



Senate

General Assembly

File No. 519

February Session, 2022

Substitute Senate Bill No. 307

Senate, April 19, 2022

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PROSECUTORIAL ACCOUNTABILITY.

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

1 Section 1. Subsection (h) of section 51-275a of the 2022 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2022*):

4 (h) The commission shall be within the [Division of Criminal Justice.
5 Said division shall provide staff] Office of Governmental Accountability
6 established under section 1-300, as amended by this act, which shall
7 provide administrative support for the commission.

8 Sec. 2. Subsection (b) of section 51-278 of the 2022 supplement to the
9 general statutes is repealed and the following is substituted in lieu
10 thereof (*Effective October 1, 2022*):

11 (b) (1) (A) The Criminal Justice Commission shall appoint (i) two
12 deputy chief state's attorneys as assistant administrative heads of the
13 Division of Criminal Justice, one of whom shall be deputy chief state's
14 attorney for operations and one of whom shall be deputy chief state's
15 attorney for personnel, finance and administration, who shall assist the

16 Chief State's Attorney in his duties, and (ii) one deputy chief state's
17 attorney who shall be appointed by the commission, as provided in
18 subdivision (8) of this subsection, to serve as Inspector General in
19 accordance with section 51-277e, who shall receive his or her
20 prosecutorial powers as a designee of the Chief State's Attorney. The
21 term of office of a deputy chief state's attorney shall be four years from
22 July first in the year of appointment and until the appointment and
23 qualification of a successor unless sooner removed by the Criminal
24 Justice Commission. The Criminal Justice Commission shall designate
25 one deputy chief state's attorney appointed under subparagraph (A)(i)
26 of this subsection who shall, in the absence or disqualification of the
27 Chief State's Attorney, exercise the powers and duties of the Chief
28 State's Attorney until such Chief State's Attorney resumes his duties. For
29 the purposes of this subparagraph, the Criminal Justice Commission
30 means the members of the commission other than the Chief State's
31 Attorney. (B) The Criminal Justice Commission shall appoint a state's
32 attorney for each judicial district, who shall act therein as attorney on
33 behalf of the state. The Criminal Justice Commission shall also appoint,
34 from candidates recommended by the appropriate state's attorney and
35 deemed qualified by the commission, as many assistant state's attorneys
36 and deputy assistant state's attorneys on a full-time or part-time basis
37 for each judicial district as the criminal business of the court, in the
38 opinion of the Chief State's Attorney, may require, and the commission
39 shall also appoint, from candidates recommended by the Chief State's
40 Attorney and deemed qualified by the commission, as many assistant
41 state's attorneys and deputy assistant state's attorneys as are necessary,
42 in the opinion of the Chief State's Attorney, to assist the Chief State's
43 Attorney. Assistant state's attorneys and deputy assistant state's
44 attorneys, respectively, shall assist the state's attorneys for the judicial
45 districts and the Chief State's Attorney in all criminal matters and, in the
46 absence from the district or disability of the state's attorney or at his
47 request, shall have and exercise all the powers and perform all the duties
48 of state's attorney. At least three such assistant state's attorneys or
49 deputy assistant state's attorneys shall be designated by the Chief State's
50 Attorney to handle all prosecutions in the state of housing matters

51 deemed to be criminal. Any assistant or deputy assistant state's attorney
52 so designated should have a commitment to the maintenance of decent,
53 safe and sanitary housing and, to the extent practicable, shall handle
54 housing matters on a full-time basis. At least one assistant state's
55 attorney shall be designated by the Chief State's Attorney to handle all
56 prosecutions in the state of environmental matters deemed to be
57 criminal. Any assistant state's attorney so designated should have a
58 commitment to protecting the environment and, to the extent
59 practicable, shall handle environmental matters on a full-time basis. (C)
60 The Chief State's Attorney may promote any assistant state's attorney,
61 or deputy assistant state's attorney who assists him, and the appropriate
62 state's attorney may promote any assistant state's attorney or deputy
63 assistant state's attorney who assists such state's attorney in the judicial
64 district. The Chief State's Attorney shall notify the Criminal Justice
65 Commission of any such promotion.

66 (2) On and after July 1, 1985, the Chief State's Attorney, deputy chief
67 state's attorneys, state's attorneys, assistant state's attorneys and deputy
68 assistant state's attorneys shall receive salaries in accordance with a
69 compensation plan approved by the Department of Administrative
70 Services.

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

85 (4) Each Chief State's Attorney, deputy chief state's attorney or state's
86 attorney who (A) is ineligible to elect under subdivision (3) of this
87 subsection, (B) is not subject to the provisions of chapter 66, and (C) had
88 vested under the State Employees Retirement Fund, prior to his
89 appointment to such office, shall vest under the State's Attorneys'
90 Retirement Fund upon reappointment to any such office by the Criminal
91 Justice Commission.

92 (5) The several state's attorneys shall each hold office for [~~eight~~] five
93 years from July first and until the appointment and qualification of a
94 successor unless sooner removed for just cause by the Criminal Justice
95 Commission. Beginning July 1, 2023, the commission shall biennially
96 evaluate the performance of each state's attorney in accordance with
97 section 51-280, as amended by this act.

98 (6) When any vacancy in the office of the Chief State's Attorney or the
99 office of a state's attorney is to be filled, the commission shall make its
100 appointment from the various recommendations of the Chief State's
101 Attorney or the appropriate state's attorney. The commission shall
102 determine how many recommendations it shall require for each
103 appointment.

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

108 (8) When any appointment of a deputy chief state's attorney to serve
109 as Inspector General in accordance with section 51-277e is to be made,
110 the commission shall make such appointment by majority vote. In the
111 event that there is a tie vote for such appointment, the chairperson of
112 the commission shall select the nominee from amongst the candidates
113 in the tie position and said candidate shall be appointed to serve as
114 Inspector General.

115 Sec. 3. Subsection (c) of section 51-278b of the general statutes is
116 repealed and the following is substituted in lieu thereof (*Effective July 1,*

117 2022):

118 (c) The Criminal Justice Commission may discipline for just cause
119 after due notice and hearing by reprimand, demotion or suspension
120 with or without pay from his or her office up to fifteen days, a Chief
121 State's Attorney, deputy chief state's attorney or state's attorney. A
122 recommendation for discipline may be initiated by the Chief State's
123 Attorney. The Chief State's Attorney may discipline any assistant state's
124 attorney or deputy assistant state's attorney who assists [him] the Chief
125 State's Attorney or the appropriate state's attorney may discipline any
126 assistant state's attorney or deputy assistant state's attorney who assists
127 [him] such state's attorney, for just cause after due notice and hearing
128 by reprimand, demotion or suspension with or without pay from his or
129 her office up to fifteen days.

130 Sec. 4. (*Effective from passage*) (a) The Division of Criminal Justice
131 Advisory Board, established pursuant to section 51-279a of the general
132 statutes, shall develop recommended policies on or before November 1,
133 2023. Such policies shall be for the purpose of increasing efficiency,
134 ensuring fairness and eliminating bias across the judicial districts. Such
135 policies shall include, but are not limited to, those addressing:

136 (1) Preliminary criminal case decisions, including:

137 (A) Initiation of charges;

138 (B) Charging juveniles as adults;

139 (C) The standard of proof required to initiate and maintain charges;
140 and

141 (D) Investigatory and discovery materials to be reviewed before
142 charging;

143 (2) Compliance with and enforcement of the state constitutional
144 rights of victims;

145 (3) Case management and staffing, including transfer, continuance

146 and staffing standards;

147 (4) The use of a grand jury for investigations;

148 (5) Circumstances and procedures for deviating from the policies
149 created by the advisory board pursuant to this subsection;

150 (6) A uniform assessment tool for conducting annual performance
151 evaluations for all deputy assistant state's attorneys, assistant state's
152 attorneys, senior assistant state's attorneys, supervisory assistant state's
153 attorneys and any other prosecuting attorneys;

154 (7) Uniform prosecutorial ethics standards in addition to the ethical
155 standards pertaining to all attorneys, including:

156 (A) Adoption of a comprehensive code of ethics for state's attorneys,
157 deputy assistant state's attorneys, assistant state's attorneys, senior
158 assistant state's attorneys, supervisory assistant state's attorneys and
159 any other prosecuting attorneys in accordance with national best
160 practices;

161 (B) Establishment of a process for tracking oversight of ethical
162 compliance by prosecuting attorneys within the state's attorney's
163 judicial district; and

164 (C) Adoption of a process for tracking, monitoring and correcting
165 ethical complaints against or ethical violations by prosecuting attorneys
166 within the state's attorney's judicial district; and

167 (8) Any other issues the advisory board deems necessary.

168 (b) Not later than February 1, 2024, the Division of Criminal Justice
169 Advisory Board shall report on its recommended policies developed
170 pursuant to subsection (a) of this section, in accordance with the
171 provisions of section 11-4a of the general statutes, to the joint standing
172 committee of the General Assembly having cognizance of matters
173 relating to the judiciary.

174 Sec. 5. Section 51-279c of the general statutes is repealed and the

175 following is substituted in lieu thereof (*Effective October 1, 2022*):

176 The Chief State's Attorney shall establish a formal training program
177 for all newly-appointed prosecuting attorneys consisting of not less than
178 five days and an ongoing training program for all prosecuting attorneys
179 consisting of not less than two days each year. Such training programs
180 shall commence January 1, 1998. On and after July 1, 2023, each such
181 training program shall include training on (1) racial bias, including
182 implicit bias; (2) systemic collateral consequences of arrest, charging and
183 incarceration; (3) available conviction and sentencing alternatives; (4)
184 victim interview techniques; (5) mental illness and trauma; and (6)
185 reentry strategies for offenders released into the community. At least
186 one day (A) of each training program for newly-appointed prosecuting
187 attorneys, and (B) annually of such ongoing training programs shall be
188 held in a state correctional facility.

189 Sec. 6. Section 51-280 of the 2022 supplement to the general statutes
190 is repealed and the following is substituted in lieu thereof (*Effective*
191 *October 1, 2022*):

192 (a) The Chief State's Attorney and each state's attorney shall
193 biennially prepare a merit and performance rating for each state's
194 attorney, assistant state's attorney and deputy assistant state's attorney
195 and shall submit the biennial merit and performance rating conducted
196 pursuant to the policy of the Division of Criminal Justice for each state's
197 attorney to the Criminal Justice Commission for its consideration at the
198 time for reappointing such attorneys to any new term or terms. As part
199 of any such biennial merit and performance rating process, the
200 commission may call a state's attorney before the commission for
201 questions concerning any issue raised in a biennial merit and
202 performance rating.

203 (b) The Office of Governmental Accountability, established under
204 section 1-300, as amended by this act, shall biennially prepare a judicial
205 district performance report for each state's attorney which shall include,
206 but not be limited to, data collected pursuant to section 51-286j, as
207 amended by this act.

208 (c) The Office of Governmental Accountability shall provide the
209 judicial district performance report for the judicial districts of Ansonia-
210 Milford, Hartford, Middlesex, New Britain, Stamford-Norwalk and
211 Waterbury to the Criminal Justice Commission on or before July 1, 2023,
212 and every two years thereafter. The Office of Governmental
213 Accountability shall provide the judicial district performance report for
214 the judicial districts of Danbury, Fairfield, Litchfield, New Haven, New
215 London, Tolland and Windham to the Criminal Justice Commission on
216 or before July 1, 2024, and every two years thereafter.

217 (d) The Criminal Justice Commission shall provide each judicial
218 district performance report to the state's attorney who is the subject of
219 the report and post such report on the Internet web site for the Division
220 of Criminal Justice on the same date that the judicial district
221 performance report is provided to the commission. The commission
222 shall review the performance report for each judicial district and the
223 state's attorney shall be given the opportunity to explain any
224 discrepancies between the judicial districts or between past and present
225 performance.

226 (e) When a state's attorney is being considered for reappointment, the
227 judicial district performance reports created by the Office of
228 Governmental Accountability and the performance reviews conducted
229 by the Criminal Justice Commission may be considered by the Criminal
230 Justice Commission.

231 Sec. 7. Section 51-286j of the general statutes is repealed and the
232 following is substituted in lieu thereof (*Effective October 1, 2022*):

233 (a) The Division of Criminal Justice, in consultation with the Judicial
234 Branch, the Department of Correction and the Criminal Justice
235 Information System Governing Board, established under section 54-142,
236 shall collect for the purposes of section 4-68ff disaggregated, case level
237 data by docket number pertaining to defendants who are eighteen years
238 of age or older at the time of the commission of an alleged offense under
239 each of the categories described in subdivisions (1) to [(13)] (14),
240 inclusive, of this subsection, as follows:

- 241 (1) Arrests, including data on citations, summonses, custody arrests,
242 warrants and on-site arrests;
- 243 (2) Arraignments of individuals in custody;
- 244 (3) Continuances;
- 245 (4) Diversionary programs, including data on program applications,
246 program diversions, successful completions by defendants of such
247 programs, failures by defendants to complete such programs and
248 people in diversion on the first of the month;
- 249 (5) Contact between victims and prosecutorial officials, including
250 data on cases involving victims;
- 251 (6) Dispositions, including data on pending cases and cases disposed
252 of;
- 253 (7) Nonjudicial sanctions, including data on nonjudicial sanctions
254 applied, successful completion of nonjudicial sanctions, failure of
255 nonjudicial sanctions and persons on nonjudicial sanction status on the
256 first of the month;
- 257 (8) Plea agreements, including data on total plea agreements,
258 agreements involving probation, agreements involving prison, other
259 agreements and prosecutor's last best offer;
- 260 (9) Cases going to trial, including data on cases added per month,
261 pending trial cases, plea offers accepted by the court per month, plea
262 offers rejected by the court per month, disposition by trial, disposition
263 involving probation, disposition involving prison and other
264 dispositions;
- 265 (10) Demographics, including data on race, sex, ethnicity and age;
- 266 (11) Court fees or fines, including those imposed by the court at the
267 disposition of the defendant's case and any outstanding balance the
268 defendant may have on such fees or fines;

269 (12) Restitution amounts ordered pursuant to subsection (c) of section
270 53a-28, including any amount collected by the court and any amount
271 paid to a victim; [and]

272 (13) The zip code of the defendant's primary residence; and

273 (14) Uses of force investigated by the Office of the Inspector General.

274 (b) No information collected under this section that personally
275 identifies a victim may be disclosed under section 4-68ff.

276 (c) The information collected under this section shall be compiled and
277 reported for each judicial district to the Office of Governmental
278 Accountability, established under section 1-300, as amended by this act,
279 for preparation of judicial district performance reports pursuant to
280 section 51-280, as amended by this act.

281 Sec. 8. Section 1-300 of the general statutes is repealed and the
282 following is substituted in lieu thereof (*Effective October 1, 2022*):

283 (a) There is established the Office of Governmental Accountability.
284 The executive administrator of the office shall serve as the
285 administrative head of the office, who shall be appointed in accordance
286 with the provisions of section 1-301, as amended by this act.

287 (b) The Office of Governmental Accountability shall provide
288 personnel, payroll, affirmative action and administrative and business
289 office functions and information technology associated with such
290 functions for the following: The Judicial Review Council established
291 under section 51-51k, Judicial Selection Commission established under
292 section 51-44a, Board of Firearms Permit Examiners established under
293 section 29-32b, Office of the Child Advocate established under section
294 46a-13k, Office of the Victim Advocate established under section 46a-
295 13b, [and] State Contracting Standards Board established under section
296 4e-2 and Criminal Justice Commission established under section 51-
297 275a, as amended by this act. The personnel, payroll, affirmative action
298 and administrative and business office functions of said offices,
299 commission, council and boards shall be merged and consolidated

300 within the Office of Governmental Accountability.

301 (c) The executive administrator may employ necessary staff to carry
302 out the administrative functions of the Office of Governmental
303 Accountability, within available appropriations. Such necessary staff of
304 the Office of Governmental Accountability shall be in classified service.

305 (d) The Office of Governmental Accountability shall prepare a
306 judicial district performance report for each state's attorney pursuant to
307 the provisions of section 51-280, as amended by this act.

308 ~~[(d)]~~ (e) Nothing in this section shall be construed to affect or limit the
309 independent decision-making authority of the Judicial Review Council,
310 Judicial Selection Commission, Board of Firearms Permit Examiners,
311 Office of the Child Advocate, Office of the Victim Advocate or [the] State
312 Contracting Standards Board or Criminal Justice Commission. Such
313 decision-making authority includes, but is not limited to, decisions
314 concerning budgetary issues and concerning the employment of
315 necessary staff to carry out the statutory duties of each such office,
316 commission, council or board.

317 Sec. 9. Subsection (a) of section 1-301 of the general statutes is
318 repealed and the following is substituted in lieu thereof (*Effective October*
319 *1, 2022*):

320 (a) (1) There shall be a Governmental Accountability Commission,
321 within the Office of Governmental Accountability established under
322 section 1-300, as amended by this act, that shall consist of [six] seven
323 members as follows: (A) The executive director of the Judicial Review
324 Council established under section 51-51k, or the executive director's
325 designee; (B) the chairperson of the Judicial Selection Commission
326 established under section 51-44a, or the chairperson's designee; (C) the
327 chairperson of the Board of Firearms Permit Examiners established
328 under section 29-32b, or the chairperson's designee; (D) the Child
329 Advocate appointed under section 46a-13k, or the advocate's designee;
330 (E) the Victim Advocate appointed under section 46a-13b, or the
331 advocate's designee; [and] (F) the chairperson of the State Contracting

332 Standards Board established under section 4e-2, or the chairperson's
 333 designee; and (G) the chairperson of the Criminal Justice Commission
 334 established under section 51-275a, as amended by this act, or the
 335 chairperson's designee, provided no person serving as a designee under
 336 this subsection may be a state employee. The Governmental
 337 Accountability Commission shall select a chairperson who shall preside
 338 at meetings of the commission. Said commission shall meet for the
 339 purpose of making recommendations to the Governor for candidates for
 340 the executive administrator of the Office of Governmental
 341 Accountability pursuant to the provisions of subsection (b) of this
 342 section, or for the purpose of terminating the employment of the
 343 executive administrator.

344 (2) The commission established under subdivision (1) of this
 345 subsection shall not be construed to be a board or commission within
 346 the meaning of section 4-9a.

| | | |
|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2022 | 51-275a(h) |
| Sec. 2 | October 1, 2022 | 51-278(b) |
| Sec. 3 | July 1, 2022 | 51-278b(c) |
| Sec. 4 | from passage | New section |
| Sec. 5 | October 1, 2022 | 51-279c |
| Sec. 6 | October 1, 2022 | 51-280 |
| Sec. 7 | October 1, 2022 | 51-286j |
| Sec. 8 | October 1, 2022 | 1-300 |
| Sec. 9 | October 1, 2022 | 1-301(a) |

Statement of Legislative Commissioners:

In Section 4(a), subdivisions (4) and (8) were merged to avoid redundancy and in Section 9(a)(1), "six" was changed to "[six] seven" for accuracy.

JUD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 23 \$ | FY 24 \$ |
|--|---------------------|----------|----------|
| Governmental Accountability, Off. | GF - Cost | 400,276 | 386,526 |
| State Comptroller - Fringe Benefits ¹ | GF - Cost | 156,659 | 156,659 |
| Criminal Justice, Div. | GF - Cost | 52,981 | 70,642 |
| State Comptroller - Fringe Benefits ² | GF - Cost | 21,473 | 28,631 |
| Criminal Justice, Div. | GF - Potential Cost | None | 250,000 |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes relating to the Criminal Justice Commission and prosecutors.

Office of Governmental Accountability (OGA)

The bill transfers the Criminal Justice Commission (the "commission") from within the Division of Criminal Justice (DCJ) into the Office of Governmental Accountability (OGA), expands the duties of the commission to include a biennial performance report of each

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

²The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

state's attorney, and adds the commission chairperson to the Governmental Accountability Commission. This is anticipated to result in costs to OGA and the Office of the State Comptroller as described below.

OGA does not have the staff necessary to fulfil new duties under the bill. Therefore, OGA is expected to require five staff and associated equipment which results in an estimated cost of \$556,936 in FY 23 and \$543,186 in FY 24. This estimate consists of an annualized cost of \$386,526 to OGA for salary and an annualized cost of \$156,659 to the Office of the State Comptroller for associated fringe benefits. This also includes a one-time cost of \$13,750 in FY 23 to OGA for equipment.

Division of Criminal Justice (DCJ)

The bill expands the training program that is required for all newly appointed prosecutors and makes the ongoing training required annually. Current law does not specify the frequency of the ongoing training. This change results in an annual cost of \$70,642 for a training program coordinator, plus \$28,631 for fringe benefits.

The bill allows DCJ the opportunity to respond to any discrepancies identified in the performance report. In the event discrepancies are found and DCJ needs additional staff and expertise to formulate a response, the bill results in a potential cost of \$250,000 annually to hire contracted staff.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 307****AN ACT CONCERNING PROSECUTORIAL ACCOUNTABILITY.****SUMMARY**

This bill makes several changes in laws governing the Criminal Justice Commission (the “commission”) and state’s attorneys. Specifically, it does the following:

1. transfers the commission from within the Division of Criminal Justice (DCJ) and into the Office of Governmental Accountability (OGA), and adds the commission chairperson or his designee to the Governmental Accountability Commission (GAC) (§§ 1 & 8-9);
2. shortens the length of state’s attorneys’ terms of office from eight to five years and requires the commission to biennially evaluate the state’s attorney’s performance (§ 2);
3. expands the types of disciplinary action the commission may take against the chief state’s attorney to include reprimand, demotion, or suspension, in addition to removal from office as under current law (§ 3);
4. requires the commission’s advisory board to develop recommended policies by November 1, 2023, to increase efficiency, ensure fairness, and eliminate bias across judicial districts (§ 4);
5. expands the topics that the chief state’s attorney must include in his or her initial and ongoing training programs for prosecuting attorneys (e.g., racial bias and victim interview techniques) (§ 5);
6. requires OGA to biennially prepare a judicial district

performance report for each state's attorney that must include collected, disaggregated, case level prosecutorial data (§§ 6 & 8); and

7. expands the list of required data that the commission must collect to include use of force investigations by the Office of the Inspector General and requires the commission to report the information to OGA to assist in preparing judicial district performance reports (§ 7).

EFFECTIVE DATE: October 1, 2022, except the provision (1) requiring the commission's advisory board to develop uniform polices takes effect upon passage and (2) expanding the types of disciplinary actions the commission may take against the chief state's attorney takes effect July 1, 2022.

§§ 1 & 8-9 — OFFICE OF GOVERNMENTAL ACCOUNTABILITY

The bill transfers the commission from within DCJ to OGA and makes related technical and conforming changes.

Under existing law, OGA consists of independent divisions for which it provides consolidated personnel, payroll, affirmative action, and administrative and business office functions, including information technology associated with these functions. The divisions have independent decision-making authority, including decisions on budgetary issues and employing necessary staff. The bill requires OGA to also provide these services and administrative support to the commission.

Additionally, the bill adds to the GAC the commission's chairperson or his designee. By law, GAC is within OGA and is responsible for (1) recommending OGA executive administrator candidates to the governor and (2) terminating the executive administrator's employment, if necessary.

§ 2 — STATE'S ATTORNEY TERM AND PERFORMANCE REVIEW

The bill shortens a state's attorney's term of office from eight to five

years. As under existing law, the term begins July 1 and lasts until the appointment and qualification of a successor unless he or she is removed for just cause.

Beginning July 1, 2023, the bill requires the commission to biennially evaluate the performance of each state's attorney. By law, the chief state's attorney and each state's attorney must biennially prepare a merit and performance rating for each state's attorney, assistant state's attorney, and deputy assistant state's attorney to the commission for its consideration when considering attorney reappointments (CGS § 51-280).

§ 3 — CHIEF STATE'S ATTORNEY DISCIPLINE

The bill expands the type of disciplinary actions the commission may take against the chief state's attorney to include reprimand, demotion, or suspension (with or without pay for up to 15 days), instead of only removal from office as under current law.

Existing law already allows the commission to take such disciplinary action against deputy chief state's attorneys and state's attorneys. As under existing law, the commission may take this disciplinary action only for good cause and after notice and a hearing.

§ 4 — UNIFORM POLICIES

By law, the DCJ Advisory Board meets monthly to advise on statewide prosecutorial standards, guidelines, and other policy matters (e.g., peer review and conflict resolution) (CGS § 51-279a).

The bill requires the advisory board to develop recommended policies by November 1, 2023, to increase efficiency, ensure fairness, and eliminate bias across judicial districts. The policies must address the following issues:

1. preliminary criminal case decisions, including (a) initiating charges, (b) charging juveniles as adults, (c) the standard of proof required to initiate and maintain charges, and (d) reviewing investigatory and discovery materials before charging;

2. compliance with and enforcement of a victim's state constitutional rights;
3. case management and staffing, including transfer, continuance, and staffing standards;
4. uniform prosecutorial ethics standards in addition to the ethical standards that apply to all attorneys;
5. the use of grand juries for investigations;
6. circumstances and procedures for deviating from these policies;
7. a uniform assessment tool for conducting annual performance evaluations for all deputy assistant state's attorneys, assistant state's attorneys, senior assistant state's attorneys, supervisory assistant state's attorneys, and any other prosecuting attorneys;
8. uniform prosecutorial ethics and general ethical standards for all attorneys, including (a) adopting a comprehensive code of ethics for state's attorneys and prosecuting attorneys based on national best practices; (b) establishing a process for tracking ethical compliance oversight of prosecuting attorneys within the state's attorney's judicial district; and (c) adopting a process for tracking, monitoring, and correcting ethical complaints against or violations by prosecuting attorneys within the state attorney's judicial district; and
9. any other issues the advisory board deems necessary.

The bill requires the advisory board to report its recommended polices to the Judiciary Committee by February 1, 2024.

§ 5 — STATE'S ATTORNEY TRAINING

By law, the chief state's attorney must establish a formal five-day training program for all newly appointed prosecuting attorneys and an ongoing annual two-day training program. Beginning on July 1, 2023, the bill requires these programs to include training on the following

topics:

1. racial bias, including implicit bias;
2. systemic collateral consequences of arrest, charging, and incarceration;
3. available conviction and sentencing alternatives;
4. victim interview techniques;
5. mental illness and trauma; and
6. reentry strategies for offenders released into the community.

The bill requires at least one day of each training program to be held in a state correctional facility.

§§ 6 & 8 — JUDICIAL DISTRICT PERFORMANCE REVIEW

The bill requires OGA to biennially prepare a judicial district performance report for each state's attorney that includes collected, disaggregated, case level prosecutorial data. It must provide the performance reports to the commission biennially, as follows:

1. by July 1, 2023, for the judicial districts of New Britain, Ansonia-Milford, Middlesex, Stamford-Norwalk, Hartford, and Waterbury and
2. by July 1, 2024, for the judicial districts of Danbury, Fairfield, Litchfield, New Haven, New London, Tolland, and Windham.

Under the bill, the commission must also (1) provide each report to the state's attorney who is the report's subject and (2) post the report to the commission's website on the same day it receives the report. The commission must review each judicial district's report and give the state's attorney an opportunity to explain any discrepancies between the judicial districts or past and present performance.

The bill permits the commission to consider its performance reviews

and the OGA reports themselves when considering a state's attorney for reappointment.

§ 7 — DISAGGREGATED CASE LEVEL DATA

By law, the commission, in consultation with the judicial branch, correction department, and Criminal Justice Information System Governing Board, must collect disaggregated, case level data by docket number on defendants who are age 18 or older at the time they committed certain alleged offenses (e.g., arrests, dispositions, or nonjudicial sanctions). The bill expands the list of required data collected to include use of force investigations by the Office of the Inspector General.

As under existing law, information that personally identifies a victim cannot be disclosed when the Office of Policy and Management makes its required presentation on existing prosecutorial data to the Judicial Committee (CCS § 4-68ff).

The bill also requires the commission to compile and report the above information for each judicial district to OGA to assist in its judicial performance report preparation (see § 6).

BACKGROUND

Related Bill

sHB 5499, reported favorably by the Judiciary Committee, similarly expands the types of disciplinary action the Criminal Justice Commission may take against the chief state's attorney.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 23 Nay 16 (03/31/2022)