experiences and to educate individuals on issues related to sentencing policies and guidelines and commissions.” NASC membership includes states with and without sentencing guidelines, states with presumptive and voluntary guidelines, and states with determinate and indeterminate sentencing practices. Additional information about NASC is available at <https://www.thenasc.org/about>.

2022 NASC Annual Conference

In 2022, the National Association of Sentencing Commissions’ annual conference was hosted by the Oregon Criminal Justice Commission in Portland, Oregon, on August 8-10. The conference featured presentations on drug decriminalization, community corrections/supervision, bail reform, curbing extreme sentences, sentencing data platforms, sentencing guidelines review, cost of incarceration, and the impacts of criminal justice reform. Three plenary sessions and seven breakout sessions were presented:

Plenary Sessions

- Impacts of Drug Decriminalization on Oregon Sentencing Guidelines
- Curbing Extreme Sentences
- Comprehensive Review of Sentencing Guidelines in Pennsylvania and Washington

Breakout Sessions

- Community Corrections: State Approaches to Funding Supervision
- Keeping Families Together: Creating and Strengthening Family-Based Diversion and Sentencing Alternatives
- Voting Rights
- The Politics of Data Collection and Strategies for Success
- Using Data & Collaboration to Develop State Parole Guidelines
- Cost of Incarceration: “Room and Board” Fees
- Supervision of Probationers Who Have a Mental Illness: Research & Policy Implications

Representatives of the Connecticut Sentencing Commission participated in two panels. Mr. Tsarkov moderated a panel on the cost of incarceration, and Professor VanCleave moderated a panel on voting rights in which Mr. Tsarkov participated. Both panelists addressed what the Connecticut Sentencing Commission has been doing in the state of Connecticut as it relates to voting rights and the cost of incarceration.

III. Activities of the Commission

COMMISSION MEETINGS

By statute, the Sentencing Commission must meet at least four times each calendar year. In 2022, the Sentencing Commission met five times: January 19, March 23, May 25, September 14, and November 16. Since the pandemic, the Commission has met virtually and will continue to do so for the foreseeable future. Commission meetings continue to be open to the public.

STEERING COMMITTEE

Nine Commission members serve on the Steering Committee. The committee is responsible for the Commission's budget and administration, setting meeting schedules and agendas, overseeing projects, coordinating subcommittee research activities, and selecting recommendations for the full Commission to consider.

PRETRIAL RELEASE & DETENTION

Since the enactment of [Public Act 17-145, An Act Concerning Pretrial Justice Reform](#), the Commission continues to seek improvements to the Connecticut's pretrial justice system. In 2022, the Commission published an updated report on Pretrial Justice. The report details developments in pretrial reform across the United States and a possible framework for a nonfinancial bail system in Connecticut. The link to full report can be found [here](#).

The Commission has also continued to work with the Court Support Services Division of the Judicial Branch (JB-CSSD) to monitor the implementation of the ten percent cash bail option, which went into effect in January 2020. As of September 2022, data show that more than one in four defendants released from custody at a police department were released through the ten percent cash bail option. Of all releases from police departments on financial conditions, nearly 60% utilize the ten percent cash bail option. Professional sureties, which were responsible for nearly 85% of financial releases in 2019, are now responsible for fewer than 40% of releases.

Preliminary data suggest that court appearance rates for defendants on ten percent cash bonds are comparable to those for other defendants. Similarly, rearrest rates for those who utilize the ten percent cash bail option appear slightly lower than those for defendants using professional sureties.

Significantly, JB-CSSD estimated the amount of money reclaimed under the ten percent rule using administrative data. JB-CSSD approximated that between January 1, 2020, and September 30, 2022, \$3.9 million has been returned to defendants through the ten percent cash bail rule.

In 2022, the Commission adopted a proposal to expand this reform. Specifically, the Commission sent a proposal to the Judicial Rules Committee of the Superior Court to decrease the bond deposit from ten percent to seven percent (see Appendix D). The proposal also recommended increasing automatic eligibility for this option to include all bonds of \$50,000 or less.

MENTAL ILLNESS IN CONNECTICUT'S INCARCERATED POPULATION

In 2019, the Commission formed a subcommittee to study mental health issues among Connecticut's incarcerated population in response to a request from Senator Catherine Osten. In 2020, the subcommittee published its first report, which analyzed the overall mental health needs of the incarcerated population using the Department of Correction's classification system. In early 2022, the Commission received specific mental health diagnostic data from the Department of Correction. The Commission is finalizing a report on this data which will be submitted to the full Commission for approval in early 2023 and published upon approval. Additionally, in 2022, the General Assembly appropriated \$500,000 to the Sentencing Commission for future research in this area.

SUBCOMMITTEE ON CRIMINAL PROCEDURE & SENTENCING

In 2022, the Commission formed the Subcommittee on Criminal Procedure and Sentencing to examine criminal sentencing statutes. The subcommittee explored various changes to Connecticut's sentencing laws, including those involving mandatory minimum sentences. The Subcommittee and its staff produced a [memorandum](#) with an overview of mandatory minimum sentences in the Connecticut General Statutes. The Subcommittee also developed a proposal providing discretion to judges when sentencing individuals for certain motor vehicle crimes with mandatory minimum terms of incarceration.

Finally, the Subcommittee is analyzing Connecticut's felony murder statute, which imposes murder sentences for homicides committed in the course of certain felonies. The Commission is developing a study on this topic and hosted a panel on the subject at its 2022 symposium.

STUDY ON RACIAL, ETHNIC, GENDERED, AND SOCIOECONOMIC DISPARITIES

In 2019, Governor Lamont signed [Special Act 19-17](#) into law, which requires the Commission to conduct a study on racial, ethnic, gendered, and socioeconomic disparities in pretrial and sentencing outcomes. The Commission has partnered with professors from the University of Connecticut and developed a proposal for this study. An [interim report](#) detailing the methodology, timeframe, and status of the study is available on the Commission's website. In 2022, the Commission and its affiliated professors continued to analyze and work through issues with the relevant data. A subsequent report will follow in future months.

ANIMAL CRUELTY

In 2022, the Commission formed a working group to study animal cruelty statutes. Animals are a particularly vulnerable population, and animal abuse is often an early indicator of future abuse towards humans. The committee has developed two proposals that have received the Commission's endorsement. The first proposal would correct statutory inconsistencies between Section 53a-73a(a)(3) and the definition of sexual contact in section 53a-65(3) of the general statutes. The second proposal would allow the court to appoint an advocate for criminal proceeding regarding the welfare or custody of any animal owned or kept by a person – rather than a cat or dog as currently provided. The working group continues to examine the animal cruelty statute.

INCARCERATION AND COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION

In 2022, the Incarceration and Collateral Consequences of Criminal Conviction Subcommittee worked on two major proposals. First, the Subcommittee considered extending Public Act 15-84 parole eligibility for individuals who were convicted of crimes and sentenced to lengthy terms of incarceration when they were under the age of 21. The Commission's proposed reform recognizes the potential for diminished culpability among younger people and expands eligibility for discretionary parole in circumstances where parole would be otherwise unavailable.

Second, the subcommittee continues to work with the Board of Pardons and Paroles (BOPP) to explore potential changes to Connecticut's Medical and Compassionate Parole statutes, which allow BOPP to grant parole in cases of medical infirmity or other compelling justifications.

SEXUAL OFFENDER REGISTRATION

In 2015, the General Assembly passed Special Act 15-2, which required the Commission to research and develop proposals for reforming Connecticut's policies for sexual offenders, including the state's management of the sex offender registry, the sentencing of sex offenders, obstacles faced by sex offender registrants, and the usefulness of the sex offender registry to law enforcement and the public at large.

After several years of rigorous study and discussions with multiple stakeholders—scholars, practitioners, victim advocates, and state and national experts on this subject—the Commission has made multiple proposals to improve the registry over the last several legislative sessions.

In 2021 and 2022, the Commission proposed a narrower version of its proposal to the General Assembly, focusing on registry removal provisions. The updated proposal retains offense-based registration requirements and provides for a removal mechanism for ten-year registrants. Life registrants are not eligible for removal. The proposal also gives judges more discretion when deciding whether an individual belongs on the law enforcement-only registry or the public registry at the time of conviction.

SENTENCING MODIFICATION

In 2021, the Commission successfully advocated for the largest change to eligibility for sentence modification since the early 1980s. Sentence modification is a process that gives judicial discretion to reevaluate and modify a criminal sentence. Prior law required both the defendant and prosecutor to assent to a defendant's request for a modification hearing whenever the defendant's entire sentence—including both executed and suspended incarceration—exceeded three years. The Commission's 2021 reforms, enacted in Public Act 21-102, Section 25, allow the court to modify any plea-bargained sentence of less than seven years of actual, executed incarceration without prosecutorial assent. In addition, those defendants whose sentence is a result of a trial may now petition for sentence modification without agreement from the prosecutorial authority.

In 2022, the Commission enacted a proposal clarifying that these reforms applied to those sentenced before the changes went into effect. See Public Act 22-36.

VOTING ACCESS

In 2019, the Sentencing Commission's Subcommittee on Incarceration and the Collateral Consequences of Criminal Conviction formed a working group to explore issues encountered by eligible individuals when voting from Connecticut's correctional facilities. To better understand these issues, the working group conducted voter registration and absentee ballot application drives at York Correctional Institute in 2019 for incarcerated misdemeanants and pretrial detainees. The working group cataloged the issues faced by incarcerated voters, including obstacles to applying for and obtaining absentee ballots.

In 2020, the working group continued discussing potential policy solutions and ultimately developed a proposal that expands voting rights to most incarcerated individuals and eliminates many of the obstacles faced when voting while incarcerated. The proposal mirrors the "Permanent Absentee Ballot" electoral status currently available to disabled voters.

The Commission voted in December 2020 to adopt this proposal, and further proposed an expansion of voting rights to all incarcerated individuals except for those sentenced to life imprisonment without the possibility of release. This proposal was submitted to the Government Administration and Elections Committee for consideration in the 2021 legislative session, and was resubmitted in 2022.

COSTS OF INCARCERATION

Under Connecticut statute, incarcerated individuals can be assessed for the cost of their incarceration, and the state has a claim against these individuals for this cost. These statutes further allow the state to impose cost-of-incarceration liens on the lawsuit proceeds and inheritances of formerly incarcerated persons.

In 2022, the Commission introduced a proposal that would repeal all statutory cost-of-incarceration provisions. The General Assembly passed a modified version of this proposal in the 2023 budget adjustment act. Under the amended statutes, up to \$50,000 of a formerly incarcerated individual's assets are protected against claims from the state. This \$50,000 protection does not apply to individuals convicted of capital murder, murder with special circumstances, felony murder, sexual assault in the first degree, aggravated sexual assault in the first degree, aggravated sexual assault of a minor, or sexual assault in the second degree. See Public Act 22-118, Sections 457 and 458.

The Public Act also limited the state's ability to impose cost-of-incarceration liens on lawsuit proceeds. As a result of these changes, the state may only impose a lien on the lawsuit proceeds of those formerly incarcerated individuals convicted of the homicide and sexual assault offenses listed above. The reforms did not limit the state's ability to impose liens on inheritances received by formerly incarcerated individuals.

IV. 2022 Symposium

The Connecticut Sentencing Commission held a symposium on November 17, 2022, at the University of Connecticut School of Law in Hartford, Connecticut. This all-day symposium co-sponsored by the University of Connecticut School of Law Center on Community Safety, Policing and Inequality, focused on mental illness in criminal justice, felony murder, juvenile justice, and pretrial justice reform. This event was open to Commission members, affiliates, and the public. This symposium featured an open and informational dialogue and presentations from state and national experts in criminal justice. A copy of the symposium agenda is included in Appendix C, and recordings of the symposium are available on the Commission's [website](#).



Panel on Felony Murder. From left: Nicholas Aponte; Ekow Yankah, University of Michigan Professor of Law and Philosophy; Guyora Binder, State University of New York at Buffalo Professor of Law; Moderator Anna VanCleave, University of Connecticut Professor of Law.

V. 2022 Legislative Session

ENACTED PROPOSALS

In 2022, the Commission proposed four reforms to the General Assembly. The General Assembly enacted versions of two of these:

- ❖ [*Public Act 22-36, An Act Concerning Sentence Modification*](#)
 - This proposal complemented the Commission's 2021 proposal, which significantly expanded eligibility for sentence modification. The 2022 act clarified that the 2021 changes applied retroactively. The Sentencing Commission had always intended for the reforms to be retroactive.
- ❖ [*Public Act 22-118, An Act Adjusting the State Budget for the Biennium Ending June 30, 2023, Concerning Provisions Related to Revenue, School Construction and Other Items to Implement the State Budget and Authorizing and Adjusting Bonds of the State*](#)
 - Sections 457 and 458 of the 2023 budget adjustment act included provisions of the Commission's proposal regarding the costs of incarceration. The Commission proposed to repeal all statutes allowing the state to obtain a judgement or impose a lien on a formerly incarcerated person for the costs of their incarceration. The General Assembly passed a modified version of this that (1) protected up to \$50,000 in assets from a cost of incarceration judgement and (2) limited the state's ability to impose a lien on lawsuit proceeds received by formerly incarcerated individuals. Individuals convicted of certain murder and sexual assault offenses were exempted from these reforms. Additionally, the state may still impose cost-of-incarceration liens on inheritances received by formerly incarcerated individuals, regardless of the convicted offense.
 - As a part of the 2023 budget adjustment act, the General Assembly also appropriated \$500,000 to the Sentencing Commission to support a study of mental health in Connecticut's justice system.

OTHER PROPOSALS

The Commission submitted two additional proposals in 2022. Neither proposal was raised.

- ❖ [*An Act Concerning the Recommendations of the Sentencing Commission with Respect to Sex Offender Registry*](#)
 - This bill would implement a narrower version of the sexual offender registry reform package that the Commission has proposed since 2018.
 - This proposal would provide ten-year registrants an opportunity to be removed from the registry if certain requirements are met. This proposal would not affect lifetime registrants' requirements.
 - The proposal would also give discretion at the time of conviction to judges to place registrants on the law enforcement-only registry rather than the public registry.

❖ **Voting Access and Reenfranchisement Act**

- In 2022, the Commission resubmitted a comprehensive proposal concerning voting at correctional facilities to the Government Administration and Elections Committee. The proposal would also restore electoral rights to all incarcerated Connecticut residents, except those sentenced to life without the possibility of release.



Panel on Pretrial Justice. From left: Judge Jonathan Silbert (retired); Tehra Coles, Senior Policy Counsel, Civil Rights Corps; Mike Lawlor, Associate Professor of Criminal Justice, University of New Haven; Martin Looney, President Pro Tempore of the State Senate, Connecticut General Assembly; Moderator: Alex Tsarkov, Executive Director, Connecticut Sentencing Commission

VI. 2023 Legislative Session

In 2023, the Sentencing Commission will propose four bills to the Judiciary Committee:

1. ***[An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Sexual Assault in the Fourth Degree](#)***

- This unanimous recommendation from the Commission would clarify the requirements of sexual assault in the fourth degree with an animal or a dead body. This issue arose in the unpublished Superior Court Case of *State v. Hoetzl* (2020). There, the court found that the definition of sexual contact in 53a-65(3) was limited to contact with a person, and barred prosecution under the bestiality provision of Sexual Assault in the Fourth Degree, 53a-73a(a)(3).

2. ***[An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Appointment of an Advocate in a Criminal Proceeding Regarding the Welfare or Custody of an Animal](#)***

- This unanimous recommendation from the Sentencing Commission would allow a judge to appoint an advocate in a criminal proceeding regarding the welfare or custody of any animal owned or kept by a person. Under current law, judges may only appoint an advocate for cats or dogs. Under this recommendation, the appointment would continue to be at the discretion of the court at its own prerogative or on a party's motion.

3. ***[An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Parole Eligibility for an Individual Serving a Lengthy Sentence for a Crime Committed Before the Individual Reached the Age of Twenty-One](#)***

- In 2015, the Commission successfully advocated for a proposal that expanded parole eligibility for individuals who committed a crime before the age of 18. Under the proposal, passed as Public Act 15-84, otherwise ineligible individuals sentenced to more than 10 years of incarceration could apply for parole after serving a significant portion of their sentence (the greater of 12 years or 60% for sentences of 50 years or less; 30 years for sentences longer than 50 years).
- This recommendation would expand the eligibility for 15-84 parole to individuals who offended before the age of twenty-one. The proposal was endorsed by the Sentencing Commission with a vote of 9 Yea, 6 Nay and 3 Abstentions.

4. ***[An Act Concerning the Recommendations of the Connecticut Sentencing Commission Providing Judicial Discretion for Certain Motor Vehicle Offenses with Mandatory Minimum Sentences](#)***

- This unanimous recommendation from the Sentencing Commission would allow a judge to depart from certain motor vehicle mandatory minimum sentences after considering mitigating circumstances. The new text mirrors language in Connecticut General Statutes §14-215(c).

APPENDICES

APPENDIX A: Connecticut General Statutes §54-300. Sentencing Commission

APPENDIX B: Special Act 19-17

APPENDIX C: 2022 Symposium Agenda

APPENDIX D: Letter from the Sentencing Commission to the Rules Committee of the Superior Court (January 13, 2023)



Panel on Mental Health. From left: Patrick Griffin, Connecticut Chief State's Attorney; Dr. Reena Kapoor, Associate Professor of Psychiatry, Yale School of Medicine; TaShun Bowden-Lewis, Connecticut Chief Public Defender; Catherine Osten, State Senator, 19th District; Moderator: Jennifer Zito, Connecticut Sentencing Commission, Connecticut Criminal Defense Lawyers Association

APPENDIX A

Sec. 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



Senate Bill No. 1008

Special Act No. 19-17

***AN ACT CONCERNING A STUDY OF THE DISPARITIES IN
PRETRIAL AND SENTENCING OUTCOMES OF CRIMINAL
DEFENDANTS.***

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

Section 1. (*Effective from passage*) (a) The Connecticut Sentencing Commission shall study potential disparities in pretrial and sentencing outcomes related to the racial, ethnic, gender and socioeconomic status of a criminal defendant. In furtherance of such study, said commission shall have access to: (1) All databases maintained in the state's criminal justice information system; (2) the Connecticut Information Sharing System; and (3) any state or local criminal or judicial databases that have not yet been integrated into the Connecticut Information Sharing System.

(b) Not later than January 1, 2020, said commission shall submit an interim report on the study, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary. Not later than January 1, 2021, said commission shall submit its final report on the study and any recommendations from the commission, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General

Senate Bill No. 1008

Assembly having cognizance of matters relating to the judiciary and to the Governor.

Approved July 1, 2019

APPENDIX C

Connecticut Sentencing Commission Symposium: Criminal Legal System at a Crossroads

Thursday, November 17, 2022

8:30 -9:15 a.m. **Check-in and Continental Breakfast**

9:15-9:30 a.m. **Welcome and Opening Remarks**

Judge Robin Pavia, *Chair, Connecticut Sentencing Commission*
Eboni S. Nelson, *Dean, University of Connecticut School of Law*

9:30 -10:15 a.m. **Keynote: Addressing Mental Health Crisis**

Judge James Bianco, *Los Angeles Superior Court*

10:15-10:30 a.m. **Break**

10:30-11:45 a.m. **Mental Health Panel**

The large number of individuals with mental health and substance use conditions in the criminal justice system has fiscal, health, and human costs. Panelists will discuss alternatives to incarceration, effective mental health services, and discriminatory practices in mental health treatment.

Moderator: Jennifer Zito, *Connecticut Criminal Defense Lawyers Association*

Catherine Osten, *State Senator for the 19th District, Connecticut General Assembly*

TaShun Bowden-Lewis, Esq., *Connecticut Chief Public Defender*

Patrick Griffin, Esq., *Connecticut Chief State's Attorney*

Dr. Reena Kapoor, *Associate Professor of Psychiatry, Yale School of Medicine*

11:45-12:30 p.m. **Lunch**

12:30-1:30 p.m. **Felony Murder Panel**

Panelists will discuss nationwide reform of the felony murder rule and what reform in Connecticut may look like concerning culpability, life without the possibility of parole sentences, and juvenile felony murder charges.

Moderator: Anna VanCleave, *Associate Professor of Law, University of Connecticut*

Ekow Yankah, *Thomas M. Cooley Professor of Law and Professor of Philosophy, University of Michigan*

Guyora Binder, *SUNY Distinguished Professor of Law, University at Buffalo*

Nick Aponte, *Fair Chance Licensing Project*

1:30-2:30 p.m. **Juvenile Justice Panel**

Panelists will discuss juvenile justice reforms at various stages in the legal system—including prevention, sentencing, and custodial services—aimed at reducing criminalization and protecting the human rights of youth. Panelists will discuss empirical research and suggested reforms.

Moderator: Kiel Brennan-Marquez, *Professor of Law, University of Connecticut*

Richard Sparaco, *Executive Director, Board of Pardons and Paroles*

Faith Voswinkel, *Assistant Child Advocate*

Jennifer Zito, *Connecticut Criminal Defense Lawyers Association*

2:30-2:45 p.m. **Break**

2:45-4:00 p.m. **Pretrial Justice Reform: Toward a Fair and Just System**

Recently, a wave of advocacy and litigation efforts have created national momentum for rethinking how pretrial decisions are made. Several jurisdictions have moved away from money bail or eliminated it entirely. This panel will address successes and challenges in pretrial justice reform.

Moderator: Alex Tsarkov, Executive Director, Connecticut Sentencing Commission

Martin Looney, President Pro Tempore of the State Senate, Connecticut General Assembly

Tehra Coles, Senior Policy Counsel, Civil Rights Corps

Mike Lawlor, Associate Professor of Criminal Justice, University of New Haven

Judge Jonathan Silbert (retired)

4:00-4:15 p.m. **Final Remarks**

Judge Robin Pavia, Chair, Connecticut Sentencing Commission

APPENDIX D



Hon. Robin Pavia
Chair

Alex Tsarkov
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CONNECTICUT SENTENCING COMMISSION

January 13, 2023

Rules Committee of the Superior Court
Connecticut Supreme Court Building
231 Capitol Avenue
Hartford, CT 06106

Dear Members of the Rules Committee of the Superior Court,

We are writing on behalf of the Connecticut Sentencing Commission to recommend a revision to the *Connecticut Practice Book* that would expand the cash bail option available under Rule 38-8. Specifically, the Sentencing Commission proposes (1) reducing the ten percent cash bail option to seven percent; and (2) increasing the bond amount for which the cash bail option is automatically available, from \$20,000 to \$50,000. The Sentencing Commission has voted in support of this revision. A draft of the proposed rule is included below.

Prior to 2020, the automatic cash bail option was available only at arraignment and only if granted by a judge. In January 2019, the Sentencing Commission sent a request to the Rules Committee for an amendment to the Connecticut Practice Book to provide for an automatic option to allow defendants to be released by depositing ten percent of the bond amount for any surety bonds of \$20,000 or less with the court. The Commission's proposal also made the ten percent cash option available at police departments for the first time. Unlike defendants utilizing bail bondsmen to secure release, defendants utilizing the ten percent cash option receive their money back once their cases are adjudicated. The Rules Committee unanimously approved the proposal. The change took effect on January 1, 2020.

Since then, the Sentencing Commission staff and Judicial Branch Court Support Services Division (JB-CSSD) have tracked implementation of the new rule and provided regular analysis to the Sentencing Commission.

The Commission has seen remarkable utilization of ten percent cash bonds. Use of ten percent bond has steadily increased as a percentage of all police department-released defendants, even through the COVID-19 pandemic. In the most recent quarters, more than one in every four releases from police departments occurred with the ten-percent option. Among financial bonds posted at police departments, almost 60% are through the ten-percent option.

We have also observed that defendants utilize the ten-percent bonds predominantly for lower bonds. During 2021, more than 80% of defendants with bonds \$1,000 and under used the option. Defendants with larger bonds tended to continue using professional sureties, likely because professional sureties charge defendants less than ten percent of the premium for their release.

Courts have returned a substantial amount of money to defendants under the ten percent rule. JB-CSSD estimates this amount to be over \$3,907,000 between January 2020 and September 2022. As of this letter, courts hold an additional \$2.2 million in ten percent deposits in anticipation of case disposition.

At the same time, we have tracked failure-to-appear and rearrest rates. Failure-to-appear and new criminal arrest are not higher for ten percent releases compared to other bond types.

The proposal before you incrementally builds on the success of the 2020 reforms to ten percent cash bonds. This proposal would reduce the financial burden on defendants who can barely afford a ten percent bond, and it may help those defendants who are detained on low-level charges pay their bond. If the Rules Committee adopts this proposal, the Sentencing Commission is committed to continue monitoring the use and impacts of the automatic cash bail option.

The Connecticut Sentencing Commission endorsed this proposal at its meeting on November 16, 2022. As you know, the Commission's membership consists of many stakeholders in Connecticut's criminal justice system, including superior court judges, the Chief State's Attorney, the Chief Public Defender; the commissioners of Corrections, Emergency Services and Public Protection, and Mental Health and Addiction Services, the chair of the Board of Pardons and Paroles, the

undersecretary of the criminal justice policy and planning division, as well as appointees from each caucus at the General Assembly and the Governor.

As we noted in our letter to the Rules Committee in 2019, we realize that expanding the automatic cash bail option is not a long-term solution to pretrial justice issues. While the proposed rule does not eliminate these issues, it would be a step in the right direction to improve pretrial justice in Connecticut.

Thank you in advance for your consideration. If you have any questions, we would be glad to provide further information.

Sincerely,

/s/ Robin Pavia

/s/ Alex Tsarkov

Honorable Robin Pavia
Chair, Sentencing Commission

Alex Tsarkov
Director, Sentencing Commission

/s/ Anna VanCleave

Anna Van Cleave
Member of the Sentencing Subcommittee

Proposed amendment to Connecticut Practice Book Sec. 38-8. Ten Percent Cash Bail

Sec. 38-8. [Ten] Seven Percent Cash Bail

Unless otherwise ordered by the judicial authority, [10] 7 percent cash bail shall be automatically available for surety bonds not exceeding [\$20,000] \$50,000. For surety bond amounts exceeding [\$20,000] \$50,000, [10] 7 percent cash bail may be granted pursuant to an order of the judicial authority. This [10] 7 percent cash bail option applies to bonds set by the court as well as bonds set at the police department.

When [10] 7 percent cash bail is authorized either automatically or pursuant to court order, upon the depositing in cash, by the defendant or any other person in his or her behalf other than a paid surety, of [10] 7 percent of the surety bond set, the defendant shall thereupon be admitted to bail in the same manner as a defendant who has executed a bond for the full amount. If such bond is forfeited, the defendant shall be liable for the full amount of the bond. Upon discharge of the bond, the [10] 7 percent cash deposit made with the clerk shall be returned to the person depositing the same, less any fee that may be required by statute.