Connecticut Public Defenders
Office of Chief Public Defender

2024 Legislative Package
January 16, 2024 Revised

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2024 Legislative Proposal Package

Title Pages

OFFICE OF CHIEF PUBLIC DEFENDER

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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.*

2. AN ACT CONCERNING RISK PROTECTION ORDERS OR WARRANTS

Purpose: *This proposal would amend P.A. 23-89 to permit indigent persons to apply for public defender services. Current law provides adults with the right to counsel if the subject of a risk protection order. However, although an indigent person has such a right, they have no access to counsel due to their lack of financial resources even if they are represented by court appointed counsel in a pending criminal proceeding.*

While P.A. 23-89 granted juveniles the right to representation by the Division of Public Defender Services, it did not extend to adults. This amendment would insure indigent adults who are the subject of the risk protection process, and who are represented in a pending criminal proceeding by a public defender or assigned counsel, appointment of such counsel if eligible per statute.

3. AN ACT CONCERNING LENGTHY SENTENCES

Purpose: *This proposal would amend Public Act 23-169, which amended Public Act 15-84, to expand the eligibility for these hearings to include all persons who were 18 - 21 years of age at the time of their conduct. It would also expand eligibility to certain persons depending upon whether their sentence was mor or less than 35 years.*

Originally 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. Public Act 23-169 extended eligibility but only to persons who were under the age of 21 and convicted before October 1, 2005.

4. AN ACT REGARDING INTELLECTUAL DISABILITIES AND AUTISM SPECTRUM DISORDER

Purpose: *This proposal would amend C.G.S. 54-56l to expand eligibility to persons with intellectual disabilities and autism spectrum disorder.*

5. 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.

6. 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.

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.

8. AN ACT CONCERNING OPERATING UNDER THE INFLUENCE

Purpose: This proposal would eliminate any requirement to install an ignition interlock device on a motor vehicle when the operating under the influence charge has been nolled, dismissed or in cases where a person has been acquitted after a court or jury trial or the conviction has been erased..

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2024 Legislative Proposal

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.*

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, 2024):*

(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 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 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 be one hundred twelve dollars a day or the equivalent of Connecticut's minimum wage for an eight-hour day [shall not be less than twenty dollars or more than fifty dollars].** 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 shall be paid by the state for the sixth day and each day thereafter at a rate of **one hundred twelve dollars a day or the equivalent of Connecticut's minimum wage for an eight-hour day [~~fifty dollars per day of service~~]**. A juror receiving payment under this subsection shall not be entitled to any additional reimbursement.

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2024 Legislative Proposal

PROPOSAL #2

AN ACT CONCERNING RISK PROTECTION ORDERS OR WARRANTS

Purpose: *This proposal would amend P.A. 23-89 to permit indigent persons to apply for public defender services. Current law provides adults with the right to counsel if the subject of a risk protection order. However, although an indigent person has such a right, they have no access to counsel due to their lack of financial resources even if they are represented by court appointed counsel in a pending criminal proceeding.*

While P.A. 23-89 granted juveniles the right to representation by the Division of Public Defender Services, it did not extend to adults. This amendment would insure indigent adults who are the subject of the risk protection process, and who are represented in a pending criminal proceeding by a public defender or assigned counsel, appointment of such counsel if eligible per statute.

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

SECTION 1. *Subsection (c) of section 29-38c of the general statutes as amended by P.A. 23-89 53a-32 is repealed and the following is substituted in lieu thereof (Effective October 1, 2024):*

(c) A risk protection order [and warrant, if applicable,] issued under subsection (a) of this section, may issue only on an affidavit sworn to by the complainant [or complainants before the judge and] establishing the grounds for issuing the order. [and warrant, if applicable, which] A risk warrant issued under subsection (a) of this section may issue only on an affidavit sworn to by the complainant before the judge establishing the grounds for issuing the warrant. Any such affidavit shall be part of the

court file. In determining whether there is probable cause for a risk protection order and warrant, if applicable, under subsection (a) of this section, the judge shall consider: (1) Recent threats or acts of violence by such person directed toward other persons; (2) recent threats or acts of violence by such person directed toward [himself or herself] such person's self; and (3) recent acts of cruelty to animals as provided in subsection (b) of section 53-247 by such person. In evaluating whether such recent threats or acts of violence constitute probable cause to believe that such person poses a risk of imminent personal injury to [himself or herself] such person's self or to others, the judge may consider other factors including, but not limited to (A) the reckless use, display or brandishing of a firearm or other deadly weapon by such person, (B) a history of the use, attempted use or threatened use of physical force by such person against other persons, (C) prior involuntary confinement of such person in a hospital for persons with psychiatric disabilities, and (D) the illegal use of controlled substances or abuse of alcohol by such person. In the case of a complaint made under subsection (a) of this section, if the judge is satisfied that the grounds for the complaint exist or that there is probable cause to believe that such grounds exist, such judge shall issue a risk protection order and warrant, if applicable, naming or describing the person, and, in the case of the issuance of a warrant, the place or thing to be searched. [If the requisite circumstances are met, the judge shall issue a risk protection order regardless of whether the person is already ineligible to possess a firearm.] The order and warrant, if applicable, shall be directed to any police officer of a regularly organized police department or any state police officer. The order and warrant, if applicable, shall state the grounds or probable cause for issuance and, in the case of a warrant, the warrant shall command the officer to search within a reasonable time the person, place or thing named for any and all firearms and other deadly weapons and ammunition. A copy of the order and warrant, if applicable, shall be [given within a reasonable time to] served upon the person named in the order not later than three days prior to the hearing scheduled pursuant to subsection (e) of this section, together with a notice informing the person that such person has the right to a hearing under this section, the telephone number for the court clerk who can inform the person of the date and time of such hearing and the right to be represented by counsel at such hearing. . **If the person is unable to afford counsel and is currently represented by a public defender or an assigned counsel in any Connecticut jurisdiction in a pending criminal proceeding, counsel shall be appointed on behalf of the person if determined indigent and eligible in accordance with the provisions of chapter 887 of the general statutes for the purposes of proceedings pursuant to this section in the court.**

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2024 Legislative Proposal

PROPOSAL #3

AN ACT CONCERNING LENGTHY SENTENCES

Purpose: *This proposal would amend Public Act 23-169, which amended Public Act 15-84, to expand the eligibility for these hearings to include all persons who were 18 - 21 years of age at the time of their conduct regardless of when their conviction took place. It would also expand eligibility to certain persons depending upon whether their sentence was more or less than 35 years.*

Originally 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. Public Act 23-169 extended eligibility but only to persons who were under the age of 21 and convicted before October 1, 2005.

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, 2024):*

(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 53a100aa 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 **incarceration** 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~~] thirty-five** 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~~] thirty-five** years, such person shall be eligible for parole after serving **twenty-one [~~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, whether the person has also applied for or received a sentence modification 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) ~~(1) Notwithstanding the provisions of subsections (a) to (f), inclusive, of this section, a person convicted of one or more crimes committed while such person was under twenty-one years of age, who was sentenced on or before October 1, 2005, and who received a definite sentence or total effective sentence of more than ten years' incarceration for such crime or crimes committed on or before October 1, 2005, 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 (f), 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 twenty-one years of age. Any portion of a sentence that is based on a crime or crimes committed while a person was twentyone 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 Senate Bill No. 952 Public Act No. 23-169 9 of 13 crime or crimes committed while such person was under 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 person who was under twenty-one years of age in the adult correctional system, the opportunities for rehabilitation in the adult correctional system, whether the person has also applied for or received a sentence modification 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.~~

[(h)] **(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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2024 Legislative Proposal

PROPOSAL #4

AN ACT REGARDING INTELLECTUAL DISABILITIES AND AUTISM SPECTRUM DISORDER

Purpose: *This proposal would amend C.G.S. 54-56l to expand eligibility to persons with intellectual disabilities and autism spectrum disorder.*

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

SECTION 1. *Section C.G.S. 54-56l of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2024):*

(a) There shall be a supervised diversionary program for persons with psychiatric disabilities, person with **intellectual disabilities, persons with autism spectrum disorder,** or persons who are veterans, who are accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature. For the purposes of this section, (1) "psychiatric disability" means a mental or emotional condition, other than solely substance abuse, that (A) has substantial adverse effects on the defendant's ability to function, and (B) requires care and treatment, (2) "veteran" means a veteran, as defined in section 27-103, who is found, pursuant to subsection (d) of this section, to have a mental health condition that is amenable to treatment**, (3) "intellectual disability" is as defined in section 1-1g, and (4) "autism spectrum disorder" means autism spectrum disorder, as defined in section 17a-215f.**

(b) A person shall be ineligible to participate in such supervised diversionary program if such person (1) is ineligible to participate in the pretrial program for accelerated rehabilitation under subsection (c) of section 54-56e, except if a person's ineligibility is

based on the person's being eligible for the pretrial family violence education program established under section 46b-38c, the court may permit such person to participate in the supervised diversionary program if it finds that the supervised diversionary program is the more appropriate program under the circumstances of the case, or (2) has twice previously participated in such supervised diversionary program.

(c) Upon application by any such person for participation in such program, the court shall, but only as to the public, order the court file sealed, provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury, that such person has not had such program invoked in such person's behalf more than once. Court personnel shall provide notice, on a form prescribed by the Office of the Chief Court Administrator, to any victim of such crime or motor vehicle violation, by registered or certified mail, that such person has applied to participate in the program and that such victim has an opportunity to be heard by the court on the matter.

(d) The court shall refer such person to the Court Support Services Division for confirmation of eligibility and assessment of the person's mental health condition. The prosecuting attorney shall provide the division with a copy of the police report in the case to assist the division in its assessment. The division shall determine if the person is amenable to treatment and if appropriate community supervision, treatment and services are available. If the division determines that the person is amenable to treatment and that appropriate community supervision, treatment and services are available, the division shall develop a treatment plan tailored to the person and shall present the treatment plan to the court.

(e) Upon confirmation of eligibility and consideration of the treatment plan presented by the Court Support Services Division, the court may grant the application for participation in the program. If the court grants the application, such person shall be referred to the division. The division may collaborate with the Department of Mental Health and Addiction Services, **the Department of Social Services, or the Department of Developmental Services** or the Department of Veterans Affairs or the United States Department of Veterans Affairs, as applicable, to place such person in a program that provides appropriate community supervision, treatment and services. The person shall be subject to the supervision of a probation officer who has a reduced caseload and specialized training in working with persons with psychiatric disabilities.

(f) The Court Support Services Division shall establish policies and procedures to require division employees to notify any victim of the person admitted to the program of any conditions ordered by the court that directly affect the victim and of such person's scheduled court appearances with respect to the case.

(g) Any person who enters the program shall agree: (1) To the tolling of the statute of limitations with respect to such crime or violation; (2) to a waiver of such person's right to a speedy trial; and (3) to any conditions that may be established by the division concerning participation in the supervised diversionary program including conditions concerning participation in meetings or sessions of the program.

(h) If the Court Support Services Division informs the court that such person is ineligible for the program and the court makes a determination of ineligibility or if the division certifies to the court that such person did not successfully complete the assigned program, the court shall order the court file to be unsealed, enter a plea of not guilty for such person and immediately place the case on the trial list.

(i) If such person satisfactorily completes the assigned program, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If such person does not apply for dismissal of the charges against such person after satisfactorily completing the assigned program, the court, upon receipt of the record of such person's participation in such program submitted by the Court Support Services Division, may on its own motion make a finding of such satisfactory completion and dismiss the charges. Except as provided in subsection (j) of this section, upon dismissal, all records of such charges shall be erased pursuant to section 54-142a. An order of the court denying a motion to dismiss the charges against a person who has completed such person's period of probation or supervision or terminating the participation of a person in such program shall be a final judgment for purposes of appeal.

(j) The Court Support Services Division shall develop and maintain a database of information concerning persons admitted to the supervised diversionary program that shall be available to the state police and organized local police departments for use by sworn police officers when responding to incidents involving such persons. Such information shall include the person's name, date of birth, Social Security number, the violation or violations with which the person was charged, the dates of program participation and whether a deadly weapon or dangerous instrument was involved in the violation or violations for which the program was granted. The division shall enter such information in the database upon such person's entry into the program, update such information as necessary and retain such information for a period of five years after the date of such person's entry into the program.

(k) The Court Support Services Division, in consultation with the Department of Mental Health and Addiction Services **and the Department of Developmental Services**, shall develop standards and oversee appropriate treatment programs to meet

the requirements of this section and may contract with service providers to provide such programs.

(l) The Court Support Services Division shall retain the police report provided to it by the prosecuting attorney and the record of supervision including the dates of supervision and shall provide such information to the court, prosecuting attorney and defense counsel whenever a court is considering whether to grant an application by such person for participation in the supervised diversionary program for a second time.

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2024 Legislative Proposal

PROPOSAL #5

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, 2024):*

(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, 2024):*

(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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2024 Legislative Proposal

PROPOSAL #6

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, 2024):*

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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2024 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, 2024):*

(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.

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2024 Legislative Proposal

PROPOSAL #8

AN ACT CONCERNING OPERATING UNDER THE INFLUENCE

Purpose: *This proposal would eliminate the requirement of an ignition interlock device if the charge(s) of operating under the influence is withdrawn, nolled, dismissed or where the person was acquitted after trial or a conviction for such is vacated or overturned on appeal or the conviction has been erased.*

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

New. SECTION 1. *Section 14-227b of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2024):*

(A) Notwithstanding the provisions of this section, when a person is required pursuant to this section to install and maintain an ignition interlock device or prohibited pursuant to this section from driving a vehicle unless such device is installed and maintained, such condition shall conclude when:

(i) such condition resulted from an arrest and the associated criminal charge is withdrawn, nolled or dismissed; or
(ii) such condition resulted from an arrest and the person is acquitted of the associated offense; or
(iii) such condition resulted from an arrest, the person is convicted of the associated offense and the conviction is vacated or overturned or erased.

(B) Upon such conclusion of such condition, the commissioner shall provide written notification to the person indicating that the condition has concluded. (C) The conclusion pursuant to this subsection of any such condition shall not affect any other such condition.