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## OLR Bill Analysis

sHB 6917

### **AN ACT CONCERNING VARIOUS REVISIONS TO THE CRIMINAL LAW AND CRIMINAL JUSTICE STATUTES.**

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*Requires that CSSD notify victims about a defendant's arrest for violating probation or discharge conditions, and requires the court to allow victims to deliver an in-person or written statement to the court for the record about the defendant's violation*

**BACKGROUND**

**SUMMARY**

This bill makes various unrelated changes in the criminal law and criminal justice statutes. It also makes technical and conforming changes.

A section-by-section analysis follows.

EFFECTIVE DATE: October 1, 2023

**§ 1 — SENTENCE MODIFICATIONS**

*Prohibits a defendant from filing a motion for a (1) sentence reduction or discharge from incarceration within five years after the most recent decision granting him or her relief in full or (2) sentence reduction within three years after the most recent decision granting relief in part*

Existing law allows a sentencing court or judge, at any time during a defendant's incarceration period and after a hearing and for good cause shown, to reduce the defendant's sentence; order the defendant's discharge; or order the defendant's discharge on probation or conditional discharge.

Currently, the law prohibits a defendant from filing a subsequent motion for relief under these provisions until five years after the date of the most recent decision denying him or her relief by a sentence reduction or discharge. The bill extends this prohibition to the most recent decision granting him or her relief in full by a sentence reduction or discharge. It also creates a new prohibition, barring a defendant from filing a subsequent motion for relief until three years after the date of the most recent decision granting him or her relief in part by a sentence reduction. These provisions do not apply to mandatory minimum

sentences, which the court cannot suspend or reduce.

The bill also requires a defendant to give the state a copy of a motion he or she files to reduce or suspend a sentence, along with any supporting materials.

## **§ 2 — EXAMINATION OF CONVICTED DEFENDANT**

*Allows a court to order the DMHAS commissioner to examine any defendant convicted of a crime with a possible penalty of incarceration at any correctional institution who may be a danger to self or others*

By law, if a court believes that a convicted defendant has psychiatric disabilities and is a danger to himself, herself, or others, it may order the Department of Mental Health and Addiction Services (DMHAS) commissioner, prior to sentencing, to examine a convicted defendant using qualified hospital personnel. This provision currently applies to any defendant convicted of (1) specified sex offenses or (2) an offense that may carry the penalty of imprisonment at the Connecticut Correctional Institution at Somers (known as the Osborn Correctional Institution since 1994). The bill broadens the court's authority to order a defendant's examination for an offense that may result in imprisonment at any Connecticut correctional institution, not just Osborn.

By law and unchanged by the bill, after the examination the commissioner must report to the court on whether the defendant should be committed to the hospital's diagnostic unit for more exams or be sentenced as convicted.

## **§ 3 — HOME CONFINEMENT FOR CERTAIN OFFENDERS**

*Allows the DOC commissioner to release a person to home confinement after conviction for avoiding, tampering with, or failing to install an ignition interlock device*

By law, the Department of Correction (DOC) commissioner may release a person to home confinement (i.e., cannot leave home without authorization) after undergoing admission and a risk and needs assessment in the commissioner's custody, if he or she is sentenced to prison for any of the following vehicular crimes:

1. operating a motor vehicle with a refused, suspended, or revoked license or registration;

2. operating a motor vehicle in violation of an operator's license restriction or limitation on the right to operate a motor vehicle requiring use of an ignition interlock device;
3. driving under the influence (DUI); or
4. a first-time conviction for operating a motor vehicle with a child passenger while under the influence of alcohol or drugs or while having an elevated blood alcohol content.

The bill extends the commissioner's authority to release a person to home confinement after conviction for avoiding, tampering with, or failing to install an ignition interlock device. (An ignition interlock is a breath-testing device connected to a motor vehicle's ignition system. It prevents the driver from operating the vehicle if it detects a pre-determined level of alcohol in the driver's breath.)

#### **§ 4 — IMMUNITY FROM ILLEGAL CANNABIS POSSESSION PENALTIES**

*Grants immunity from illegal cannabis possession penalties to people seeking medical assistance in good faith for themselves or others during an overdose*

Existing law allows people age 21 or older to possess, use, or otherwise consume cannabis, up to a specified possession limit (e.g., 1.5 ounces of cannabis plant material and five ounces of this material if it is in a locked container in the person's residence or locked glove box or trunk in the person's motor vehicle, an equivalent amount of cannabis products, or an equivalent combined amount of cannabis and cannabis products). Violators are subject to a range of penalties, depending on their age and the amount of cannabis or cannabis product in their possession.

The bill grants immunity from illegal cannabis possession penalties to the following people found to be in possession of cannabis plant material or product:

1. anyone who seeks medical assistance in good faith for another person based upon a reasonable belief that the person is overdosing on intoxicating liquor or any drug or substance,

2. anyone for whom another person seeks medical assistance in good faith based upon a reasonable belief that the person is overdosing in this way, or
3. anyone who reasonably believes that he or she is overdosing in this way and seeks medical assistance in good faith for himself or herself.

The bill excludes from “good faith” the act of seeking medical assistance while an arrest warrant, search warrant, or lawful search is being executed.

### **§§ 5 & 6 — PENALTIES FOR RECURRING MOTOR VEHICLE LICENSE VIOLATIONS**

*Allows the court to impose a 90-day minimum prison sentence for certain recurring vehicular violations only in the absence of any court-determined mitigating circumstances*

**Motor Vehicle Operator Licensure Violations.** Existing law imposes fines, incarceration, or both as penalties for a person who violates any provision in the driver’s license law (e.g., requirements for permits and licenses depending on a driver’s age) (CGS § 14-36). A first offense is considered an infraction and carries a \$75-\$90 fine. Any subsequent offense carries a penalty of either a \$250-\$350 fine, imprisonment for up to 30 days, or both.

In addition to the above penalties, current law imposes a mandatory one year prison sentence with a 90-day minimum if, before a person’s present violation, he or she committed any of the following violations two or more times: (1) a violation of the driver’s license law; (2) operation of a motor vehicle with a refused, suspended, or revoked license or registration; or (3) any combination of these. The bill adds a condition to the 90-day minimum sentence, permitting it only in the absence of any court-determined mitigating circumstances.

**Operating a Motor Vehicle Without a Valid License or Registration.** Similarly, the law imposes fines, incarceration, or both as penalties for a person who operates a motor vehicle with a refused, suspended, or revoked license or registration. A first offense carries a penalty of either a \$150-\$200 fine, imprisonment for up to three months,

or both. Any subsequent offense carries a penalty of either a \$200-\$600 fine, imprisonment for up to one year, or both.

In addition to the above penalties, current law imposes a mandatory one year prison sentence with a 90-day minimum if, before a person's present violation, he or she committed any of the following violations two or more times: (1) operation of a motor vehicle with a refused, suspended, or revoked license or registration; (2) operation of a motor vehicle without a license; or (3) any combination of these. The bill adds a condition to the 90-minimum sentence, permitting it only in the absence of any court-determined mitigating circumstances.

By law and unchanged by the bill, a person is subject to larger fines and longer incarceration periods for operating a motor vehicle (1) in violation of a limitation placed by the Department of Motor Vehicles commissioner or a court order or (2) during the period the person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation for committing the following crimes:

1. driving under the influence or with an elevated blood alcohol content;
2. driving under the influence or with an elevated blood alcohol content with a child passenger;
3. driving a school bus, student transportation vehicle, or other motor vehicle specifically designated for carrying children while under the influence or with an elevated blood alcohol content, or doing so with a child under age 18 as a passenger;
4. 2nd degree vehicular manslaughter;
5. 2nd degree assault with a motor vehicle; or
6. driving with a revoked license or suspended operating privilege after refusing to submit to a blood, breath, or urine test or to the nontestimonial part of drug influence evaluation.

## **§ 7 — CENTRALIZED INFRACTIONS BUREAU**

*Removes a violation from the list of violations handled by the Superior Court's Centralized Infractions Bureau*

The bill removes a violation from the list of violations handled by the Superior Court's Centralized Infractions Bureau, which processes payments or not guilty pleas for committing infractions or violations. Generally, anyone who is alleged to have committed an infraction or certain violations may either plead not guilty or pay by mail the set fine and any other fee or cost the law prescribes.

Specifically, the bill removes a violation related to an order of rent reduction or suspension, which is subject to a fine. Under current law, the violator can mail the file to the Centralized Infractions Bureau without making a court appearance. But under the bill, fines can no longer be mailed in, so a court appearance is required. By law, the following actions are considered violations, subject to a fine of \$25-\$100 per offense:

1. demanding, accepting, or receiving an excess amount of rent while the order is in affect and no appeal is pending;
2. refusing to obey a rent commission's subpoena, order, or decision; or
3. violating any other provision of the laws on fair rent and retaliatory actions by landlords.

## **§ 8 — PUBLIC DISCLOSURE OF BODY AND DASHBOARD CAMERA FOOTAGE**

*Allows up to 144 hours in delayed public disclosure of recorded footage if an affected officer is not reasonably able to review the recording due to a medical, physical, or psychological response to the incident*

By law, an officer has the right to review recordings from officer-worn body cameras or dashboard cameras if the officer (1) has been asked to give a formal statement about the alleged use of force, (2) is the subject of a disciplinary investigation, or (3) has his or her image or voice captured on the recording. This recorded footage must be disclosed to the public upon request within either of the following timeframes, whichever is earlier: (1) 48 hours after the officer reviews it or (2) if the officer does not review the recording, either 96 hours after the

disciplinary investigation begins or, for officers not subject to investigation, within 96 hours after the request for public disclosure.

The bill allows delayed public disclosure for up to 144 hours after the recorded event if the officer is not reasonably able to review the recording due to a medical or physical response or an acute psychological stress response to the incident.

### **§§ 9 & 10 — 4TH DEGREE SEXUAL ASSAULT**

*Defines “sexual contact” for the crime of 4th degree sexual assault with regard to sexual contact with a dead body, and specifies that the crime pertains to a human dead body*

The bill specifies that the crime of 4th degree sexual assault for sexual contact with a dead body pertains to a human body. It also defines “sexual contact” with dead human bodies as sexual assault victims to mean any contact with the intimate parts of a dead human body, or any contact of the actor’s intimate parts with a dead human body, for the actor’s sexual gratification.

By law and unchanged by the bill, 4th degree sexual assault is a class A misdemeanor punishable by up to 364 days in prison, a fine of up to \$2,000, or both. However, if the victim is under age 16, it is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.

### **§ 11 — COMMUTATION OF PUNISHMENT, RELEASE, OR PARDON**

*Requires the Board of Pardons and Paroles to give copies of a convicted person’s application for commutation, pardon, or release, and related materials, to the state’s attorney before holding a session to consider the application; requires the board to allow the state’s attorney to make a statement at the session*

The Board of Pardons and Paroles (“the board”) has the authority under state law to grant commutations of punishment, release, pardons, and certificates of rehabilitation to any person convicted of any offense against the state. Before holding a session to consider granting a commutation of punishment, release, or pardon, the bill requires the board to give the state’s attorney for the district in which the conviction was obtained the following items upon written request:

1. a copy of the convicted person’s application;



2. any supporting materials and documents filed, except for confidential, privileged, and non-disclosable information under state or federal law that they may contain; and
3. any information obtained by the board about the convicted person's previous history or character from each prosecuting officer, judge, police officer, or other person who may have information about the person's habits, disposition, career, and associates.

The bill also requires the board to allow this state's attorney or his or her designee to appear at the session to make a statement for the record about whether the convicted person should be granted any commutation of punishment, release, or pardon.

## **§ 12 — VICTIM NOTICE AND COURT APPEARANCE**

*Requires that CSSD notify victims about a defendant's arrest for violating probation or discharge conditions, and requires the court to allow victims to deliver an in-person or written statement to the court for the record about the defendant's violation*

### **Notice**

The bill requires the judicial branch's Court Support Services Division (CSSD) to establish a policy requiring that when a defendant is arrested for violating conditions of probation or discharge, any victim of the defendant's original offense be notified of the arrest. It also requires CSSD to give the victim (1) notice of the first hearing date after the defendant's arraignment on charges of violating probation or conditional discharge and (2) information on registering for the statewide automated victim information and notification system (CT SAVIN; see BACKGROUND).

### **Court Appearance**

If the court finds that the defendant has violated probation or conditional discharge conditions, the bill requires it to allow the victim of the defendant's original offense to appear before the court to make a statement for the record about the defendant's violation of these conditions. The bill also allows the victim to submit a written statement to court in place of appearing in person; the court must make any written statement part of the record.

The bill requires the court to consider any victim statement made, either in-person or in writing, when deciding whether to continue the defendant's sentence; modify or enlarge the conditions of probation or discharge; or extend or revoke the probation or conditional discharge period.

**BACKGROUND**

**CT SAVIN**

The judicial branch's statewide automated victim information and notification system (CT SAVIN) is a fully automated service that helps keep crime victims and interested individuals informed of the progress of offender cases through the Connecticut criminal court process (CGS § 54-235).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 3 (03/28/2023)