



General Assembly

**February Session,
2012**

File No. 111

Substitute Senate Bill No. 280

Senate, March 26, 2012

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT REVISING THE PENALTY FOR CAPITAL FELONIES.

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

Section 1. Section 53a-54b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to crimes committed on or after said date*):

A person is guilty of [**a capital felony**] murder with special circumstances who is convicted of any of the following: (1) Murder of a member of the Division of State Police within the Department of Emergency Services and Public Protection or of any local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal who is exercising authority granted under any provision of the general statutes, a judicial marshal in performance of the duties of a judicial marshal, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, a conservation officer or special conservation officer appointed by the Commissioner of Energy and Environmental Protection under the provisions of section 26-5, an employee of the Department of Correction or a person providing services on behalf of said department when such employee or person is acting within the scope of such employee's or person's employment or duties in a correctional institution or facility and the actor is confined in such institution or facility, or any firefighter, while such victim was acting within the scope of such victim's duties; (2) murder committed by a defendant who is hired to commit the same for pecuniary gain or murder committed by one who is hired by the defendant to commit the same for

pecuniary gain; (3) murder committed by one who has previously been convicted of intentional murder or of murder committed in the course of commission of a felony; (4) murder committed by one who was, at the time of commission of the murder, under sentence of life imprisonment; (5) murder by a kidnapper of a kidnapped person during the course of the kidnapping or before such person is able to return or be returned to safety; (6) murder committed in the course of the commission of sexual assault in the first degree; (7) murder of two or more persons at the same time or in the course of a single transaction; or (8) murder of a person under sixteen years of age.

Sec. 2. Section 53a-35a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and, unless the section of the general statutes that defines the crime specifically provides otherwise, the term shall be fixed by the court as follows: (1) (A) For a capital felony committed prior to the effective date of this section under the provisions of section 53a-54b in effect prior to the effective date of this section, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a, as amended by this act, or (B) for the class A felony of murder with special circumstances committed on or after the effective date of this section under the provisions of section 53a-54b in effect on or after the effective date of this section, a term of life imprisonment without the possibility of release; (2) for the class A felony of murder, a term not less than twenty-five years nor more than life; (3) for the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years; (4) for a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years; (5) for the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years; (6) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years; (7) for a class C felony, a term not less than one year nor more than ten years; (8) for a class D felony, a term not less than one year nor more than five years; and (9) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

Sec. 3. Section 53a-35b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

A sentence of **[imprisonment for life shall mean]** life imprisonment means a definite sentence of sixty years, unless the sentence is life imprisonment without

the possibility of release, imposed pursuant to [\[subsection \(g\) of section 53a-46a\]](#) [subparagraph \(A\) or \(B\) of subdivision \(1\) of section 53a-35a, as amended by this act](#), in which case the sentence shall be imprisonment for the remainder of the defendant's natural life.

Sec. 4. Subsection (a) of section 53a-45 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a, [as amended by this act](#), unless it is a capital felony [committed prior to the effective date of this section, punishable in accordance with subparagraph \(A\) of subdivision \(1\) of section 53a-35a, as amended by this act, murder with special circumstances committed on or after the effective date of this section, punishable as a class A felony in accordance with subparagraph \(B\) of subdivision \(1\) of section 53a-35a, as amended by this act](#), or murder under section 53a-54d.

Sec. 5. Subsection (a) of section 53a-46a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person shall be subjected to the penalty of death for a capital felony [committed prior to the effective date of this section under the provisions of section 53a-54b in effect prior to the effective date of this section](#) only if a hearing is held in accordance with the provisions of this section.

Sec. 6. Subsection (a) of section 53a-46b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any sentence of death imposed in accordance with the provisions of section 53a-46a, [as amended by this act](#), shall be reviewed by the Supreme Court pursuant to its rules. In addition to its authority to correct errors at trial, the Supreme Court shall either affirm the sentence of death or vacate said sentence and remand for imposition of a sentence in accordance with [subparagraph \(A\) of subdivision \(1\) of section 53a-35a, as amended by this act](#).

Sec. 7. Subsection (c) of section 53a-54a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a, [as amended by this act](#), unless it is a capital felony [committed prior to the effective date of this section, punishable in accordance with subparagraph \(A\) of subdivision \(1\) of section 53a-35a, as amended by this act, murder with special circumstances committed on or after the effective date of](#)

this section, punishable as a class A felony in accordance with subparagraph (B) of subdivision (1) of section 53a-35a, as amended by this act, or murder under section 53a-54d.

Sec. 8. Subdivision (2) of subsection (j) of section 10-145b of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) When the Commissioner of Education is notified, pursuant to section 10-149a or 17a-101i, that a person holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144o to 10-149, inclusive, has been convicted of (A) a capital felony, [pursuant to] under the provisions of section 53a-54b in effect prior to the effective date of this section, (B) arson murder, pursuant to section 53a-54d, (C) a class A felony, (D) a class B felony, except a violation of section 53a-122, 53a-252 or 53a-291, (E) a crime involving an act of child abuse or neglect as described in section 46b-120, or (F) a violation of section 53-21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88, 53a-90a, 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-217b or 21a-278 or subsection (a) of section 21a-277, any certificate, permit or authorization issued by the State Board of Education and held by such person shall be deemed revoked and the commissioner shall notify such person of such revocation, provided such person may request reconsideration pursuant to regulations adopted by the State Board of Education, in accordance with the provisions of chapter 54. As part of such reconsideration process, the board shall make the initial determination as to whether to uphold or overturn the revocation. The commissioner shall make the final determination as to whether to uphold or overturn the revocation.

Sec. 9. Section 10-145i of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Notwithstanding the provisions of sections 10-144o to 10-146b, inclusive, and 10-149, the State Board of Education shall not issue or reissue any certificate, authorization or permit pursuant to said sections if (1) the applicant for such certificate, authorization or permit has been convicted of any of the following: (A) A capital felony, as defined **[in]** under the provisions of section 53a-54b in effect prior to the effective date of this section; (B) arson murder, as defined in section 53a-54d; (C) any class A felony; (D) any class B felony except a violation of section 53a-122, 53a-252 or 53a-291; (E) a crime involving an act of child abuse or neglect as described in section 46b-120; or (F) a violation of section 53-21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88, 53a-90a, 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-217b or 21a-278 or a violation of subsection (a) of section 21a-277, and (2) the applicant completed

serving the sentence for such conviction within the five years immediately preceding the date of the application.

Sec. 10. Subsection (a) of section 46b-127 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The court shall automatically transfer from the docket for juvenile matters to the regular criminal docket of the Superior Court the case of any child charged with the commission of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), a class A or B felony or a violation of section 53a-54d, provided such offense was committed after such child attained the age of fourteen years and counsel has been appointed for such child if such child is indigent. Such counsel may appear with the child but shall not be permitted to make any argument or file any motion in opposition to the transfer. The child shall be arraigned in the regular criminal docket of the Superior Court at the next court date following such transfer, provided any proceedings held prior to the finalization of such transfer shall be private and shall be conducted in such parts of the courthouse or the building wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes. The file of any case so transferred shall remain sealed until the end of the tenth working day following such arraignment unless the state's attorney has filed a motion pursuant to this subsection, in which case such file shall remain sealed until the court makes a decision on the motion. A state's attorney may, not later than ten working days after such arraignment, file a motion to transfer the case of any child charged with the commission of a class B felony or a violation of subdivision (2) of subsection (a) of section 53a-70 to the docket for juvenile matters for proceedings in accordance with the provisions of this chapter. The court sitting for the regular criminal docket shall, after hearing and not later than ten working days after the filing of such motion, decide such motion.

Sec. 11. Subsection (a) of section 46b-133 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Nothing in this part shall be construed as preventing the arrest of a child, with or without a warrant, as may be provided by law, or as preventing the issuance of warrants by judges in the manner provided by section 54-2a, [as amended by this act](#), except that no child shall be taken into custody on such process except on apprehension in the act, or on speedy information, or in other cases when the use of such process appears imperative. Whenever a child is arrested and charged with a crime, such child may be required to submit to the

taking of his photograph, physical description and fingerprints. Notwithstanding the provisions of section 46b-124, the name, photograph and custody status of any child arrested for the commission of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#) or class A felony may be disclosed to the public.

Sec. 12. Subsection (c) of section 51-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) (1) In any case in which a person has been convicted of a felony, other than a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section](#), the official records of evidence or judicial proceedings in the court may be destroyed upon the expiration of twenty years from the date of imposition of the sentence in such case or upon the expiration of the sentence imposed upon such person, whichever is later.

(2) In any case in which a person has been convicted after trial of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section](#), the official records of evidence or judicial proceedings in the court may be destroyed upon the expiration of seventy-five years from the date of imposition of the sentence in such case.

(3) In any case in which a person has been found not guilty, or in any case that has been dismissed or was not prosecuted, the court may order the destruction or disposal of all exhibits entered in such case upon the expiration of ninety days from the date of final disposition of such case, unless a prior disposition of such exhibits has been ordered pursuant to section 54-36a. In any case in which a nolle has been entered, the court may order the destruction or disposal of all exhibits entered in such case upon the expiration of thirteen months from the date of final disposition of such case. Not less than thirty days prior to the scheduled destruction or disposal of exhibits under this subdivision, the clerk of the court shall send notice to all parties and any party may request a hearing on the issue of such destruction or disposal before the court in which the matter is pending.

(4) In any case in which a person has been convicted of a misdemeanor or has been adjudicated a youthful offender, the court may order the destruction or disposal of all exhibits entered in such case upon the expiration of ten years from the date of imposition of the sentence in such case or upon the expiration of the sentence imposed on such person, whichever is later, unless a prior disposition

of such exhibits has been ordered pursuant to section 54-36a. Not less than thirty days prior to the scheduled destruction or disposal of exhibits under this subdivision, the clerk of the court shall send notice to all parties and any party may request a hearing on the issue of such destruction or disposal before the court in which the matter is pending.

(5) In any case in which a person is charged with multiple offenses, no destruction or disposal of exhibits may be ordered under this subsection until the longest applicable retention period under this subsection has expired. The provisions of this subdivision and subdivisions (3), (4) and (6) of this subsection shall apply to any criminal or motor vehicle case disposed of before, on or after October 1, 2006.

(6) The retention period for the official records of evidence and exhibits in any habeas corpus proceeding, petition for a new trial or other proceeding arising out of a criminal case in which a person has been convicted shall be the same as the applicable retention period under this subsection for the criminal case from which such proceeding or petition arose.

(7) For the purposes of this subsection, "sentence" includes any period of incarceration, parole, special parole or probation.

Sec. 13. Subsection (b) of section 51-199 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The following matters shall be taken directly to the Supreme Court: (1) Any matter brought pursuant to the original jurisdiction of the Supreme Court under section 2 of article sixteen of the amendments to the Constitution; (2) an appeal in any matter where the Superior Court declares invalid a state statute or a provision of the state Constitution; (3) an appeal in any criminal action involving a conviction for a capital felony under the provisions of section 53a-54b in effect prior to the effective date of this section, class A felony [,] or any other felony, including any persistent offender status, for which the maximum sentence which may be imposed exceeds twenty years; (4) review of a sentence of death pursuant to section 53a-46b, as amended by this act; (5) any election or primary dispute brought to the Supreme Court pursuant to section 9-323 or 9-325; (6) an appeal of any reprimand or censure of a probate judge pursuant to section 45a-65; (7) any matter regarding judicial removal or suspension pursuant to section 51-51j; (8) an appeal of any decision of the Judicial Review Council pursuant to section 51-51r; (9) any matter brought to the Supreme Court pursuant to section 52-265a; (10) writs of error; and (11) any other matter as provided by law.

Sec. 14. Section 51-246 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

In the trial of any [**capital case or any case involving imprisonment for life**] case involving a crime punishable by death, life imprisonment without the possibility of release or life imprisonment, the court may, in its discretion, require the jury to remain together in the charge of judicial marshals during the trial and until the jury is discharged by the court from further consideration of the case.

Sec. 15. Section 51-286c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The state's attorney for any judicial district may employ one or more detectives to investigate for the purpose of discovering the perpetrators of any crime committed within this state, whenever the penalty for such crime is capital punishment, [**or imprisonment in the Connecticut Correctional Institution, Somers**] life imprisonment without the possibility of release or life imprisonment. The expenses incurred in the employment of such detectives shall be paid from the State Treasury on an order from the state's attorney employing them.

Sec. 16. Subdivision (1) of subsection (a) of section 52-434 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Each judge of the Supreme Court, each judge of the Appellate Court, each judge of the Superior Court and each judge of the Court of Common Pleas who ceases or has ceased to hold office because of retirement other than under the provisions of section 51-49 and who is an elector and a resident of this state shall be a state referee for the remainder of such judge's term of office as a judge and shall be eligible for appointment as a state referee during the remainder of such judge's life in the manner prescribed by law for the appointment of a judge of the court of which such judge is a member. The Superior Court may refer any civil, nonjury case or with the written consent of the parties or their attorneys, any civil jury case pending before the court in which the issues have been closed to a judge trial referee who shall have and exercise the powers of the Superior Court in respect to trial, judgment and appeal in the case, and any proceeding resulting from a demand for a trial de novo pursuant to subsection (e) of section 52-549z may be referred without the consent of the parties to a judge trial referee who has been specifically designated to hear such proceedings pursuant to subsection (b) of this section. The Superior Court may, with the consent of the parties or their attorneys, refer any criminal case to a judge trial referee who shall have and exercise the powers of the Superior Court in respect to trial, judgment, sentencing and appeal in the case, except that the Superior Court may, without

the consent of the parties or their attorneys, (A) refer any criminal case, other than a criminal jury trial, to a judge trial referee assigned to a geographical area criminal court session, and (B) refer any criminal case, other than a class A or B felony or capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), to a judge trial referee to preside over the jury selection process and any voir dire examination conducted in such case, unless good cause is shown not to refer.

Sec. 17. Subsection (b) of section 53a-25 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D, (5) unclassified and (6) capital felonies [under the provisions of section 53a-54b in effect prior to the effective date of this section](#).

Sec. 18. Subsection (a) of section 53a-30 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant: (1) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip the defendant for suitable employment; (2) undergo medical or psychiatric treatment and remain in a specified institution, when required for that purpose; (3) support the defendant's dependents and meet other family obligations; (4) make restitution of the fruits of the defendant's offense or make restitution, in an amount the defendant can afford to pay or provide in a suitable manner, for the loss or damage caused thereby and the court may fix the amount thereof and the manner of performance; (5) if a minor, (A) reside with the minor's parents or in a suitable foster home, (B) attend school, and (C) contribute to the minor's own support in any home or foster home; (6) post a bond or other security for the performance of any or all conditions imposed; (7) refrain from violating any criminal law of the United States, this state or any other state; (8) if convicted of a misdemeanor or a felony, other than a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, and any sentence of imprisonment is suspended, participate in an alternate incarceration program; (9) reside in a residential community center or halfway house approved by the Commissioner of Correction, and contribute to the cost incident to such residence; (10) participate in a program of community service labor in accordance with section 53a-39c; (11) participate in a program of community service in accordance with section 51-

181c; (12) if convicted of a violation of subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13) if convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as defined in section 54-250, or of a felony that the court finds was committed for a sexual purpose, as provided in section 54-254, register such person's identifying factors, as defined in section 54-250, with the Commissioner of Emergency Services and Public Protection when required pursuant to section 54-251, 54-252 or 54-253, as the case may be; (14) be subject to electronic monitoring, which may include the use of a global positioning system; (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, participate in an anti-bias crime education program; (16) if convicted of a violation of section 53-247, undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant; or (17) satisfy any other conditions reasonably related to the defendant's rehabilitation. The court shall cause a copy of any such order to be delivered to the defendant and to the probation officer, if any.

Sec. 19. Subsection (a) of section 53a-39a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In all cases where a defendant has been convicted of a misdemeanor or a felony, other than a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any other offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, after trial or by a plea of guilty without trial, and a term of imprisonment is part of a stated plea agreement or the statutory penalty provides for a term of imprisonment, the court may, in its discretion, order an assessment for placement in an alternate incarceration program under contract with the Judicial Department. If the Court Support Services Division recommends placement in an alternate incarceration program, it shall also submit to the court a proposed alternate incarceration plan. Upon completion of the assessment, the court shall determine whether such defendant shall be ordered to participate in such program as an alternative to incarceration. If the court determines that the defendant shall participate in such program, the court shall suspend any sentence of imprisonment and shall make participation in the alternate incarceration program a condition of probation as provided in section 53a-30, [as amended by this act](#).

Sec. 20. Subsection (a) of section 53a-40d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order is a person who (1) stands convicted of assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b or criminal trespass under section 53a-107 or 53a-108, and (2) has, (A) been convicted of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b, or criminal trespass under section 53a-107 or 53a-108, (B) been convicted in any other state of any crime the essential elements of which are substantially the same as any of the crimes enumerated in subparagraph (A) of this subdivision, or (C) been released from incarceration with respect to such conviction.

Sec. 21. Section 53a-46d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

A victim impact statement prepared with the assistance of a victim advocate to be placed in court files in accordance with subdivision (2) of subsection (a) of section 54-220 may be read in court prior to imposition of sentence upon a defendant found guilty of a crime punishable by death [or life imprisonment without the possibility of release](#).

Sec. 22. Subsection (a) of section 53a-182b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person is guilty of harassment in the first degree when, with the intent to harass, annoy, alarm or terrorize another person, he threatens to kill or physically injure that person or any other person, and communicates such threat by telephone, or by telegraph, mail, computer network, as defined in section 53a-250, or any other form of written communication, in a manner likely to cause annoyance or alarm and has been convicted of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b,

53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For the purposes of this section, "convicted" means having a judgment of conviction entered by a court of competent jurisdiction.

Sec. 23. Subsection (a) of section 53a-217d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person is guilty of criminal possession of body armor when he possesses body armor and has been (1) convicted of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section](#), a class A felony, except a conviction under section 53a-196a, a class B felony, except a conviction under section 53a-86, 53a-122 or 53a-196b, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153 or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or (2) convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120.

Sec. 24. Subsection (b) of section 54-2a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The court, judge or judge trial referee issuing a bench warrant for the arrest of the person or persons complained against shall, in cases punishable by death, [life imprisonment without the possibility of release](#) or life imprisonment, set the conditions of release or indicate that the person or persons named in the warrant shall not be entitled to bail and may, in all other cases, set the conditions of release. The conditions of release, if included in the warrant, shall fix the first of the following conditions which the court, judge or judge trial referee finds necessary to assure such person's appearance in court: (1) Written promise to appear; (2) execution of a bond without surety in no greater amount than necessary; or (3) execution of a bond with surety in no greater amount than necessary.

Sec. 25. Subsection (a) of section 54-46a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person charged by the state, who has not been indicted by a grand jury prior to May 26, 1983, shall be put to plea or held to trial for any crime punishable by death, [life imprisonment without the possibility of release](#) or life imprisonment unless the court at a preliminary hearing determines there is probable cause to believe that the offense charged has been committed and that the accused person has committed it. The accused person may knowingly and voluntarily waive such preliminary hearing to determine probable cause.

Sec. 26. Section 54-82 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In any criminal case, prosecution or proceeding, the [party] accused may, if [he] the accused so elects when called upon to plead, be tried by the court instead of by the jury; and, in such case, the court shall have jurisdiction to hear and try such case and render judgment and sentence thereon.

(b) If the accused is charged with a crime punishable by death, [or imprisonment for] life imprisonment without the possibility of release or life imprisonment and elects to be tried by the court, the court shall be composed of three judges to be designated by the Chief Court Administrator, or [his] the Chief Court Administrator's designee, who shall name one such judge to preside over the trial. Such judges, or a majority of them, shall have power to decide all questions of law and fact arising upon the trial and render judgment accordingly.

(c) If the [party] accused does not elect to be tried by the court, [he] the accused shall be tried by a jury of six except that no person [,] charged with an offense which is punishable by death, life imprisonment without the possibility of release or life imprisonment, shall be tried by a jury of less than twelve without [his] such person's consent.

Sec. 27. Section 54-82g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The accused may challenge peremptorily, in any criminal trial before the Superior Court for any offense punishable by death or life imprisonment without the possibility of release, twenty-five jurors; for any offense punishable by [imprisonment for] life imprisonment, fifteen jurors; for any offense the punishment for which may be imprisonment for more than one year and for less than life, six jurors; and for any other offense, three jurors. In any criminal trial in which the accused is charged with more than one count on the information or where there is more than one information, the number of challenges is determined by the count carrying the highest maximum punishment. The state, on the trial of any criminal prosecution, may challenge peremptorily the same number of jurors as the accused.

Sec. 28. Subsection (a) of section 54-82h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In any criminal prosecution to be tried to the jury in the Superior Court if it appears to the court that the trial is likely to be protracted, the court may, in its discretion, direct that, after a jury has been selected, two or more additional

jurors shall be added to the jury panel, to be known as "alternate jurors". Such alternate jurors shall have the same qualifications and be selected and subject to examination and challenge in the same manner and to the same extent as the jurors constituting the regular panel, provided, in any case when the court directs the selection of alternate jurors, the number of peremptory challenges allowed shall be as follows: In any criminal prosecution the state and the accused may each peremptorily challenge thirty jurors if the offense for which the accused is arraigned is punishable by death [or life imprisonment without the possibility of release](#), eighteen jurors if the offense is punishable by life imprisonment, eight jurors if the offense is punishable by imprisonment for more than one year and for less than life, and four jurors in any other case.

Sec. 29. Section 54-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No person may be convicted of any crime punishable by death [or life imprisonment without the possibility of release](#) without the testimony of at least two witnesses, or that which is equivalent thereto.

Sec. 30. Subsection (a) of section 54-91a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No defendant convicted of a crime, other than a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section](#), the punishment for which may include imprisonment for more than one year, may be sentenced, or the defendant's case otherwise disposed of, until a written report of investigation by a probation officer has been presented to and considered by the court, if the defendant is so convicted for the first time in this state; but any court may, in its discretion, order a presentence investigation for a defendant convicted of any crime or offense other than a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section](#).

Sec. 31. Subsection (b) of section 54-102j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Upon the conviction of a person of a capital felony [under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section](#) or the conviction of a

person of a crime after trial, or upon order of the court for good cause shown, the state police, all local police departments, any agent of the state police or a local police department and any other person to whom biological evidence has been transferred shall preserve all biological evidence acquired during the course of the investigation of such crime for the term of such person's incarceration.

Sec. 32. Subsection (b) of section 54-125a of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(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 [in] under the provisions of section 53a-54b in effect prior to the effective date of this section, (B) murder with special circumstances, as provided under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section, (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, as amended by this act, 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 less any risk reduction credit earned under the provisions of section 18-98e.

Sec. 33. Subsection (d) of section 54-125d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) Notwithstanding any provision of the general statutes, a sentencing court may refer any person convicted of an offense other than a capital felony under the provisions of section 53a-54b in effect prior to the effective date of this section or a class A felony who is an alien to the Board of Pardons and Paroles for deportation under this section.

Sec. 34. Section 54-131b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Board of Pardons and Paroles may release on medical parole any inmate serving any sentence of imprisonment, except an inmate convicted of a capital felony [as defined in] under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the

provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section, who has been diagnosed pursuant to section 54-131c as suffering from a terminal condition, disease or syndrome, and is so debilitated or incapacitated by such condition, disease or syndrome as to be physically incapable of presenting a danger to society. Notwithstanding any provision of the general statutes to the contrary, the Board of Pardons and Paroles may release such inmate at any time during the term of **[his]** such inmate's sentence.

Sec. 35. Subsection (a) of section 54-131k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Board of Pardons and Paroles may grant a compassionate parole release to any inmate serving any sentence of imprisonment, except an inmate convicted of a capital felony **[, as defined in]** under the provisions of section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under the provisions of section 53a-54b, as amended by this act, in effect on or after the effective date of this section, if it finds that such inmate (1) is so physically or mentally debilitated, incapacitated or infirm as a result of advanced age or as a result of a condition, disease or syndrome that is not terminal as to be physically incapable of presenting a danger to society, and (2) (A) has served not less than one-half of such inmate's definite or aggregate sentence, or (B) has served not less than one-half of such inmate's remaining definite or aggregate sentence after commutation of the original sentence by the Board of Pardons and Paroles.

Sec. 36. Subsection (a) of section 54-193 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be no limitation of time within which a person may be prosecuted for (1) a capital felony under the provisions of section 53a-54b in effect prior to the effective date of this section, a class A felony or a violation of section 53a-54d or 53a-169, (2) a violation of section 53a-165aa or 53a-166 in which such person renders criminal assistance to another person who has committed an offense set forth in subdivision (1) of this subsection, or (3) a violation of section 53a-156 committed during a proceeding that results in the conviction of another person subsequently determined to be actually innocent of the offense or offenses of which such other person was convicted.

Sec. 501. (NEW) (*Effective from passage*) (a) The Commissioner of Correction shall place an inmate on special circumstances high security status and house the inmate in administrative segregation until a reclassification process is completed under subsection (b) of this section, if (1) the inmate is convicted of the class A felony of murder with special circumstances committed on or after the effective

date of this section under the provisions of section 53a-54b of the general statutes, as amended by this act, in effect on or after the effective date of this section, and sentenced to a term of life imprisonment without the possibility of release, or (2) the inmate is in the custody of the Commissioner of Correction for a capital felony committed prior to the effective date of this section under the provisions of section 53a-54b of the general statutes in effect prior to the effective date of this section for which a sentence of death is imposed in accordance with section 53a-46a of the general statutes, as amended by this act, and such inmate's sentence is (A) reduced to a sentence of life imprisonment without the possibility of release by a court of competent jurisdiction, or (B) commuted to a sentence of life imprisonment without the possibility of release.

(b) The commissioner shall establish a reclassification process for the purposes of this section. The reclassification process shall include an assessment of the risk an inmate described in subsection (a) of this section poses to staff and other inmates, and an assessment of whether such risk requires the inmate's placement in administrative segregation or protective custody. If the commissioner places such inmate in administrative segregation pursuant to such assessment, the commissioner shall require the inmate to complete the administrative segregation program operated by the commissioner.

(c) (1) The commissioner shall place such inmate in a housing unit for the maximum security population if, after completion of such reclassification process, the commissioner determines such placement is appropriate, provided the commissioner (A) maintains the inmate on special circumstances high security status, (B) houses the inmate separate from inmates who are not on special circumstances high security status, and (C) imposes conditions of confinement on such inmate which shall include, but not be limited to, conditions that require (i) that the inmate's movements be escorted or monitored, (ii) movement of the inmate to a new cell at least every ninety days, (iii) at least two searches of the inmate's cell each week, (iv) that no contact be permitted during the inmate's social visits, (v) that the inmate be assigned to work assignments that are within the assigned housing unit, and (vi) that the inmate be allowed no more than two hours of recreational activity per day.

(2) The commissioner shall conduct an annual review of such inmate's conditions of confinement within such housing unit and the commissioner may, for compelling correctional management or safety reasons, modify any condition of confinement, subject to the requirements of subparagraphs (A) to (C), inclusive, of subdivision (1) of this subsection.

(d) Not later than January 2, 2013, and annually thereafter, the commissioner shall submit a report to the General Assembly, in accordance with section 11-4a

of the general statutes, regarding the number of inmates in such classification as of December first of the year prior to the year in which the report is due, the location of each such inmate, and the specific conditions of confinement imposed on each such inmate pursuant to this section.

Sec. 501. (NEW) (*Effective from passage*) The provisions of subsection (t) of section 1-1 of the general statutes and section 54-194 of the general statutes shall apply and be given full force and effect with respect to a capital felony committed prior to the effective date of this section under the provisions of section 53a-54b of the general statutes in effect prior to the effective date of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to crimes committed on or after said date</i>	53a-54b
Sec. 2	<i>from passage</i>	53a-35a
Sec. 3	<i>from passage</i>	53a-35b
Sec. 4	<i>from passage</i>	53a-45(a)
Sec. 5	<i>from passage</i>	53a-46a(a)
Sec. 6	<i>from passage</i>	53a-46b(a)
Sec. 7	<i>from passage</i>	53a-54a(c)
Sec. 8	<i>from passage</i>	10-145b(j)(2)
Sec. 9	<i>from passage</i>	10-145i
Sec. 10	<i>from passage</i>	46b-127(a)
Sec. 11	<i>from passage</i>	46b-133(a)
Sec. 12	<i>from passage</i>	51-36(c)
Sec. 13	<i>from passage</i>	51-199(b)
Sec. 14	<i>from passage</i>	51-246
Sec. 15	<i>from passage</i>	51-286c
Sec. 16	<i>from passage</i>	52-434(a)(1)
Sec. 17	<i>from passage</i>	53a-25(b)
Sec. 18	<i>from passage</i>	53a-30(a)
Sec. 19	<i>from passage</i>	53a-39a(a)
Sec. 20	<i>from passage</i>	53a-40d(a)
Sec. 21	<i>from passage</i>	53a-46d
Sec. 22	<i>from passage</i>	53a-182b(a)
Sec. 23	<i>from passage</i>	53a-217d(a)
Sec. 24	<i>from passage</i>	54-2a(b)
Sec. 25	<i>from passage</i>	54-46a(a)
Sec. 26	<i>from passage</i>	54-82
Sec. 27	<i>from passage</i>	54-82g
Sec. 28	<i>from passage</i>	54-82h(a)
Sec. 29	<i>from passage</i>	54-83

Sec. 30	<i>from passage</i>	54-91a(a)
Sec. 31	<i>from passage</i>	54-102jj(b)
Sec. 32	<i>from passage</i>	54-125a(b)
Sec. 33	<i>from passage</i>	54-125d(d)
Sec. 34	<i>from passage</i>	54-131b
Sec. 35	<i>from passage</i>	54-131k(a)
Sec. 36	<i>from passage</i>	54-193(a)
Sec. 501	<i>from passage</i>	New Section

Statement of Legislative Commissioners:

Throughout the bill, "under the provisions of section 53a-54b" was substituted for "under section 53a-54b" for clarity.

JUD Joint Favorable Subst.-LCO

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

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Pub. Defender Serv. Com.	GF - Savings	700,000	700,000
Criminal Justice, Div.	GF - Savings	150,000	150,000
Correction, Dept.	GF - Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Summary

The bill eliminates the death penalty as a sentencing option for crimes committed on or after the bill's effective date. Repeal of the death penalty will result in savings of up to \$850,000 beginning in FY 13 due to reduced litigation costs.

The table below details savings in FY 13/14 as a result of repeal of the death penalty.

FY 13/14 Savings	
Agency	Savings
Public Defenders Service Commission	\$700,000
Division of Criminal Justice	\$150,000
Total Savings	\$850,000

Total future annual savings that could be achieved for the Public Defenders and Division of Criminal Justice after current death row inmates have exhausted appeals, settled cases, or are executed total approximately \$5 million. The full amount of these savings would not be achieved for several years, as litigation and appeals would continue for offenders currently on death row or facing the death penalty.

In addition, the Department of Correction will realize savings of approximately \$455,000 per inmate for each future murder with special circumstance case.

The following table outlines future out year savings.

Future Savings	
Agency	Savings
Public Defenders Service Commission	\$3,834,000/year
Division of Criminal Justice	\$1,200,000/year
Department of Corrections	\$455,000/inmate

FY 13/14 Savings

Public Defender Services Commission

The Public Defender Services Commission would experience savings of approximately \$700,000 beginning in FY 13 due to a reduction in litigation costs. These savings would occur mainly from staffing and expert witnesses.

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Public Defender Services Commission	
Expert Witnesses	\$400,000
Special Public Defenders	<u>\$300,000</u>
Total Savings	\$700,000

Division of Criminal Justice

The Division of Criminal Justice would experience savings of approximately \$150,000 beginning in FY 13 due to reduced litigation costs.

Division of Criminal Justice	
Expert Witnesses	<u>\$150,000</u>
Total Savings	\$150,000

The Out Years

Public Defender Services and Division of Criminal Justice

The annualized savings for Public Defenders and Division of Criminal Justice would continue to increase each year until all current death row inmates have exhausted their appeals, settled the case, or have been executed. This is likely to take over 18 years (based on the most recent inmate execution timeline). Full annual savings would be approximately \$5 million per year and would include closure of the Public Defender Services Commission's Capital Defense Unit.

Public Defender Services Commission	
Personal Services	\$2,500,000
Other Expenses	\$29,000
Expert Witnesses	\$660,000
Special Public Defenders	<u>\$645,000</u>
Total Savings	\$3,834,000
Division of Criminal Justice	
Personal Services	\$1,050,000
Expert Witnesses	<u>\$150,000</u>
Total Savings	\$1,200,000

Department of Correction

The bill results in out year future savings of approximately \$455,000 in costs to the Department of Correction for each murder with special circumstances case.

Department of Correction Impact (per inmate)	
Cost for Death Penalty	\$1,728,340
Cost to Incarcerate an Inmate for Life	\$1,273,566
Difference (Savings from the bill)	\$454,774

The following chart outlines the costs associated with the most recent prisoner execution.

Department of Correction Death Penalty Cost	
Cost	\$
Incarceration	1,412,340
Execution	316,000
Total Cost of death penalty per offender	1,728,340

The analysis assumes, based on the most recent prisoner executed in Connecticut, each death row inmate will spend approximately 18 years on death row at Northern Correctional Institute. The average cost to incarcerate an inmate at Northern CI is \$78,463. Additionally, the Department of Correction incurred \$316,000 in costs for the most recent execution.

The average age of the offender at the time of the offense for the population currently on death row is 26. Assuming the average life expectancy of a prisoner is 68¹, each future offender under this bill would serve 42 years in prison. The cost for incarcerating a prisoner in a level 4 facility is \$30,323. Over 42 years, it would cost the state approximately \$1.3 million to house each offender.

Sources: Journal of Urban Health

OLR Bill Analysis

sSB 280

AN ACT REVISING THE PENALTY FOR CAPITAL FELONIES.

SUMMARY:

This bill (1) eliminates the death penalty as a sentencing option for a capital felony committed on or after the bill's effective date, thus leaving life imprisonment without the possibility of release as the penalty and (2) renames the crime of capital felony as murder with special circumstances.

It also makes a number of changes to apply the rules for capital felony crimes to murder with special circumstances, as necessary.

EFFECTIVE DATE: Upon passage. The provision renaming the crime of capital felony as murder with special circumstances applies to crimes committed on and after that date.

CRIME OF CAPITAL FELONY AND MURDER WITH SPECIAL CIRCUMSTANCES

The bill renames the crime of capital felony as murder with special circumstances. A person commits the crime of capital felony under current law, or murder with special circumstances under the bill, if he or she murders:

1. while the victim was acting within the scope of his or her duties, a police officer, Division of Criminal Justice inspector, state marshal, judicial marshal, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the energy and environmental protection commissioner, firefighter, or Department of Correction (DOC) employee or service provider acting within a correctional facility (the perpetrator must be an inmate);
2. for pay, or hires someone to murder;
3. after a previous conviction for intentional murder or murder while a felony was committed;
4. while sentenced to life imprisonment;
5. a kidnapped person and is the kidnapper;
6. while committing 1st degree sexual assault;
7. two or more people at the same time or in the course of a single transaction; or
8. a person under age 16.

BAIL

Under the Connecticut Constitution, a person is eligible for bail unless he or she is charged with a capital offense “where the proof is evident or the presumption great.” Because murder with special circumstances is not a capital offense, people charged with this crime would be eligible for bail under the constitution. The bill allows the court, a judge, or a judge trial referee issuing a bench warrant to arrest someone for murder with special circumstances to indicate that the person should not be released on bail.

As with capital felonies under current law, people convicted of murder with special circumstances are ineligible for post-conviction bail while awaiting sentencing or appealing their conviction.

RULES ON PROSECUTION AND RELEASE

The bill makes a number of technical and conforming changes to apply the rules for capital felony crimes to murder with special circumstances as necessary, such as:

1. requiring the preservation of biological evidence and records of evidence and judicial proceedings,
2. authorizing the court to allow the reading of a victim impact statement in court before imposing the sentence,
3. allowing defendants accused of the crime to choose a jury or three-judge panel,
4. allowing them to challenge potential jurors,
5. requiring testimony of at least two witnesses or their equivalent for a conviction, and
6. prohibiting medical or compassionate parole release.

BACKGROUND

Death Penalty Sentencing Hearing

A person convicted of a capital felony must be sentenced to either the death penalty or life imprisonment without the possibility of release. The jury, or the court if the defendant chooses, weighs mitigating and aggravating factors in a separate sentencing hearing to decide whether to impose the death penalty. The jury or court cannot impose the death penalty, and must sentence the person to life imprisonment without the possibility of release if mitigating factors outweigh, or are of equal weight to, the aggravating factors, or if any of five

automatic bars to the death penalty exist. Otherwise, the person must be sentenced to death.

Aggravating Factors. By law, the only aggravating factors that the jury or court can consider are that the defendant:

1. committed the offense while committing or attempting to commit a felony, or while fleeing from the commission of or attempt to commit a felony, and had previously been convicted of the same felony;
 2. had been convicted of at least two state or federal offenses prior to the offense, each of which was committed on different occasions, involved serious bodily injury and had a maximum penalty of at least one year imprisonment;
 3. committed the offense knowingly creating a risk of death to another person in addition to the victim of the offense;
 4. committed the offense in an especially heinous, cruel, or depraved manner;
 5. procured someone else to commit the offense by paying or promising to pay anything of pecuniary value;
 6. committed the offense in return for payment or the expectation of payment;
 7. committed the offense with an assault weapon; or
 8. murdered one of the following people, while the victim was acting within the scope of duty, in order to (a) avoid arrest for or prevent detection of a criminal act, (b) hamper or prevent the victim from carrying out an act within the scope of official duties, or (c) retaliate against the victim for performing official duties: a police officer, Division of Criminal Justice inspector, state marshal, judicial marshal, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the energy and environmental protection commissioner, firefighter, or DOC employee or service provider acting within a correctional facility (the perpetrator must be an inmate).
- Mitigating Factors.** The jury or court must determine if a particular factor concerning the defendant's character, background, or history, or the nature and circumstances of the crime, is established by the evidence and whether that factor is mitigating, considering all the facts and circumstances of the case. Mitigating factors are not defenses or excuses for the capital felony of which the defendant was convicted, but are factors that, in fairness and mercy, tend either to extenuate or reduce the defendant's blame for the offense or otherwise provide a reason for a sentence less than death.

Bars to the Death Penalty

By law, five factors automatically bar the death penalty. A defendant cannot receive the death penalty if the court or jury determines that he or she:

1. was under age 18 at the time of the crime;
2. was mentally retarded at the time of the crime;
3. had a mental capacity or ability to conform his or her conduct to the requirements of law that was significantly impaired at the time of the crime (but not so impaired as to constitute a defense);
4. was guilty of a capital felony only as an accessory and had relatively minor participation; or
5. could not reasonably have foreseen that the conduct, in the course of committing the crime he or she was convicted of, would cause someone's death.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 24 Nay 19 (03/21/2012)

¹Population Impact of Mass Incarceration under New York's Rockefeller Drug Laws: An Analysis of Years of Life Lost” Journal of Urban Health: 79:3, September 2002.