



General Assembly

January Session, 2021

Raised Bill No. 892

LCO No. 3503



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE CRIMINAL JUSTICE COMMISSION,
DIVISION OF CRIMINAL JUSTICE AND THE OFFICE OF THE
INSPECTOR GENERAL.***

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

1 Section 1. Subsection (b) of section 51-278 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (b) (1) (A) The Criminal Justice Commission shall appoint (i) two
5 deputy chief state's attorneys as assistant administrative heads of the
6 Division of Criminal Justice, one of whom shall be deputy chief state's
7 attorney for operations and one of whom shall be deputy chief state's
8 attorney for personnel, finance and administration, who shall assist the
9 Chief State's Attorney in his duties, and (ii) one deputy chief state's
10 attorney who shall be nominated by the commission, as provided in
11 subdivision (8) of this subsection, to serve as Inspector General in
12 accordance with section 51-277e, as amended by this act. The term of
13 office of a deputy chief state's attorney shall be four years from July first
14 in the year of appointment and until the appointment and qualification

15 of a successor unless sooner removed by the Criminal Justice
16 Commission. The Criminal Justice Commission shall designate one
17 deputy chief state's attorney appointed under subparagraph (A)(i) of
18 this subsection who shall, in the absence or disqualification of the Chief
19 State's Attorney, exercise the powers and duties of the Chief State's
20 Attorney until such Chief State's Attorney resumes his duties. For the
21 purposes of this subparagraph, the Criminal Justice Commission means
22 the members of the commission other than the Chief State's Attorney.
23 (B) The Criminal Justice Commission shall appoint a state's attorney for
24 each judicial district, who shall act therein as attorney on behalf of the
25 state. The Criminal Justice Commission shall also appoint, from at least
26 five candidates for a single open position, or at least eight candidates for
27 two or more open positions recommended by the appropriate state's
28 attorney and deemed qualified by the commission, as many assistant
29 state's attorneys and deputy assistant state's attorneys on a full-time or
30 part-time basis for each judicial district as the criminal business of the
31 court, in the opinion of the Chief State's Attorney, may require, and the
32 commission shall also appoint, from candidates recommended by the
33 Chief State's Attorney and deemed qualified by the commission, as
34 many assistant state's attorneys and deputy assistant state's attorneys as
35 are necessary, in the opinion of the Chief State's Attorney, to assist the
36 Chief State's Attorney. Assistant state's attorneys and deputy assistant
37 state's attorneys, respectively, shall assist the state's attorneys for the
38 judicial districts and the Chief State's Attorney in all criminal matters
39 and, in the absence from the district or disability of the state's attorney
40 or at his request, shall have and exercise all the powers and perform all
41 the duties of state's attorney. At least three such assistant state's
42 attorneys or deputy assistant state's attorneys shall be designated by the
43 Chief State's Attorney to handle all prosecutions in the state of housing
44 matters deemed to be criminal. Any assistant or deputy assistant state's
45 attorney so designated should have a commitment to the maintenance
46 of decent, safe and sanitary housing and, to the extent practicable, shall
47 handle housing matters on a full-time basis. At least one assistant state's
48 attorney shall be designated by the Chief State's Attorney to handle all
49 prosecutions in the state of environmental matters deemed to be

50 criminal. Any assistant state's attorney so designated should have a
51 commitment to protecting the environment and, to the extent
52 practicable, shall handle environmental matters on a full-time basis. (C)
53 The Chief State's Attorney may promote any assistant state's attorney,
54 or deputy assistant state's attorney who assists him, and the appropriate
55 state's attorney may promote any assistant state's attorney or deputy
56 assistant state's attorney who assists such state's attorney in the judicial
57 district. The Chief State's Attorney shall notify the Criminal Justice
58 Commission of any such promotion.

59 (2) On and after July 1, 1985, the Chief State's Attorney, deputy chief
60 state's attorneys, state's attorneys, assistant state's attorneys and deputy
61 assistant state's attorneys shall receive salaries in accordance with a
62 compensation plan approved by the Department of Administrative
63 Services.

64 (3) Each state's attorney who, on June 30, 1973, was included in the
65 provisions of sections 51-49, 51-287 and 51-288 may elect to continue to
66 be so included and, each state's attorney, incumbent on July 1, 1978, who
67 was an assistant state's attorney, chief prosecuting attorney or deputy
68 chief prosecuting attorney on June 30, 1973, may elect to be included in
69 sections 51-49, 51-287 and 51-288, and, in each such case, the
70 Comptroller shall deduct from his salary five per cent thereof as
71 contributions for the purposes of sections 51-49, 51-287 and 51-288,
72 provided any person who has so elected may thereafter elect to
73 participate in chapter 66 and thereupon his past contributions to the
74 State's Attorneys' Retirement Fund shall be transferred to the State
75 Employees Retirement Fund and he shall be credited with all prior
76 service. All other persons appointed under the provisions of this section
77 shall be subject to the provisions of chapter 66.

78 (4) Each Chief State's Attorney, deputy chief state's attorney or state's
79 attorney who (A) is ineligible to elect under subdivision (3) of this
80 subsection, (B) is not subject to the provisions of chapter 66, and (C) had
81 vested under the State Employees Retirement Fund, prior to his
82 appointment to such office, shall vest under the State's Attorneys'

83 Retirement Fund upon reappointment to any such office by the Criminal
84 Justice Commission.

85 (5) The several state's attorneys shall each hold office for eight years
86 from July first and until the appointment and qualification of a successor
87 unless sooner removed for just cause by the Criminal Justice
88 Commission.

89 (6) When any vacancy in the office of the Chief State's Attorney or the
90 office of a state's attorney is to be filled, the commission shall make its
91 appointment from the various recommendations of the Chief State's
92 Attorney or the appropriate state's attorney. The commission shall
93 determine how many recommendations they shall receive for each
94 appointment.

95 (7) Each deputy chief state's attorney and state's attorney incumbent
96 on the date of certification by the Secretary of the State of the
97 constitutional amendment concerning appointment of state's attorneys,
98 shall serve the term for which he had been appointed prior to said date.

99 (8) When any nomination of a deputy chief state's attorney to serve
100 as Inspector General in accordance with section 51-277e, as amended by
101 this act, is to be made, the commission shall make such nomination by
102 majority vote. In the event that there is a tie vote for such nomination,
103 the Chief State's Attorney shall select the nominee from amongst the
104 candidates in the tie position and said candidate shall be the nominee to
105 serve as Inspector General.

106 Sec. 2. Section 51-278b of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2021*):

108 (a) Whenever the Criminal Justice Commission has reason to believe
109 or is of the opinion that the Chief State's Attorney is guilty of
110 misconduct, material neglect of duty or incompetence in the conduct of
111 his office, it shall make such investigation as it deems proper, and shall
112 prepare a statement in writing of the charges against such official
113 summoning him to appear before the commission at a date named and

114 show cause why he should not be removed from office. Such official
115 shall have the right to appear with counsel and witnesses and be fully
116 heard. If after full hearing of all evidence, the commission finds that the
117 evidence warrants the removal of such official, the commission shall
118 make a written order to that effect and shall cause a copy thereof to be
119 given such official and shall also file a copy thereof with the Secretary
120 of the State. Upon the filing of such copy with the Secretary of the State,
121 the office held by such official shall become vacant, and the commission
122 may thereupon proceed to fill such vacancy in the manner provided by
123 law. For purposes of this subsection, "Criminal Justice Commission"
124 means the members of the commission other than the Chief State's
125 Attorney.

126 (b) No deputy chief state's attorney, state's attorney, assistant state's
127 attorney or deputy assistant state's attorney may be removed from office
128 except by order of the Criminal Justice Commission after due notice and
129 hearing. A recommendation for removal from office may be initiated by
130 any member of the Criminal Justice Commission, the Chief State's
131 Attorney or the appropriate state's attorney.

132 (c) The Criminal Justice Commission may discipline for just cause
133 after due notice and hearing by reprimand, demotion or suspension
134 with or without pay from his office up to fifteen days, a deputy chief
135 state's attorney or state's attorney. A recommendation for discipline
136 may be initiated by any member of the commission or the Chief State's
137 Attorney. The Chief State's Attorney may discipline any assistant state's
138 attorney or deputy assistant state's attorney who assists him or the
139 appropriate state's attorney may discipline any assistant state's attorney
140 or deputy assistant state's attorney who assists him, for just cause after
141 due notice and hearing by reprimand, demotion or suspension with or
142 without pay from his office. [up to fifteen days.]

143 Sec. 3. Section 51-279a of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2021*):

145 The Division of Criminal Justice Advisory Board is established,
146 comprised of a member designated by the Criminal Justice Commission,

147 the Chief State's Attorney or his designee and the state's attorney for
148 each judicial district or his designee. The board shall meet at least once
149 a month to advise on state-wide prosecutorial standards and guidelines
150 and other policy matters, including peer review and resolution of
151 conflicts. The board shall adopt such rules as it deems necessary for the
152 conduct of its internal affairs.

153 Sec. 4. Section 51-280 of the general statutes is repealed and the
154 following is substituted in lieu thereof (*Effective October 1, 2021*):

155 The Chief State's Attorney and each state's attorney shall annually
156 prepare a merit and performance rating for each state's attorney,
157 assistant state's attorney and deputy assistant state's attorney and shall
158 submit the merit and performance rating for each state's attorney,
159 assistant state's attorney and deputy assistant state's attorney to the
160 Criminal Justice Commission for its consideration at the time for
161 reappointing such attorneys to any new term or terms. As part of any
162 such reappointment process, the commission may call a state's attorney,
163 assistant state's attorney or deputy assistant state's attorney before the
164 commission for questions concerning reappointment or any other issue
165 raised in an annual merit and performance rating.

166 Sec. 5. Section 51-285 of the general statutes is repealed and the
167 following is substituted in lieu thereof (*Effective October 1, 2021*):

168 (a) The Chief State's Attorney may [appoint] recommend to the
169 Criminal Justice Commission for appointment by said commission
170 special assistant state's attorneys, special deputy assistant state's
171 attorneys and special inspectors on a contractual basis for a temporary
172 period of time.

173 (b) Upon the request of the Attorney General, the Chief State's
174 Attorney may designate any attorney requested by the Attorney
175 General as a special assistant state's attorney to prosecute any criminal
176 offense, except violations of titles 9, 14, 18, 29, 46a, 53 and 53a, chapters
177 420b and 420c of title 21a and sections 17b-97 and 17b-99. If such
178 designation of any attorney is denied, the Chief State's Attorney shall

179 state the reasons for such denial in writing.

180 (c) The Chief State's Attorney may designate any assistant state's
181 attorney from the office of the Chief State's Attorney or any other
182 assistant state's attorney on request of the appropriate state's attorney
183 for appointment as a special assistant United States attorney to assist in
184 the investigation and prosecution of specific criminal matters in federal
185 court.

186 Sec. 6. Section 51-277e of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective from passage*):

188 (a) There is established the Office of the Inspector General that shall
189 be an independent office within the Division of Criminal Justice. Not
190 later than [October 1, 2020] October 1, 2021, the Criminal Justice
191 Commission established pursuant to section 51-275a shall nominate a
192 deputy chief state's attorney [from within the division] as Inspector
193 General who, subject to appointment by the General Assembly pursuant
194 to subsection (c) or (d) of this section, shall lead the Office of the
195 Inspector General. The office shall: (1) Conduct investigations of peace
196 officers in accordance with section 51-277a, as amended by this act; (2)
197 prosecute any case in which the Inspector General determines a peace
198 officer used force found to not be justifiable pursuant to section 53a-22
199 or where a police officer or correctional officer fails to intervene in any
200 such incident or to report any such incident, as required under
201 subsection (a) of section 7-282e or section 18-81nn, as applicable; and (3)
202 make recommendations to the Police Officer Standards and Training
203 Council established under section 7-294b concerning censure and
204 suspension, renewal, cancelation or revocation of a peace officer's
205 certification.

206 (b) The Inspector General shall serve a term of four years from July
207 first in the year of the appointment and until the appointment and
208 qualification of a successor unless sooner removed by the Criminal
209 Justice Commission. On or before the date of the expiration of the term
210 of the Inspector General or upon the occurrence of a vacancy in the
211 Office of the Inspector General for any reason, the Criminal Justice

212 Commission shall nominate a deputy chief state's attorney [from within
213 the Division of Criminal Justice] to fill that vacancy. The commission
214 shall not be precluded from renominating an individual who has
215 previously served as Inspector General. The Inspector General shall,
216 upon nomination by the commission, be appointed by the General
217 Assembly pursuant to subsection (c) or (d) of this section.

218 (c) Each nomination made by the Criminal Justice Commission to the
219 General Assembly for Inspector General shall be referred, without
220 debate, to the joint standing committee of the General Assembly having
221 cognizance of matters relating to the judiciary, which shall report on the
222 nomination not later than thirty legislative days from the time of
223 reference, but no later than seven legislative days before the adjourning
224 of the General Assembly. An appointment by the General Assembly of
225 an Inspector General shall be by concurrent resolution. The action on
226 the passage of each such resolution in the House and in the Senate shall
227 be by vote taken on the electrical roll-call device. The commission shall,
228 not later than five days after receiving notice that a nomination for
229 Inspector General has failed to be approved by the affirmative
230 concurrent action of both houses of the General Assembly, make
231 another nomination for Inspector General.

232 (d) No vacancy in the position of Inspector General shall be filled by
233 the Criminal Justice Commission when the General Assembly is not in
234 session unless, prior to such filling, the commission submits the name
235 of the proposed vacancy appointee to the joint standing committee of
236 the General Assembly having cognizance of matters relating to the
237 judiciary. Within forty-five days, the committee on the judiciary may,
238 upon the call of either chairman, hold a special meeting for the purpose
239 of approving or disapproving such proposed vacancy appointee by
240 majority vote. Failure of the committee to act on such proposed vacancy
241 appointee within such forty-five-day period shall be deemed to be an
242 approval. Any appointment made pursuant to this subsection shall be
243 in effect until the sixth Wednesday of the next regular session of the
244 General Assembly, and until a successor is appointed.

245 (e) A deputy chief state's attorney nominated for the position of
246 Inspector General by the Criminal Justice Commission shall serve as
247 interim Inspector General pending appointment by the General
248 Assembly.

249 (f) An Inspector General may be removed or otherwise disciplined
250 only in accordance with section 51-278b, as amended by this act.

251 (g) The Inspector General may issue subpoenas to municipalities, law
252 enforcement units, as defined in section 7-294, the Department of
253 Correction and any employee or former employee of the municipality,
254 unit or department (1) requiring the production of reports, records or
255 other documents concerning an investigation described in subsection (a)
256 of this section that is undertaken by the Inspector General, and (2)
257 compelling the attendance and testimony of any person having
258 knowledge pertinent to such investigation.

259 (h) A chief of police of a municipality, the Commissioner of
260 Emergency Services and Public Protection or the Commissioner of
261 Correction may refer and the Inspector General shall accept any such
262 referral of an incident described in subsection (a) of this section for
263 purposes of an investigation.

264 (i) The Office of the Inspector General shall be at a location that is
265 separate from the locations of the Office of the Chief State's Attorney or
266 any of the state's attorneys for the judicial districts.

267 (j) The Inspector General may employ necessary staff to fulfil the
268 duties of the Office of the Inspector General described in subsection (a)
269 of this section. Such staff shall be selected [from staff of the Division of
270 Criminal Justice] by the Inspector General and shall include, but not be
271 limited to, an assistant state's attorney or a deputy assistant state's
272 attorney, an inspector and administrative staff. As needed by and upon
273 request of the Inspector General, the Office of the Chief State's Attorney
274 shall ensure assistance from additional assistant state's attorneys or
275 deputy assistant state's attorneys, inspectors and administrative staff.

276 (k) The Inspector General and any staff employed by the Office of the
277 Inspector General, who was previously employed within the Division
278 of Criminal Justice and who is not in a bargaining unit established
279 pursuant to sections 5-270 to 5-280, inclusive, shall, upon completion of
280 employment with the office of the Inspector General be transferred back
281 to the [Division of Criminal Justice] division into a position equivalent
282 or comparable to the position such person held in the division prior to
283 being employed by the Office of the Inspector General. Upon such
284 transfer back to the division, such person shall be compensated at the
285 same level such person was compensated immediately prior to being
286 transferred back to the division.

287 Sec. 7. Section 51-277a of the general statutes is repealed and the
288 following is substituted in lieu thereof (*Effective from passage*):

289 (a) (1) Whenever a peace officer, in the performance of such officer's
290 duties, uses physical force upon another person and such person dies as
291 a result thereof or uses deadly force, as defined in section 53a-3, upon
292 another person, the [Inspector General shall investigate and determine]
293 Division of Criminal Justice shall cause an investigation to be made and
294 the Inspector General shall have the responsibility of determining
295 whether the use of physical force by the peace officer was justifiable
296 under section 53a-22.

297 (2) (A) Except as provided under subdivision (1) of this subsection,
298 whenever a person dies in the custody of a peace officer or law
299 enforcement agency, the Inspector General shall investigate and
300 determine whether physical force was used by a peace officer upon the
301 deceased person, and if so, whether the use of physical force by the
302 peace officer was justifiable under section 53a-22. If the Inspector
303 General determines the deceased person may have died as a result of [a
304 possible] criminal action not involving the use of force by a peace officer,
305 the Inspector General shall refer such case to the [Division of Criminal
306 Justice] Chief State's Attorney or state's attorney for potential
307 prosecution.

308 (B) Except as provided under subdivision (1) of this subsection or

309 subparagraph (A) of subdivision (2) of this subsection, whenever a
310 person dies in the custody of the Commissioner of Correction, the
311 Inspector General shall investigate and determine whether the deceased
312 person may have died as a result of [a possible] criminal action, and if
313 so, refer such case to the [Division of Criminal Justice] Chief State's
314 Attorney or state's attorney for potential prosecution.

315 (3) The Inspector General shall request the appropriate law
316 enforcement agency to provide such assistance as is necessary to
317 [determine the circumstances of an incident investigated] investigate
318 and make a determination under subdivision (1) or (2) of this
319 subsection.

320 (4) Whenever a peace officer, in the performance of such officer's
321 duties, uses physical force or deadly force upon another person and
322 such person dies as a result thereof, the Inspector General shall complete
323 a preliminary status report that shall include, but need not be limited to,
324 (A) the name of the deceased person, (B) the gender, race, ethnicity and
325 age of the deceased person, (C) the date, time and location of the injury
326 causing such death, (D) the law enforcement agency involved, (E) the
327 status on the toxicology report, if available, and (F) the death certificate,
328 if available. The Inspector General shall complete the report and submit
329 a copy of such report not later than five business days after the cause of
330 the death is available to the Chief State's Attorney and, in accordance
331 with the provisions of section 11-4a₂, to the joint standing committees of
332 the General Assembly having cognizance of matters relating to the
333 judiciary and public safety.

334 (b) Upon the conclusion of the investigation of the incident, the
335 Inspector General shall file a report with the Chief State's Attorney
336 which shall contain the following: (1) The circumstances of the incident,
337 (2) a determination of whether the use of physical force by the peace
338 officer was justifiable under section 53a-22, and (3) any recommended
339 future action to be taken by the Office of the Inspector General as a result
340 of the incident. The Chief State's Attorney shall provide a copy of the
341 report to the chief executive officer of the municipality in which the

342 incident occurred and to the Commissioner of Emergency Services and
 343 Public Protection or the chief of police of such municipality, as the case
 344 may be, and shall make such report available to the public on the
 345 Division of Criminal Justice's Internet web site not later than forty-eight
 346 hours after the copies are provided to the chief executive officer and the
 347 commissioner or chief of police.

348 (c) The Office of the Inspector General shall prosecute any case in
 349 which the Inspector General determines that (1) the use of force by a
 350 peace officer was not justifiable under section 53a-22, [and any] or (2)
 351 there was a failure to intervene in [any] such incident or to report any
 352 such incident, as required under subsection (a) of section 7-282e or
 353 section 18-81nn.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	51-278(b)
Sec. 2	<i>October 1, 2021</i>	51-278b
Sec. 3	<i>October 1, 2021</i>	51-279a
Sec. 4	<i>October 1, 2021</i>	51-280
Sec. 5	<i>October 1, 2021</i>	51-285
Sec. 6	<i>from passage</i>	51-277e
Sec. 7	<i>from passage</i>	51-277a

Statement of Purpose:

To make minor changes to (1) the process of appointments, reviews and evaluations by the Criminal Justice Commission including concerning the appointment of the Inspector General, (2) the membership of the Division of Criminal Justice Advisory Board, and (3) the process by which use of force by a peace officer is investigated.

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