



# Senate

General Assembly

**File No. 528**

February Session, 2024

Substitute Senate Bill No. 444

*Senate, April 17, 2024*

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 THE MODIFICATION OF SENTENCES FOR CANNABIS-RELATED OFFENSES.**

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

1 Section 1. Section 53a-39 of the 2024 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective from passage*):

4 (a) (1) Except as provided in subdivision (2) of this subsection or  
5 subsection [(b)] (c) of this section, at any time during an executed period  
6 of incarceration, the sentencing court or judge may, after hearing and  
7 for good cause shown, reduce the sentence, order the defendant  
8 discharged, or order the defendant discharged on probation or  
9 conditional discharge for a period not to exceed that to which the  
10 defendant could have been originally sentenced.

11 (2) (A) On and after the effective date of this section, in the case of any  
12 defendant granted permission to participate in a diversionary program,  
13 including as a result of a plea agreement, prior to, on or after the  
14 effective date of this section for a cannabis-related offense, the court  
15 shall, not later than three months after the granting of such permission,

16 order a hearing and, if good cause is shown and where the defendant  
17 would not be in the program but for the alleged cannabis-related  
18 offense, vacate the decision concerning participation in the program and  
19 dismiss the charge or charges for which permission to participate in the  
20 program was granted. For the purposes of this subparagraph, good  
21 cause shall include, but not be limited to, the granting of permission to  
22 a defendant to participate in a diversionary program for the commission  
23 of a cannabis-related offense or offenses pursuant to section 21a-267,  
24 21a-277, 21a-278 or 21a-279.

25 (B) As soon as is practicable after the effective date of this section, any  
26 defendant sentenced prior to the effective date of this section for only a  
27 cannabis-related offense or offenses that are no longer chargeable  
28 offenses on and after July 1, 2021, including as a result of a plea  
29 agreement, including any agreement in which there is an agreed-upon  
30 range of sentence or a period of probation or conditional discharge, the  
31 sentencing court or judge shall order the defendant discharged.

32 (b) On and after the effective date of this section, in the case of any  
33 defendant sentenced prior to the effective date of this section for a  
34 cannabis-related offense or offenses, including as a result of a plea  
35 agreement, including an agreement in which there is an agreed-upon  
36 range of sentence, at any time during an executed period of  
37 incarceration, or a period of probation or conditional discharge, the  
38 sentencing court or judge shall, not later than three months after such  
39 defendant has been sentenced or the effective date of this section,  
40 whichever is sooner, order a hearing and, if good cause is shown, order  
41 the defendant discharged or order the defendant discharged on  
42 probation or conditional discharge for a period not to exceed that to  
43 which the defendant could have been originally sentenced. For the  
44 purposes of this subsection, good cause shall include, but not be limited  
45 to, the commission of a cannabis-related offense or offenses pursuant to  
46 section 21a-267, 21a-277, 21a-278 or 21a-279 by the defendant.

47 [(b) On] (c) Except as provided in subdivision (2) of subsection (a) of  
48 this section, on and after October 1, 2021, at any time during the period

49 of a sentence in which a defendant has been sentenced prior to, on or  
50 after October 1, 2021, to an executed period of incarceration of more than  
51 seven years as a result of a plea agreement, or whenever any defendant  
52 has been convicted of an offense and such offense has been  
53 decriminalized subsequent to the date of the conviction, including an  
54 agreement in which there is an agreed upon range of sentence, upon  
55 agreement of the defendant and the state's attorney to seek review of the  
56 sentence, the sentencing court or judge may, after hearing and for good  
57 cause shown, reduce the sentence, order the defendant discharged, or  
58 order the defendant discharged on probation or conditional discharge  
59 for a period not to exceed that to which the defendant could have been  
60 originally sentenced.

61 [(c)] (d) If, after a hearing pursuant to this section, the sentencing  
62 court or judge denies or grants in full a motion to reduce a defendant's  
63 sentence or discharge the defendant, the defendant may not file a  
64 subsequent motion for relief under this section until five years have  
65 elapsed from the date of the most recent decision denying such  
66 defendant relief pursuant to this section. If, after a hearing pursuant to  
67 this section, the sentencing court or judge grants in part a motion to  
68 reduce a defendant's sentence, the defendant may not file a subsequent  
69 motion for relief under this section until three years from the date of the  
70 most recent decision granting such defendant relief pursuant to this  
71 section.

72 [(d)] (e) The provisions of this section shall not apply to any portion  
73 of a sentence imposed that is a mandatory minimum sentence for an  
74 offense which may not be suspended or reduced by the court.

75 [(e)] (f) At the time the defendant files a motion with the court, the  
76 defendant shall provide the state with a copy of the motion and any  
77 materials and documentation filed with the court in support of such  
78 motion.

79 (g) Following the entry of an order to modify a sentence pursuant to  
80 this section, the clerk of the court in which such person was convicted,  
81 or the Office of the Chief Court Administrator if such person was

82 convicted in the Court of Common Pleas, the Circuit Court, a municipal  
 83 court or a trial justice court, shall cause a copy of such order to be  
 84 forwarded to the Connecticut Sentencing Commission, the Criminal  
 85 Justice Policy and Planning Division within the Office of Policy and  
 86 Management and the correctional facility or temporary detention  
 87 facility where the defendant is incarcerated, not later than ten days after  
 88 the entry of such order.

89 (h) If a defendant is denied a modification pursuant to this section,  
 90 the sentencing court or judge shall file with the record of the case a  
 91 written explanation for the denial and shall provide a copy of such  
 92 written explanation to the defendant whose sentence was considered for  
 93 modification, the defendant's attorney, if so represented, and the  
 94 Connecticut Sentencing Commission.

95 [(f)] (i) At a hearing held by the sentencing court or judge under this  
 96 section, such court or judge shall permit any victim of the crime to  
 97 appear before the court or judge for the purpose of making a statement  
 98 for the record concerning whether or not the sentence of the defendant  
 99 should be reduced, the defendant should be discharged or the  
 100 defendant should be discharged on probation or conditional discharge  
 101 pursuant to subsection (a) or [(b)] (c) of this section. In lieu of such  
 102 appearance, the victim may submit a written statement to the court or  
 103 judge and the court or judge shall make such statement a part of the  
 104 record at the hearing. For the purposes of this subsection, "victim"  
 105 means the victim, the legal representative of the victim or a member of  
 106 the deceased victim's immediate family.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	53a-39

**Statement of Legislative Commissioners:**

In Subsecs. (a)(1) and (i), an internal reference was changed for accuracy.

**JUD**      *Joint Favorable Subst. -LCO*

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 25 \$	FY 26 \$
Judicial Dept.	GF - Cost	2,000,000	1,953,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	767,000	767,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill, which requires the Judicial Department to order the discharge of any person who is incarcerated for only cannabis-related offenses and to order hearings for the possible discharge of other sentences related to cannabis charges, results in a cost to the Judicial Department of about \$2 million in FY 25 and about \$1,953,000 in FY 26 and approximately \$767,000 to the State Comptroller- Fringe Benefits in both fiscal years.

The bill will require a manual review of the Judicial Department's current probation supervision clients to determine who orders should be scheduled for.<sup>2</sup> This process would require approximately 31 temporary clerks to complete the reviews over the course of two years.<sup>3</sup> The estimated cost includes \$1,860,000 in salaries and \$93,000 in other

<sup>1</sup>The 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 41.25% of payroll in FY 25.

<sup>2</sup>As of April 1, 2024, there are approximately 32,000 individuals on probation in the state.

<sup>3</sup>Temporary clerks are compensated at a rate of \$60,000 annually.

expenses for both fiscal years. In FY 25, \$47,000 is included for one-time equipment costs.

The bill's requirements do not result in a fiscal impact to the Department of Correction (DOC). The bill also requires collaboration from DOC regarding any cannabis related sentences, however previous studies have demonstrated that few, if any, are currently incarcerated for such offenses.

***The Out Years***

The costs associated with this bill may continue depending on the Judicial Department's ability to review the cases and order hearings within two years.

**OLR Bill Analysis****SB 444*****AN ACT CONCERNING THE MODIFICATION OF SENTENCES FOR CANNABIS-RELATED OFFENSES.*****SUMMARY**

This bill makes various changes to laws on the modification of criminal sentences for incarcerated people and related issues for criminal defendants.

For cannabis-related offenses, it generally requires that sentenced defendants be (1) discharged from incarceration if they were sentenced only for offenses that are no longer crimes and (2) otherwise entitled to a hearing on whether to discharge their sentence (completely or on probation or conditional discharge). For this latter group, the court must grant the discharge for good cause, including if the offenses were under specified drug laws.

For defendants participating in diversionary programs for cannabis-related offenses, the bill requires the court to hold a hearing and, for good cause and if the defendant would not otherwise be in the program, vacate the decision on program participation and dismiss the charges.

For sentence modifications generally, the bill requires:

1. defendants to get the state attorney's permission if seeking a hearing to modify a sentence for an offense that was decriminalized after the conviction;
2. the clerk for the court where a person was convicted (or the Office of the Chief Court Administrator if that court is now obsolete), to send a copy of a sentence modification order, within 10 days after, to the Connecticut Sentencing Commission, the Office of Policy and Management's Criminal Justice Policy and Planning

Division, and the facility where the person is incarcerated; and

3. the sentencing court or judge, if denying a sentence modification, to file a written explanation with the case record and give a copy to the defendant, his or her attorney if applicable, and the Sentencing Commission.

EFFECTIVE DATE: Upon passage

## **CANNABIS-RELATED OFFENSES**

### ***Mandatory Discharge of Certain Sentences***

The bill requires the sentencing judge or court to order the discharge of any incarcerated person who was sentenced only for a cannabis-related offense or offenses that are no longer crimes since July 1, 2021 (see BACKGROUND). This applies to defendants sentenced before the bill's passage (other than for a mandatory minimum) and includes sentences under a plea agreement, including agreements with an agreed-upon sentence range or probation or conditional discharge period. The judge or court must discharge the defendant as soon as practicable after the bill's passage.

### ***Hearing on Discharge for Other Sentences***

The bill requires the sentencing judge or court to order a hearing on whether to discharge certain defendants from their incarceration, probation, or conditional supervision. This applies to defendants who were sentenced, before the bill's passage, for cannabis-related offenses, (other than for a mandatory minimum) including sentences under an agreed-upon sentence range or other plea agreement. (Presumably, this provision does not apply to defendants covered by the mandatory discharge provisions described above.) The hearing must be held within three months after the bill's passage or the defendant's sentencing, whichever is earlier.

The bill requires the court or judge, upon a showing of good cause, to order the defendant to be (1) discharged completely or (2) discharged on probation or conditional supervision for a period up to the end of the possible sentence. For this purpose, good cause includes that the



person's offense was for cannabis sales or possession or related paraphernalia offenses under specified statutes.

### ***Hearing on Dismissal of Charges and Program Participation***

The bill requires the court to order a hearing for defendants participating in diversionary programs for cannabis-related offenses. This applies to any defendants granted permission to participate in these programs (either before or after the bill's passage), including under a plea agreement. The hearing must be held within three months after the person was given permission to participate.

The court must vacate the decision on program participation and dismiss the charges if (1) good cause is shown (see above) and (2) the defendant is only in the program due to these alleged cannabis-related offenses.

### **SENTENCE MODIFICATION FOR DECRIMINALIZED OFFENSES**

Existing law generally 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. But defendants sentenced to more than seven years in prison under a plea agreement must get the state attorney's agreement to get the hearing. The bill also requires this agreement for defendants seeking a sentence modification for offenses that were decriminalized since their conviction.

As under existing law, mandatory minimum sentences cannot be modified under these provisions.

### **BACKGROUND**

#### ***2021 Cannabis Act***

PA 21-1, June Special Session, legalized the recreational possession and use of cannabis for people age 21 or over, subject to possession limits. Among numerous related provisions, it eliminated certain prior related criminal penalties. This included penalties for (1) possessing ½

ounce or more of cannabis, (2) possessing cannabis near certain buildings (e.g., elementary or secondary schools), and (3) certain paraphernalia-related offenses. It also generally excluded cannabis from existing laws on illegal drug sales and set separate, lower penalties for illegal sales of cannabis.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 23    Nay 12    (04/01/2024)