Connecticut Public Defenders
Office of Chief Public Defender

2023 Legislative Proposal Package

January 11, 2023 (Revised)

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Title Pages

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2023 Legislative Proposal Purposes

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PROPOSAL #1 - AN ACT CONCERNING JUROR COMPENSATION

Purpose: *This proposal would amend C.G.S. 51-247 to permit jury selection to be more inclusive of persons who work part time or are per diems. Connecticut's juror compensation is structured so individuals who are employed full time can serve. However, part time or per diem employees generally are unable to bear the hardship of not working as they will not be paid. By providing just compensation to these individuals, the system will be fairer and expand access to persons in the community to serve as jurors.*

PROPOSAL #2 - AN ACT CONCERNING AN AFFIRMATIVE DEFENSE

Purpose: *This proposal would provide an affirmative defense in violation of probation and violation of criminal protective order proceedings.*

PROPOSAL #3 - AN ACT CONCERNING FELONY MURDER

Purpose: *This proposal would amend the felony murder statute to provide a lesser penalty for a person who is not the person who committed the murder. The proposal is needed for fairness in sentencing. It would differentiate between felony murder in the first degree, when a person commits murder in the course of committing a felony, and felony murder in the second degree, when a person is present as a participant in the commission of a felony but was not the person who committed the murder.*

PROPOSAL #4 - AN ACT CONCERNING LENGTHY SENTENCES

Purpose: *This proposal would amend Public Act 15-84 to expand the eligibility for these hearings to include persons who were 18 - 21 years of age at the time of their conduct. Public Act 15-84 conferred a statutory right to people who were convicted of crimes prior to their 18th birthday to be eligible for parole where the attendant circumstances of youth could be considered at a hearing, commonly referred to as a Miller-Graham hearing, to determine if early release is appropriate for the inmate.*

PROPOSAL #5 - AN ACT CONCERNING CONTROLLED SUBSTANCES

Purpose: *This proposal would amend certain narcotics laws as they apply to (a) Good Samaritans and (b) joint users.*

(a) Connecticut shields Good Samaritans from arrest for possession of drugs or paraphernalia only. Good Samaritans are not immune from arrest, prosecution, and imprisonment for other charges. This proposal would protect and provide an incentive for individuals to render aid to an individual experiencing a drug overdose and save lives. In addition, it will combat statewide racial and jurisdictional disparity and inconsistent prosecutorial discretion leading to these disparities, when it comes to the arrest, prosecution, and dispositions of those charged in connection with a fatal drug overdose.

(b) This proposal would codify the Joint-User Doctrine. This doctrine is based on the concept that, "when two individuals simultaneously and jointly acquire possession of a drug for their own use, intending only to share it together, their only crime is personal drug abuse – simple joint possession, without any intent to distribute the drug further." United States v. Swiderski, 548 F.2d 445, 450 (2nd Cir. 1977). Current statutes define sale as any form of transfer of illegal substances, to include gifting, sharing and providing. The change would distinguish more culpable distributors of illegal drugs for renumeration from mere drug users who acquire illegal drugs to share jointly with friends.

Consistent with the Connecticut legislature's public-health approach to substance use and harm reduction strategies rather than punitive measures, this proposal will assist in reducing the racial disparity which also currently exists with such prosecutions.

PROPOSAL #6 - AN ACT PROMOTING JUSTICE AND EQUITY IN THE CRIMINAL JUSTICE SYSTEM

Purpose: *This proposal contains proposed technical amendments to four statutes:*

(a) This proposal would amend C.G.S. 17a-566, which lists only the "Connecticut Correctional Institution at Somers" as where a post-conviction mental or physical examination can occur. Defendants are incarcerated post-conviction around the state in various facilities. As the statute is outdated, the amendment would correct this for all such defendants.

(b) This proposal would amend C.G.S. 18-98d. Currently, persons who are confined in police or court lockup facilities prior to arraignment because they cannot post bond are entitled to credit. However, the statute requires that the person must request it to get such credit. Since the Uniform Arrest Report shows the date of arrest and is a document available to the Clerk in the Court's file at sentencing, credit should be awarded as a matter of course, given that sentenced people are legally entitled to it.

(c) This proposal would amend C.G.S. 18-100h to enable home confinement for those who qualify regardless of whether the offense of conviction was operating under alcohol-related suspension or ignition interlock device (IID) restriction.

(d) This proposal amends C.G.S. 46b-231(m)(7) to require that, in the setting of financial orders upon an adjudication of civil contempt of a child support obligor, the court articulate two findings on the record: (1) the financial orders are within the obligor's present ability to pay, and (2) the financial orders will not leave the obligor with income insufficient to sustain such obligor's basic welfare. Caselaw already requires that these conditions be met. The proposal merely requires that the court articulate such on the record.

PROPOSAL #7 - AN ACT CONCERNING THE PSYCHIATRIC SECURITY REVIEW BOARD

Purpose: *This proposal would amend C.G.S. 17a-593 to eliminate continued commitment from the Psychiatric Security Review Board (PSRB) statutory scheme and divert that process to the civil probate statutory scheme. This change would cap the term of PSRB supervision at the maximum sentence yet provide a mechanism for the state's attorney to apply for civil commitment in the Probate Court for individuals who truly remain a danger to self or others or are gravely disabled. The current system has resulted in some individuals who had an initial maximum criminal exposure of five years being confined for more than two decades at Connecticut Valley Hospital under the supervision of the Board.*

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2023 Legislative Proposal

PROPOSAL #1

AN ACT CONCERNING JUROR COMPENSATION *(REVISED)*

Purpose: *This proposal would amend C.G.S. 51-247 to permit jury selection to be more inclusive of persons who work part time or are per diems. Connecticut's juror compensation is structured so individuals who are employed full time can serve. However, part time or per diem employees generally are unable to bear the hardship of not working as they will not be paid. By providing just compensation to these individuals, the system will be fairer and expand access to persons in the community to serve as jurors.*

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

SECTION 1. *Section C.G.S. 51-247 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) Each full-time employed juror shall be paid regular wages by the juror's employer for the first five days, or part thereof, of jury service. Such payment shall be subject to the requirements of section 31-71b and any employer who violates this section shall be subject to the provisions of sections 31-71g and 31-72. A person shall not be considered a full-time employed juror on any day of jury service in which such person (1) would not have accrued regular wages to be paid by the employer if such person were not serving as a juror on that day, or (2) would not have worked more than one-half of a shift which extends into another day if such person were not serving as a juror on that day**. Each part-time employed or unemployed juror who has no source of compensation for the first five days of jury service shall receive a flat fee equal to the minimum fair wage, as defined in section 31-58, in effect on the days of jury service, based on an eight-hour day.** Each juror not considered a full-time employed juror on a particular day of jury service pursuant to subdivision (1) or (2) of this subsection shall be reimbursed by the state for necessary out-of-pocket expenses incurred during that

day of jury service, provided such day of service is within the first five days, or part thereof, of jury service. Each part-time employed juror and unemployed juror shall be reimbursed by the state for necessary out-of-pocket expenses incurred during the first five days, or part thereof, of jury service. Necessary out-of-pocket expenses shall include, but not be limited to, **[twenty cents]** **family care at a rate established by the Jury Administrator under subsection (b) of this section and travel expenses, based on the privately owned vehicle mileage reimbursement rate established by the federal General Services Administration,** for each mile of travel from the juror's place of residence to the place of holding the court and return, and shall exclude food. The mileage shall be determined by the shortest direct route either by highway or by any regular line of conveyance between the points. A reimbursement award under this subsection for each day of service shall not be less than twenty dollars or more than **[fifty dollars]** **the minimum fair wage as defined in section 31-58, in effect on the days of jury service, based on an eight-hour day.** For the purposes of this subsection, "full-time employed juror" means an employee holding a position normally requiring thirty hours or more of service in each week, which position is neither temporary nor casual, and includes an employee holding a position through a temporary help service, as defined in section 31129, which position normally requires thirty hours or more of service in each week, who has been working in that position for a period exceeding ninety days, and "part-time employed juror" means an employee holding a position normally requiring less than thirty hours of service in each week or an employee working on a temporary or casual basis. In the event that a juror may be considered to be both a full-time employed juror and a part-time employed juror for any day of the first five days, or part thereof, of jury service, such juror shall, for the purposes of this section, be considered to be a full-time employed juror only.

(b) The Jury Administrator shall establish guidelines for reimbursement of expenses pursuant to this section.

(c) Each juror who serves more than five days **who is not paid by his or her employer after the fifth day** shall be paid by the state for the sixth day and each day thereafter **[at a rate of fifty dollars per day of service]** **a flat fee equal to the minimum fair wage, as defined in section 31-58, in effect on the days of jury service, based on an eight-hour day**. **A juror receiving payment under this subsection shall not be entitled to any additional reimbursement. An unemployed or part-time employed juror who serves more than five days shall also be entitled to family care and travel expenses paid at the rate specified in subsection (a) of this section and subject to the guidelines established in subsection (b) of this section.**

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2023 Legislative Proposal

PROPOSAL #2

AN ACT CONCERNING AN AFFIRMATIVE DEFENSE

Purpose: *This proposal would provide an affirmative defense in violation of probation and violation of criminal protective order proceedings.*

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

SECTION 1. *Section 53a-32 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) At any time during the period of probation or conditional discharge, the court or any judge thereof may issue a warrant for the arrest of a defendant for violation of any of the conditions of probation or conditional discharge, or may issue a notice to appear to answer to a charge of such violation, which notice shall be personally served upon the defendant. Any such warrant shall authorize all officers named therein to return the defendant to the custody of the court or to any suitable detention facility designated by the court. Whenever a probation officer has probable cause to believe that a person has violated a condition of such person's probation, such probation officer may notify any police officer that such person has, in such officer's judgment, violated the conditions of such person's probation and such notice shall be sufficient warrant for the police officer to arrest such person and return such person to the custody of the court or to any suitable detention facility designated by the court. Whenever a probation officer so notifies a police officer, the probation officer shall notify the victim of the offense for which such person is on probation, and any victim advocate assigned to assist the victim, provided the probation officer has been provided with the name and contact information for such victim or victim advocate. Any probation officer may arrest any defendant on probation without a warrant or may deputize any other officer with power to arrest to do so by giving such other officer a written statement setting forth

that the defendant has, in the judgment of the probation officer, violated the conditions of the defendant's probation. Such written statement, delivered with the defendant by the arresting officer to the official in charge of any correctional center or other place of detention, shall be sufficient warrant for the detention of the defendant. After making such an arrest, such probation officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to any defendant arrested under the provisions of this section. Upon such arrest and detention, the probation officer shall immediately so notify the court or any judge thereof.

(b) When the defendant is presented for arraignment on the charge of violation of any of the conditions of probation or conditional discharge, the court shall review any conditions previously imposed on the defendant and may order, as a condition of the pretrial release of the defendant, that the defendant comply with any or all of such conditions in addition to any conditions imposed pursuant to section 54-64a. Unless the court, pursuant to subsection (c) of section 54-64a, orders that the defendant remain under the supervision of a probation officer or other designated person or organization, the defendant shall be supervised by the Court Support Services Division of the Judicial Branch in accordance with subsection (a) of section 54-63b.

(c) Upon notification by the probation officer of the arrest of the defendant or upon an arrest by warrant as herein provided, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charges. At such hearing the defendant shall be informed of the manner in which such defendant is alleged to have violated the conditions of such defendant's probation or conditional discharge, shall be advised by the court that such defendant has the right to retain counsel and, if indigent, shall be entitled to the services of the public defender, and shall have the right to cross-examine witnesses and to present evidence in such defendant's own behalf. Unless good cause is shown, a charge of violation of any of the conditions of probation or conditional discharge shall be disposed of or scheduled for a hearing not later than one hundred twenty days after the defendant is arraigned on such charge.

(d) At any such hearing wherein the defendant is charged with contacting the victim in violation of the conditions of probation, it shall be an affirmative defense that the defendant engaged in the proscribed conduct because a person protected under the order initiated or caused such contact.

[~~(d)~~](e) If such violation is established, the court may: (1) Continue the sentence of probation or conditional discharge; (2) modify or enlarge the conditions of probation or conditional discharge; (3) extend the period of probation or conditional discharge, provided the original period with any extensions shall not exceed the periods authorized by section 53a-29; or (4) revoke the sentence of probation or conditional

discharge. If such sentence is revoked, the court shall require the defendant to serve the sentence imposed or impose any lesser sentence. Any such lesser sentence may include a term of imprisonment, all or a portion of which may be suspended entirely or after a period set by the court, followed by a period of probation with such conditions as the court may establish. No such revocation shall be ordered, except upon consideration of the whole record and unless such violation is established by the introduction of reliable and probative evidence and by a preponderance of the evidence.

SECTION 2. *Section 53a-40e of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) If any person is convicted of (1) a violation of section 53a-70b of the general statutes, revision of 1958, revised to January 1, 2019, or subdivision (1) or (2) of subsection (a) of section 53-21, section 53a-59, 53a-59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-181c, 53a-181d, 53a-181e, 53a-182b or 53a-183, subdivision (2) of subsection (a) of section 53a-192a, section 53a-223, 53a-223a or 53a-223b or attempt or conspiracy to violate any of said sections or section 53a-54a, or (2) any crime that the court determines constitutes a family violence crime, as defined in section 46b-38a, or attempt or conspiracy to commit any such crime, the court may, in addition to imposing the sentence authorized for the crime under section 53a-35a or 53a-36, if the court is of the opinion that the history and character and the nature and circumstances of the criminal conduct of such offender indicate that a standing criminal protective order will best serve the interest of the victim and the public, issue a standing criminal protective order which shall remain in effect for a duration specified by the court until modified or revoked by the court for good cause shown. If any person is convicted of any crime not specified in subdivision (1) or (2) of this subsection, the court may, for good cause shown, issue a standing criminal protective order pursuant to this subsection.

(b) Such standing criminal protective order may include, but need not be limited to, provisions enjoining the offender from (1) imposing any restraint upon the person or liberty of the victim; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the victim; or (3) entering the family dwelling or the dwelling of the victim. If the victim is enrolled in a public or private elementary or secondary school, including a technical high school, or an institution of higher education, as defined in section 10a-55, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such standing criminal protective order, or the information contained in any such order, to such school or institution of higher education, the president of any institution of higher education at which the victim is enrolled and the special police force established pursuant to section 10a-142, if any, at the institution of higher education at which the victim is enrolled, if the victim provides the clerk with the name and address of such school or institution of higher education.

(c) (1) Such standing criminal protective order shall include the following notice: "In accordance with section 53a-223a of the Connecticut general statutes, violation of this order shall be punishable by a term of imprisonment of not less than one year nor more than ten years, a fine of not more than ten thousand dollars, or both.".

(2) Upon issuance of a standing criminal protective order under subsection (a) of this section, each victim protected by such order shall be given a notice that contains the following language: "If a standing criminal protective order has been issued on your behalf or on behalf of your child, you may elect to give testimony or appear in a family court proceeding remotely, pursuant to section 46b-15c. Please notify the court in writing at least two days in advance of a proceeding if you choose to give testimony or appear remotely, and your physical presence in the courthouse will not be required in order to participate in the court proceeding.".

(d) For the purposes of this section and any other provision of the general statutes, "standing criminal protective order" means (1) a standing criminal restraining order issued prior to October 1, 2010, or (2) a standing criminal protective order issued on or after October 1, 2010.

(e) In any prosecution for a violation of a standing criminal protective order as defined in section 53a-40e, it shall be an affirmative defense that the defendant engaged in the proscribed conduct because a person protected under the order initiated or caused such contact.

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2023 Legislative Proposal

PROPOSAL #3

AN ACT CONCERNING FELONY MURDER

Purpose: *This proposal would amend the felony murder statute to provide a lesser penalty for a person who is not the person who committed the murder. The proposal is needed for fairness in sentencing. It would differentiate between felony murder in the first degree, when a person commits murder in the course of committing a felony, and felony murder in the second degree, when a person is present as a participant in the commission of a felony but was not the person who committed the murder.*

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

SECTION 1. *Section 53a-54c of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

A person is guilty of **felony** murder **in the first degree** when, acting either alone or with one or more persons, such person commits or attempts to commit robbery, home invasion, burglary, kidnapping, sexual assault in the first degree, aggravated sexual assault in the first degree, sexual assault in the third degree, sexual assault in the third degree with a firearm, escape in the first degree, or escape in the second degree and, in the course of and in furtherance of such crime or of flight therefrom, such person, **[or another participant, if any,]**causes the death of a person other than one of the participants, except that in any prosecution under this section, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (2) was not armed with a deadly weapon, or any dangerous instrument; and (3) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (4)

had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

SECTION 2. (NEW) A person is guilty of felony murder in the second degree when, acting with one or more persons, commits or attempts to commit robbery, home invasion, burglary, kidnapping, sexual assault in the first degree, aggravated sexual assault in the first degree, sexual assault in the third degree, sexual assault in the third degree with a firearm, escape in the first degree, or escape in the second degree and, in the course of and in furtherance of such crime or of flight therefrom, a participant, other than the person, causes the death of another person, other than one of the participants, except that in any prosecution under this section, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (2) was not armed with a deadly weapon, or any dangerous instrument; and (3) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (4) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury. Felony Murder in the second degree is a B felony.

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2023 Legislative Proposal

PROPOSAL #4

AN ACT CONCERNING LENGTHY SENTENCES

Purpose: *This proposal would amend Public Act 15-84 to expand the eligibility for these hearings to include persons who were 18 - 21 years of age at the time of their conduct. Public Act 15-84 conferred a statutory right to people who were convicted of crimes prior to their 18th birthday to be eligible for parole where the attendant circumstances of youth could be considered at a hearing, commonly referred to as a Miller-Graham hearing, to determine if early release is appropriate for the inmate.*

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

SECTION 1. *Section C.G.S. 54-125a of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) A person convicted of one or more crimes who is incarcerated on or after October 1, 1990, who received a definite sentence or total effective sentence of more than two years, and who has been confined under such sentence or sentences for not less than one-half of the total effective sentence less any risk reduction credit earned under the provisions of section 18-98e or one-half of the most recent sentence imposed by the court less any risk reduction credit earned under the provisions of section 18-98e, whichever is greater, may be allowed to go at large on parole (1) in accordance with the provisions of section 54-125i, or (2) in the discretion of a panel of the Board of Pardons and Paroles, if (A) it appears from all available information, including any reports from the Commissioner of Correction that the panel may require, that there is a reasonable probability that such inmate will live and remain at liberty without violating the law, and (B) such release is not incompatible with the welfare of society. At the discretion of the panel, and under the terms and conditions as may be prescribed by the panel

including requiring the parolee to submit personal reports, the parolee shall be allowed to return to the parolee's home or to reside in a residential community center, or to go elsewhere. The parolee shall, while on parole, remain under the jurisdiction of the board until the expiration of the maximum term or terms for which the parolee was sentenced less any risk reduction credit earned under the provisions of section 18-98e. Any parolee released on the condition that the parolee reside in a residential community center may be required to contribute to the cost incidental to such residence. Each order of parole shall fix the limits of the parolee's residence, which may be changed in the discretion of the board and the Commissioner of Correction. Within three weeks after the commitment of each person sentenced to more than two years, the state's attorney for the judicial district shall send to the Board of Pardons and Paroles the record, if any, of such person.

(b) (1) No person convicted of any of the following offenses, which was committed on or after July 1, 1981, shall be eligible for parole under subsection (a) of this section: (A) Capital felony, as provided under the provisions of section 53a-54b in effect prior to April 25, 2012, (B) murder with special circumstances, as provided under the provisions of section 53a-54b in effect on or after April 25, 2012, (C) felony murder, as provided in section 53a-54c, (D) arson murder, as provided in section 53a-54d, (E) murder, as provided in section 53a-54a, or (F) aggravated sexual assault in the first degree, as provided in section 53a-70a. (2) A person convicted of (A) a violation of section 53a-100aa or 53a-102, or (B) an offense, other than an offense specified in subdivision (1) of this subsection, where the underlying facts and circumstances of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed.

(c) The Board of Pardons and Paroles shall, not later than July 1, 1996, adopt regulations in accordance with chapter 54 to ensure that a person convicted of an offense described in subdivision (2) of subsection (b) of this section is not released on parole until such person has served eighty-five per cent of the definite sentence imposed by the court. Such regulations shall include guidelines and procedures for classifying a person as a violent offender that are not limited to a consideration of the elements of the offense or offenses for which such person was convicted.

(d) The Board of Pardons and Paroles may hold a hearing to determine the suitability for parole release of any person whose eligibility for parole release is not subject to the provisions of subsection (b) of this section upon completion by such person of seventy-five per cent of such person's definite or total effective sentence less any risk reduction credit earned under the provisions of section 18-98e. An employee of the board or, if deemed necessary by the chairperson, a panel of the board shall assess the suitability for parole release of such person based on the following standards: (1) Whether there is reasonable probability that such person will live and remain at liberty without violating the law, and (2) whether the benefits to such person and society that would result from

such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration. If a hearing is held, and if the board determines that continued confinement is necessary, the board shall articulate for the record the specific reasons why such person and the public would not benefit from such person serving a period of parole supervision while transitioning from incarceration to the community. If a hearing is not held, the board shall document the specific reasons for not holding a hearing and provide such reasons to such person. No person shall be released on parole without receiving a hearing. The decision of the board under this subsection shall not be subject to appeal.

(e) The Board of Pardons and Paroles may hold a hearing to determine the suitability for parole release of any person whose eligibility for parole release is subject to the provisions of subdivision (2) of subsection (b) of this section upon completion by such person of eighty-five per cent of such person's definite or total effective sentence. An employee of the board or, if deemed necessary by the chairperson, a panel of the board shall assess the suitability for parole release of such person based on the following standards: (1) Whether there is a reasonable probability that such person will live and remain at liberty without violating the law, and (2) whether the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration**.** If a hearing is held, and if the board determines that continued confinement is necessary, the board shall articulate for the record the specific reasons why such person and the public would not benefit from such person serving a period of parole supervision while transitioning from incarceration to the community. No hearing pursuant to the provisions of this subsection may proceed unless the parole release panel is in possession of the complete file for such applicant, including any documentation from the Department of Correction, the trial transcript, the sentencing record and any file of any previous parole hearing. Each member of the panel shall certify that all such documentation has been reviewed in preparation for such hearing. If a hearing is not held, the board shall document the specific reasons for not holding a hearing and provide such reasons to such person. No person shall be released on parole without receiving a hearing. The decision of the board under this subsection shall not be subject to appeal.

(f) (1) Notwithstanding the provisions of subsections (a) to (e), inclusive, of this section, a person convicted of one or more crimes committed while such person was under **[eighteen] twenty-one** years of age, who is incarcerated on or after October 1, 2015, and who received a definite sentence or total effective sentence of more than ten years for such crime or crimes prior to, on or after October 1, 2015, may be allowed to go at large on parole in the discretion of the panel of the Board of Pardons and Paroles for the institution in which such person is confined, provided (A) if such person is serving a sentence of fifty years or less, such person shall be eligible for parole after serving sixty

per cent of the sentence or twelve years, whichever is greater, or (B) if such person is serving a sentence of more than fifty years, such person shall be eligible for parole after serving thirty years. Nothing in this subsection shall limit a person's eligibility for parole release under the provisions of subsections (a) to (e), inclusive, of this section if such person would be eligible for parole release at an earlier date under any of such provisions.

(2) The board shall apply the parole eligibility rules of this subsection only with respect to the sentence for a crime or crimes committed while a person was under **[eighteen] twenty-one** years of age. Any portion of a sentence that is based on a crime or crimes committed while a person was **[eighteen] twenty-one** years of age or older shall be subject to the applicable parole eligibility, suitability and release rules set forth in subsections (a) to (e), inclusive, of this section.

(3) Whenever a person becomes eligible for parole release pursuant to this subsection, the board shall hold a hearing to determine such person's suitability for parole release. At least twelve months prior to such hearing, the board shall notify the office of Chief Public Defender, the appropriate state's attorney, the Victim Services Unit within the Department of Correction, the Office of the Victim Advocate and the Office of Victim Services within the Judicial Department of such person's eligibility for parole release pursuant to this subsection. The office of Chief Public Defender shall assign counsel for such person pursuant to section 51-296 if such person is indigent. At any hearing to determine such person's suitability for parole release pursuant to this subsection, the board shall permit (A) such person to make a statement on such person's behalf, (B) counsel for such person and the state's attorney to submit reports and other documents, and (C) any victim of the crime or crimes to make a statement pursuant to section 54-126a. The board may request testimony from mental health professionals or other relevant witnesses, and reports from the Commissioner of Correction or other persons, as the board may require. The board shall use validated risk assessment and needs assessment tools and its risk-based structured decision making and release criteria established pursuant to subsection (d) of section 54-124a in making a determination pursuant to this subsection.

(4) After such hearing, the board may allow such person to go at large on parole with respect to any portion of a sentence that was based on a crime or crimes committed while such person was under **[eighteen] twenty-one** years of age if the board finds that such parole release would be consistent with the factors set forth in subdivisions (1) to (4), inclusive, of subsection (c) of section 54-300 and if it appears, from all available information, including, but not limited to, any reports from the Commissioner of Correction, that (A) there is a reasonable probability that such person will live and remain at liberty without violating the law, (B) the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration, and (C) such person has demonstrated substantial

rehabilitation since the date such crime or crimes were committed considering such person's character, background and history, as demonstrated by factors, including, but not limited to, such person's correctional record, the age and circumstances of such person as of the date of the commission of the crime or crimes, whether such person has demonstrated remorse and increased maturity since the date of the commission of the crime or crimes, such person's contributions to the welfare of other persons through service, such person's efforts to overcome substance abuse, addiction, trauma, lack of education or obstacles that such person may have faced as a child or youth in the adult correctional system, the opportunities for rehabilitation in the adult correctional system and the overall degree of such person's rehabilitation considering the nature and circumstances of the crime or crimes.

(5) After such hearing, the board shall articulate for the record its decision and the reasons for its decision. If the board determines that continued confinement is necessary, the board may reassess such person's suitability for a new parole hearing at a later date to be determined at the discretion of the board, but not earlier than two years after the date of its decision.

(6) The decision of the board under this subsection shall not be subject to appeal.

(g) Any person released on parole under this section shall remain in the custody of the Commissioner of Correction and be subject to supervision by personnel of the Department of Correction during such person's period of parole.

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2023 Legislative Proposal

PROPOSAL #5

AN ACT CONCERNING CONTROLLED SUBSTANCES

Purpose: *This proposal would amend certain narcotics laws as they apply to (a) Good Samaritans and (b) joint users.*

(a) Connecticut shields Good Samaritans from arrest for possession of drugs or paraphernalia only. Good Samaritans are not immune from arrest, prosecution, and imprisonment for other charges. This proposal would protect and provide an incentive for individuals to render aid to an individual experiencing a drug overdose and save lives. In addition, it will combat statewide racial and jurisdictional disparity and inconsistent prosecutorial discretion leading to these disparities, when it comes to the arrest, prosecution, and dispositions of those charged in connection with a fatal drug overdose.

(b) This proposal would codify the Joint-User Doctrine. This doctrine is based on the concept that, "when two individuals simultaneously and jointly acquire possession of a drug for their own use, intending only to share it together, their only crime is personal drug abuse – simple joint possession, without any intent to distribute the drug further." United States v. Swiderski, 548 F.2d 445, 450 (2nd Cir. 1977). Current statutes define sale as any form of transfer of illegal substances, to include gifting, sharing and providing. The change would distinguish more culpable distributors of illegal drugs for renumeration from mere drug users who acquire illegal drugs to share jointly with friends.

Consistent with the Connecticut legislature's public-health approach to substance use and harm reduction strategies rather than punitive measures,

this proposal will assist in reducing the racial disparity which also currently exists with such prosecutions.

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

SECTION 1. *Section C.G.S. 21a-267 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) No person shall use or possess with intent to use drug paraphernalia, as defined in subdivision (20) of section 21a-240, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, as defined in subdivision (9) of section 21a-240, other than cannabis. Any person who violates any provision of this subsection shall be guilty of a class C misdemeanor.

(b) No person shall deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, other than cannabis. Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor.

(c) Any person who violates subsection (a) or (b) of this section (1) with intent to commit such violation at a specific location that the trier of fact determines is (A) in or on the real property comprising a public or private elementary or secondary school, or (B) within two hundred feet of the perimeter of the real property comprising a public or private elementary or secondary school, and (2) who is not enrolled as a student in such school shall be imprisoned for a term of one year which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of subsection (a) or (b) of this section.

(d) The provisions of subsection (a) of this section shall not apply to any person (1) who in good faith, seeks medical assistance for another person who such person reasonably believes is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, (2) for whom another person, in good faith, seeks medical assistance, reasonably believing such person is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, or (3) who reasonably believes he or she is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance and, in good faith, seeks medical assistance for himself or herself, if evidence of the use or possession of drug paraphernalia in violation of said subsection**, or evidence of the possession, control, or delivery of a narcotic or hallucinogenic substance in violation of subsection (a) of § 21a-277,** was obtained as a result of the seeking of such medical

assistance. For the purposes of this subsection, "good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

(e) For purposes of this section, "cannabis" has the same meaning as provided in section 21a-240.

SECTION 2. *Section C.G.S. 21a-277 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a)(1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter **and subsection (e) of this section,** any controlled substance that is a (A) narcotic substance, or (B) hallucinogenic substance.

(2) Any person who violates subdivision (1) of this subsection (A) for a first offense, shall be imprisoned not more than fifteen years and may be fined not more than fifty thousand dollars, or be both fined and imprisoned, (B) for a second offense, shall be imprisoned not more than thirty years and may be fined not more than one hundred thousand dollars, or be both fined and imprisoned, and (C) for any subsequent offense, shall be imprisoned not more than thirty years and may be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned.

(b) (1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter or chapter 420f, any controlled substance other than a (A) narcotic substance, or (B) hallucinogenic substance.

(2) Any person who violates subdivision (1) of this subsection (A) for a first offense, may be fined not more than twenty-five thousand dollars or imprisoned not more than seven years, or be both fined and imprisoned, and (B) for any subsequent offense, may be fined not more than one hundred thousand dollars or imprisoned not more than fifteen years, or be both fined and imprisoned.

(c) No person may knowingly possess drug paraphernalia in a drug factory situation as defined by subdivision (20) of section 21a-240 for the unlawful mixing, compounding or otherwise preparing any controlled substance for purposes of violation of this chapter.

(d) As an alternative to the sentences specified in subsections (a) and (b) of this section, the court may sentence the person to the custody of the Commissioner of Correction for an indeterminate term not to exceed three years or the maximum term specified for the offense, whichever is less, and, at any time within such indeterminate term and without

regard to any other provision of law regarding minimum term of confinement, the Commissioner of Correction may release the convicted person so sentenced subject to such conditions as the commissioner may impose including, but not limited to, supervision by suitable authority. At any time during such indeterminate term, the Commissioner of Correction may revoke any such conditional release in the commissioner's discretion for violation of the conditions imposed and return the convicted person to a correctional institution.

(e) The provisions of this section shall not apply to any persons who jointly acquire possession of a narcotic or hallucinogenic substance for the sole purpose of joint personal use of such substance.

SECTION 3. *Section C.G.S. 21a-278 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a)(1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter **and subsection (c) of this section,** (A) one or more preparations, compounds, mixtures or substances containing an aggregate weight of (i) one ounce or more of heroin or methadone, or (ii) one-half ounce or more of cocaine or cocaine in a free-base form, or (B) a substance containing five milligrams or more of lysergic acid diethylamide. The provisions of this subdivision shall not apply to a person who is, at the time of the commission of the offense, a drug-dependent person.

(2) Any person who violates subdivision (1) of this subsection shall be imprisoned not less than five years or more than life. The execution of the mandatory minimum sentence imposed by the provisions of this subdivision shall not be suspended, except that the court may suspend the execution of such mandatory minimum sentence if, at the time of the commission of the offense, such person was under the age of eighteen years or such person's mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.

(b) (1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter or chapter 420f, (A) a narcotic substance, (B) a hallucinogenic substance, (C) an amphetamine-type substance, or (D) one kilogram or more of a cannabis-type substance. The provisions of this subdivision shall not apply to a person who is, at the time of the commission of the offense, a drug-dependent person.

(2) Any person who violates subdivision (1) of this subsection (A) for a first offense, shall be imprisoned not less than five years or more than twenty years, and (B) for any subsequent offense, shall be imprisoned not less than ten years or more than twenty-

five years. The execution of the mandatory minimum sentence imposed by the provisions of this subdivision shall not be suspended, except that the court may suspend the execution of such mandatory minimum sentence if, at the time of the commission of the offense, such person was under the age of eighteen years or such person's mental capacity was significantly impaired, but not so impaired as to constitute a defense to prosecution.

(c) The provisions of this section shall not apply to any persons who jointly acquire possession of a narcotic or hallucinogenic substance for the sole purpose of joint personal use of such substance.

SECTION 4. *Section C.G.S. 21a-279 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a)(1) Any person who possesses or has under such person's control any quantity of any controlled substance, except less than one-half ounce of a cannabis-type substance and except as authorized in this chapter, shall be guilty of a class A misdemeanor.

(2) For a second offense of subdivision (1) of this subsection, the court shall evaluate such person and, if the court determines such person is a drug-dependent person, the court may suspend prosecution of such person and order such person to undergo a substance abuse treatment program.

(3) For any subsequent offense of subdivision (1) of this subsection, the court may find such person to be a persistent offender for possession of a controlled substance in accordance with section 53a-40.

(b) Any person who violates subsection (a) of this section in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school and who is not enrolled as a student in such school or a licensed child care center, as defined in section 19a-77, that is identified as a child care center by a sign posted in a conspicuous place shall be guilty of a class A misdemeanor and shall be sentenced to a term of imprisonment and a period of probation during which such person shall perform community service as a condition of such probation, in a manner ordered by the court.

(c) To the extent that it is possible, medical treatment rather than criminal sanctions shall be afforded individuals who breathe, inhale, sniff or drink the volatile substances described in subdivision (49) of section 21a-240.

(d) The provisions of subsection (a) of this section shall not apply to any person (1) who in good faith, seeks medical assistance for another person who such person reasonably believes is experiencing an overdose from the ingestion, inhalation or injection of

intoxicating liquor or any drug or substance, (2) for whom another person, in good faith, seeks medical assistance, reasonably believing such person is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance, or (3) who reasonably believes he or she is experiencing an overdose from the ingestion, inhalation or injection of intoxicating liquor or any drug or substance and, in good faith, seeks medical assistance for himself or herself, if evidence of the possession or control of a controlled substance in violation of subsection (a) of this section, **or possession, control, or delivery of a narcotic or hallucinogenic substance in violation of subsection (a) of § 21a-277**, was obtained as a result of the seeking of such medical assistance. For the purposes of this subsection, "good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

(e) No provision of this section shall be construed to alter or modify the meaning of the provisions of section 21a-278.

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2023 Legislative Proposal

PROPOSAL #6

AN ACT PROMOTING JUSTICE AND EQUITY IN THE CRIMINAL JUSTICE SYSTEM

Purpose: *This proposal contains proposed technical amendments to four statutes:*

(a) This would amend C.G.S. 17a-566, which lists only the "Connecticut Correctional Institution at Somers" as where a post-conviction mental or physical examination can occur. Defendants are incarcerated post-conviction around the state in various facilities. As the statute is outdated, the amendment would correct this for all such defendants.

(b) This would amend C.G.S. 18-98d. Currently, persons who are confined in police or court lockup facilities prior to arraignment because they cannot post bond are entitled to credit. However, the statute requires that the person must request it to get such credit. Since the Uniform Arrest Report shows the date of arrest and is a document available to the Clerk in the Court's file at sentencing, credit should be awarded as a matter of course, given that sentenced people are legally entitled to it.

(c) This would amend C.G.S. 18-100h to enable home confinement for those who qualify regardless of whether the offense of conviction was operating under alcohol-related suspension or ignition interlock device (IID) restriction.

(d) This amends C.G.S. 46b-231(m)(7) to require that, in the setting of financial orders upon an adjudication of civil contempt of a child support obligor, the court articulate two findings on the record: (1) the financial orders are within the obligor's present ability to pay, and (2) the financial

orders will not leave the obligor with income insufficient to sustain such obligor's basic welfare. Caselaw already requires that these conditions be met. The proposal merely requires that the court articulate such on the record.

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

SECTION 1. *Section C.G.S. 17a-566 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) Except as provided in section 17a-574 any court prior to sentencing a person convicted of an offense for which the penalty may be imprisonment in **[the Connecticut Correctional Institution at Somers]** **any correctional institution of this state**, or of a sex offense involving (1) physical force or violence, (2) disparity of age between an adult and a minor or (3) a sexual act of a compulsive or repetitive nature, may if it appears to the court that such person has psychiatric disabilities and is dangerous to himself or others, upon its own motion or upon request of any of the persons enumerated in subsection (b) of this section and a subsequent finding that such request is justified, order the commissioner to conduct an examination of the convicted defendant by qualified personnel of the hospital. Upon completion of such examination the examiner shall report in writing to the court. Such report shall indicate whether the convicted defendant should be committed to the diagnostic unit of the hospital for additional examination or should be sentenced in accordance with the conviction. Such examination shall be conducted and the report made to the court not later than fifteen days after the order for the examination. Such examination may be conducted at a correctional facility if the defendant is confined or it may be conducted on an outpatient basis at the hospital or other appropriate location. If the report recommends additional examination at the diagnostic unit, the court may, after a hearing, order the convicted defendant committed to the diagnostic unit of the hospital for a period not to exceed sixty days, except as provided in section 17a-567 provided the hearing may be waived by the defendant. Such commitment shall not be effective until the director certifies to the court that space is available at the diagnostic unit. While confined in said diagnostic unit, the defendant shall be given a complete physical and psychiatric examination by the staff of the unit and may receive medication and treatment without his consent. The director shall have authority to procure all court records, institutional records and probation or other reports which provide information about the defendant.

(b) The request for such examination may be made by the state's attorney or assistant state's attorney who prosecuted the defendant for an offense specified in this section, or by the defendant or his attorney in his behalf. If the court orders such examination, a copy of the examination order shall be served upon the defendant to be examined.

(c) Upon completion of the physical and psychiatric examination of the defendant, but not later than sixty days after admission to the diagnostic unit, a written report of the results thereof shall be filed in quadruplicate with the clerk of the court before

which he was convicted, and such clerk shall cause copies to be delivered to the state's attorney, to counsel for the defendant and to the Court Support Services Division.

(d) Such report shall include the following: (1) A description of the nature of the examination; (2) a diagnosis of the mental condition of the defendant; (3) an opinion as to whether the diagnosis and prognosis demonstrate clearly that the defendant is actually dangerous to himself or others and requires custody, care and treatment at the hospital; and (4) a recommendation as to whether the defendant should be sentenced in accordance with the conviction, sentenced in accordance with the conviction and confined in the hospital for custody, care and treatment, placed on probation by the court or placed on probation by the court with the requirement, as a condition to probation, that he receive outpatient psychiatric treatment.

SECTION 2. *Section C.G.S 18-98d of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a)(1) Any person who is confined to a community correctional center or a correctional institution for an offense committed on or after July 1, 1981, under a mittimus or because such person is unable to obtain bail or is denied bail shall, if subsequently imprisoned, earn a reduction of such person's sentence equal to the number of days which such person spent in such facility from the time such person was placed in presentence confinement to the time such person began serving the term of imprisonment imposed; provided (A) each day of presentence confinement shall be counted only once for the purpose of reducing all sentences imposed after such presentence confinement; and (B) the provisions of this section shall only apply to a person for whom the existence of a mittimus, an inability to obtain bail or the denial of bail is the sole reason for such person's presentence confinement, except that if a person is serving a term of imprisonment at the same time such person is in presentence confinement on another charge and the conviction for such imprisonment is reversed on appeal, such person shall be entitled, in any sentence subsequently imposed, to a reduction based on such presentence confinement in accordance with the provisions of this section. In the case of a fine, each day spent in such confinement prior to sentencing shall be credited against the sentence at a per diem rate equal to the average daily cost of incarceration as determined by the Commissioner of Correction.

(2) (A) Any person convicted of any offense and sentenced on or after October 1, 2001, to a term of imprisonment who was confined to a police station or courthouse lockup in connection with such offense because such person was unable to obtain bail or was denied bail shall, if subsequently imprisoned, earn a reduction of such person's sentence in accordance with subdivision (1) of this subsection equal to the number of days which such person spent in such lockup **[, provided such person at the time of sentencing requests credit for such presentence confinement]. Upon [such request, the court shall indicate on the judgment mittimus the number of days such person**

spent in such presentence confinement] **sentencing, the court shall direct that such presentence confinement be indicated on the judgment mittimus.**

(B) Any person convicted of any offense and sentenced prior to October 1, 2001, to a term of imprisonment, who was confined in a correctional facility for such offense on October 1, 2001, shall be presumed to have been confined to a police station or courthouse lockup in connection with such offense because such person was unable to obtain bail or was denied bail and shall, unless otherwise ordered by a court, earn a reduction of such person's sentence in accordance with the provisions of subdivision (1) of this subsection of one day.

(C) The provisions of this subdivision shall not be applied so as to negate the requirement that a person convicted of a first violation of subsection (a) of section 14-227a and sentenced pursuant to subparagraph (B)(i) of subdivision (1) of subsection (g) of said section serve a term of imprisonment of at least forty-eight consecutive hours.

(b) In addition to any reduction allowed under subsection (a) of this section, if such person obeys the rules of the facility such person may receive a good conduct reduction of any portion of a fine not remitted or sentence not suspended at the rate of ten times the average daily cost of incarceration as determined by the Commissioner of Correction or ten days, as the case may be, for each thirty days of presentence confinement; provided any day spent in presentence confinement by a person who has more than one information pending against such person may not be counted more than once in computing a good conduct reduction under this subsection.

(c) The Commissioner of Correction shall be responsible for ensuring that each person to whom the provisions of this section apply receives the correct reduction in such person's sentence; provided in no event shall credit be allowed under subsection (a) of this section in excess of the sentence actually imposed.

SECTION 3. *Section C.G.S. 18-100h of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) Notwithstanding any provision of the general statutes, whenever a person is sentenced to a term of imprisonment pursuant to section 14-215, subsection (g) of section 14-227a **[or],** subdivision (1) of subsection (c) of section 14-227m**, or 14-227k** and committed by the court to the custody of the Commissioner of Correction, the commissioner may, after admission and a risk and needs assessment of such person, release such person to such person's residence subject to the condition that such person not leave such residence unless otherwise authorized. Based upon the assessment of such person, the commissioner may require such person to be subject to electronic monitoring, which may include the use of a global positioning system and continuous monitoring for alcohol consumption, and to any other conditions the commissioner deems appropriate. Any person released pursuant to this subsection shall remain in the

custody of the commissioner and shall be supervised by employees of the department during the period of such release. Upon the violation by such person of any condition of such release, the commissioner may revoke such release and return such person to confinement in a correctional facility. The commissioner shall establish an advisory committee for the purpose of developing a protocol for the training of correctional staff assigned to the assessment and supervision of offenders eligible for release pursuant to this subsection, evaluation of outcomes of participation in such release, the establishment of victim impact panels and the provision of treatment to such participants. For purposes of this subsection, "continuous monitoring for alcohol consumption" means automatically testing breath, blood or transdermal alcohol concentration levels and tamper attempts at least once every hour regardless of the location of the person being monitored.

(b) Notwithstanding any provision of the general statutes, whenever a person is sentenced to a term of imprisonment for a violation of section 21a-267 or 21a-279 and committed by the court to the custody of the Commissioner of Correction, the commissioner may, after admission and a risk and needs assessment, release such person to such person's residence subject to the condition that such person not leave such residence unless otherwise authorized. Based upon the assessment of such person, the commissioner may require such person to be subject to electronic monitoring, which may include the use of a global positioning system and continuous monitoring for alcohol consumption, to drug testing on a random basis, and to any other conditions that the commissioner may impose. Any person released pursuant to this subsection shall remain in the custody of the commissioner and shall be supervised by employees of the department during the period of such release. Upon the violation by such person of any condition of such release, the commissioner may revoke such release and return such person to confinement in a correctional facility. For purposes of this subsection, "continuous monitoring for alcohol consumption" means automatically testing breath, blood or transdermal alcohol concentration levels and tamper attempts at least once every hour regardless of the location of the person being monitored.

SECTION 4. *Subsection (m) of C.G.S. 46b-231 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(m) The Chief Family Support Magistrate and the family support magistrates shall have the powers and duties enumerated in this subsection.

(1) A family support magistrate in IV-D support cases may compel the attendance of witnesses or the obligor under a summons issued pursuant to section 17b-745, 46b-172 or 46b-215, a subpoena issued pursuant to section 52-143, or a citation for failure to obey an order of a family support magistrate or a judge of the Superior Court. If a person is served with any such summons, subpoena or citation issued by a family support magistrate or the assistant clerk of the Family Support Magistrate Division and fails to

appear, a family support magistrate may issue a capias mittimus directed to a judicial marshal to the extent authorized pursuant to section 46b-225, or any other proper officer to arrest the obligor or the witness and bring the obligor or witness before a family support magistrate. Whenever such a capias mittimus is ordered, the family support magistrate shall establish a recognizance to the state of Connecticut in the form of a bond of such character and amount as to assure the appearance of the obligor at the next regular session of the Family Support Magistrate Division in the judicial district in which the matter is pending. If the obligor posts such a bond, and thereafter fails to appear before the family support magistrate at the time and place the obligor is ordered to appear, the family support magistrate may order the bond forfeited, and the proceeds thereof distributed as required by Title IV-D of the Social Security Act.

(2) (A) Family support magistrates shall hear and determine matters involving child and spousal support in IV-D support cases including petitions for support brought pursuant to sections 17b-81, 17b-179, 17b-745 and 46b-215, applications for show cause orders in IV-D support cases brought pursuant to subsection (b) of section 46b-172, and actions for interstate enforcement of child and spousal support and paternity under sections 46b-301 to 46b-425, inclusive, and shall hear and determine all motions for modifications of child and spousal support in such cases.

(B) In all IV-D support cases, family support magistrates shall have the authority to order any obligor who is subject to a plan for reimbursement of past-due support and is not incapacitated to participate in work activities which may include, but shall not be limited to, job search, training, work experience and participation in the job training and retraining program established by the Labor Commissioner pursuant to section 31-3t.

(C) A family support magistrate shall not modify an order for periodic payment on an arrearage due the state for state assistance which has been discontinued to increase such payments, unless the family support magistrate first determines that the state has made a reasonable effort to notify the current recipient of child support, at the most current address available to the IV-D agency, of the pendency of the motion to increase such periodic arrearage payments and of the time and place of the hearing on such motion. If such recipient appears, either personally or through a representative, at such hearing, the family support magistrate shall determine whether the order in effect for child support is reasonable in relation to the current financial circumstances of the parties, prior to modifying an order increasing such periodic arrearage payments.

(3) Family support magistrates shall review and approve or disapprove all agreements for support in IV-D support cases filed with the Family Support Magistrate Division in accordance with sections 17b-179, 17b-745, 46b-172, 46b-215 and subsection (c) of section 53-304.

(4) Motions for modification of existing child and spousal support orders entered by the Superior Court in IV-D support cases, including motions to modify existing child

and spousal support orders entered in actions brought pursuant to chapter 815j, shall be brought in the Family Support Magistrate Division and decided by a family support magistrate. Family support magistrates, in deciding if a spousal or child support order should be modified, shall make such determination based upon the criteria set forth in sections 46b-84 and 46b-215b. A person who is aggrieved by a decision of a family support magistrate modifying a Superior Court order is entitled to appeal such decision in accordance with the provisions of subsection (n) of this section.

(5) Proceedings to establish paternity in IV-D support cases shall be filed in the family support magistrate division for the judicial district where the mother or putative father resides. The matter shall be heard and determined by a family support magistrate in accordance with the provisions of chapter 815y.

(6) Agreements for support obtained in IV-D support cases shall be filed with the assistant clerk of the family support magistrate division for the judicial district where the mother or the father of the child resides, pursuant to subsection (b) of section 46b-172, and shall become effective as an order upon filing with the clerk. Such support agreements shall be reviewed by a family support magistrate who shall approve or disapprove the agreement. If the support agreement filed with the clerk is disapproved by a family support magistrate, the reason for disapproval shall be stated in the record and such disapproval shall have a retroactive effect. Upon such disapproval, the clerk shall schedule a hearing for the purpose of determining appropriate support amounts and shall notify all appearing parties of the hearing date.

(7) **(A)** Family support magistrates shall enforce orders for child and spousal support entered by such family support magistrate and by the Superior Court in IV-D support cases by citing an obligor for contempt. Family support magistrates, in IV-D support cases, may order any obligor who is subject to a plan for reimbursement of past-due support and is not incapacitated, to participate in work activities which may include, but shall not be limited to, job search, training, work experience and participation in the job training and retraining program established by the Labor Commissioner pursuant to section 31-3t.

(B) Family support magistrates shall **[~~also~~]** enforce income withholding orders entered pursuant to section 52-362, including any additional amounts to be applied toward liquidation of any arrearage, as required under subsection (e) of said section.

(C) Family support magistrates may require the obligor to furnish recognizance to the state of Connecticut in the form of a cash deposit or bond of such character and in such amount as the Family Support Magistrate Division deems proper to assure appearance at the next regular session of the Family Support Magistrate Division in the judicial district in which the matter is pending. Upon failure of the obligor to post such bond, the family support magistrate may refer the obligor to a community correctional center

until he has complied with such order, provided the obligor shall be heard at the next regular session of the Family Support Magistrate Division in the court to which he was summoned. If no regular session is held within seven days of such referral, the family support magistrate shall either cause a special session of the Family Support Magistrate Division to be convened, or the obligor shall be heard by a Superior Court judge in the judicial district in which the matter is pending. If the obligor fails to appear before the family support magistrate at the time and place he is ordered to appear, the family support magistrate may order the bond, if any, forfeited, and the proceeds thereof distributed as required by Title IV-D of the Social Security Act, and the family support magistrate may issue a capias mittimus for the arrest of the obligor, ordering him to appear before the family support magistrate.

(D) A family support magistrate may determine whether or not an obligor is in contempt of the order of the Superior Court or of a family support magistrate and may make such orders as are provided by law to enforce a support obligation, except that if the family support magistrate determines that incarceration of an obligor for failure to obey a support order may be indicated, the family support magistrate shall inform the obligor of his right to be represented by an attorney and his right to a court-appointed attorney to represent him if he is indigent. If the obligor claims he is indigent and desires an attorney to represent him, the family support magistrate shall conduct a hearing to determine if the obligor is indigent. If, after such hearing, the family support magistrate finds that the obligor is indigent, the family support magistrate shall appoint an attorney to represent the obligor**. If a family support magistrate determines that an obligor is in contempt of the order of the Superior Court or of a family support magistrate, the family support magistrate shall not issue financial orders through which the obligor may purge themselves of the contempt unless the family support magistrate finds, and articulates on the record during the same proceeding, that such financial orders: i) are within the obligor's present ability to pay, and ii) do not leave the obligor with income insufficient to sustain the obligor's basic welfare.**

(8) Agreements between parties as to custody and visitation of minor children in IV-D support cases may be filed with the assistant clerk of the Family Support Magistrate Division. Such agreements shall be reviewed by a family support magistrate, who shall approve the agreement unless he finds such agreement is not in the best interests of the child. Agreements between parties as to custody and visitation in IV-D support cases shall be enforced in the same manner as agreements for support are enforced, pursuant to subdivision (7) of this subsection.

(9) Whenever an obligor is before a family support magistrate in proceedings to establish, modify or enforce a support order in a IV-D support case and such order is not secured by an income withholding order, the family support magistrate may require the obligor to execute a bond or post other security sufficient to perform such order for support, provided the family support magistrate finds that such a bond is available for purchase within the financial means of the obligor. Upon failure of such

obligor to comply with such support order, the family support magistrate may order the bond or the security forfeited and the proceeds thereof distributed as required by Title IV-D of the Social Security Act.

(10) In any proceeding in the Family Support Magistrate Division, if the family support magistrate finds that a party is indigent and unable to pay a fee or fees payable to the court or to pay the cost of service of process, the family support magistrate shall waive such fee or fees and the cost of service of process shall be paid by the state.

(11) A family support magistrate may dismiss any action or proceeding which the family support magistrate may hear and determine.

(12) A family support magistrate may order parties to participate in the parenting education program in accordance with the provisions of section 46b-69b.

(13) Family support magistrates may issue writs of habeas corpus ad testificandum in IV-D support cases for persons in the custody of the Commissioner of Correction.

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2023 Legislative Proposal

PROPOSAL #7

AN ACT CONCERNING THE PSYCHIATRIC SECURITY REVIEW BOARD

Purpose: *This proposal would amend C.G.S. 17a-593 to eliminate continued commitment from the Psychiatric Security Review Board (PSRB) statutory scheme and divert that process to the civil probate statutory scheme. This change would cap the term of PSRB supervision at the maximum sentence yet provide a mechanism for the state's attorney to apply for civil commitment in the Probate Court for individuals who truly remain a danger to self or others or are gravely disabled. The current system has resulted in some individuals who had an initial maximum criminal exposure of five years being confined for more than two decades at Connecticut Valley Hospital under the supervision of the Board.*

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

SECTION 1. *Section C.G.S. 17a-593 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):*

(a) The board, pursuant to section 17a-584 or 17a-592, may recommend to the court the discharge of the acquittee from custody or the acquittee may apply directly to the court for discharge from custody. The court shall send copies of the recommendation or application to the state's attorney and to counsel for the acquittee. An acquittee may apply for discharge not more than once every six months and no sooner than six months after the initial board hearing held pursuant to section 17a-583.

(b) The recommendation or application shall contain the dates on which any prior recommendations or applications for discharge had been filed with the court, the dates on which decisions thereon were rendered, and a statement of facts, including any change in circumstances since the determination on the most recent recommendation or application, sufficient to qualify the acquittee as a person who should be discharged. A

recommendation by the board shall contain findings and conclusions to support the recommendation.

(c) If reasonable cause exists to believe that the acquittee remains a person with psychiatric disabilities or a person with intellectual disability to the extent that his discharge at the expiration of his maximum term of commitment would constitute a danger to himself or others **or is gravely disabled**, the state's attorney **[, at least one hundred thirty-five days prior to such expiration, may petition the court for an order of continued commitment of the acquittee] may make application for commitment of said acquittee to a hospital for psychiatric disabilities pursuant to Title 17a, Chapter 319 I, Part II of the Connecticut General Statutes.**

(d) The court shall forward any application for discharge received from the acquittee **[and any petition for continued commitment of the acquittee]** to the board. The board shall, within ninety days of its receipt of the application or petition, file a report with the court, and send a copy thereof to the state's attorney and counsel for the acquittee, setting forth its findings and conclusions as to whether the acquittee is a person who should be discharged. The board may hold a hearing or take other action appropriate to assist it in preparing its report.

(e) Within ten days of receipt of a recommendation for discharge filed by the board under subsection (a) of this section or receipt of the board's report filed under subsection (d) of this section, either the state's attorney or counsel for the acquittee may file notice of intent to perform a separate examination of the acquittee. An examination conducted on behalf of the acquittee may be performed by a psychiatrist or psychologist of the acquittee's own choice and shall be performed at the expense of the acquittee unless he is indigent. If the acquittee is indigent, the court shall provide him with the services of a psychiatrist or psychologist to perform the examination at the expense of the state. Any such separate examination report shall be filed with the court within thirty days of the notice of intent to perform the examination. To facilitate examinations of the acquittee, the court may order him placed in the temporary custody of any hospital for psychiatric disabilities or other suitable facility or placed with the Commissioner of Developmental Services.

(f) After receipt of the board's report and any separate examination reports, the court shall promptly commence a hearing on the recommendation or application for discharge **[or petition for continued commitment].** At the hearing, the acquittee shall have the burden of proving by a preponderance of the evidence that the acquittee is a person who should be discharged.

(g) The court shall make a finding as to the mental condition of the acquittee and, considering that its primary concern is the protection of society and its secondary concern is the safety and well-being of the acquittee, make one of the following orders: (1) If the court finds that the acquittee is not a person who should be discharged, the court shall order the recommendation or application for discharge be dismissed; or (2) if

the court finds that the acquittee is a person who should be discharged, the court shall order the acquittee discharged from custody. The court shall send a copy of such finding and order to the board.