



General Assembly

February Session, 2020

Raised Bill No. 459

LCO No. 2937



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING PERSISTENT OFFENDERS.

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

1 Section 1. Section 53a-40 of the 2020 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2020*):

4 (a) A persistent dangerous felony offender is a person who:

5 (1) (A) Stands convicted of manslaughter, arson, kidnapping, robbery
6 in the first or second degree, assault in the first degree, home invasion,
7 burglary in the first degree or burglary in the second degree with a
8 firearm, and (B) has been, prior to the commission of the present crime,
9 convicted of and imprisoned under a sentence to a term of
10 imprisonment of more than one year or of death, in this state or in any
11 other state or in a federal correctional institution, for any of the
12 following crimes: (i) The crimes enumerated in subparagraph (A) of this
13 subdivision or an attempt to commit any of said crimes; or (ii) murder,
14 sexual assault in the first or third degree, aggravated sexual assault in
15 the first degree or sexual assault in the third degree with a firearm, or

16 an attempt to commit any of said crimes; or (iii) prior to October 1, 1975,
17 any of the crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the
18 general statutes, revision of 1958, revised to 1975, or prior to October 1,
19 1971, in this state, assault with intent to kill under section 54-117, or any
20 of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16,
21 inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-
22 86, 53-238 and 53-239 of the general statutes, revision of 1958, revised to
23 1968, or any predecessor statutes in this state, or an attempt to commit
24 any of said crimes; or (iv) in any other state, any crimes the essential
25 elements of which are substantially the same as any of the crimes
26 enumerated in subparagraph (A) of this subdivision or this
27 subparagraph; or

28 (2) (A) Stands convicted of sexual assault in the first or third degree,
29 aggravated sexual assault in the first degree or sexual assault in the third
30 degree with a firearm, and (B) has been, prior to the commission of the
31 present crime, convicted of and imprisoned under a sentence to a term
32 of imprisonment of more than one year or of death, in this state or in
33 any other state or in a federal correctional institution, for any of the
34 following crimes: (i) Murder, manslaughter, arson, kidnapping, robbery
35 in the first or second degree, assault in the first degree, home invasion,
36 burglary in the first degree or burglary in the second degree with a
37 firearm, or an attempt to commit any of said crimes; or (ii) prior to
38 October 1, 1971, in this state, assault with intent to kill under section 54-
39 117, or any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12
40 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82,
41 53-83 and 53-86 of the general statutes, revision of 1958, revised to 1968,
42 or any predecessor statutes in this state, or an attempt to commit any of
43 said crimes; or (iii) in any other state, any crimes the essential elements
44 of which are substantially the same as any of the crimes enumerated in
45 subparagraph (A) of this subdivision or this subparagraph.

46 (b) A persistent dangerous sexual offender is a person who (1) stands
47 convicted of sexual assault in the first or third degree, aggravated sexual
48 assault in the first degree or sexual assault in the third degree with a
49 firearm, and (2) has been, prior to the commission of the present crime,

50 convicted of and imprisoned under a sentence to a term of
51 imprisonment of more than one year, in this state or in any other state
52 or in a federal correctional institution, for (A) any of the crimes
53 enumerated in subdivision (1) of this subsection, or (B) prior to October
54 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75 or 53a-78
55 of the general statutes, revision of 1958, revised to 1975, or prior to
56 October 1, 1971, in this state, any of the crimes enumerated in section 53-
57 238 or 53-239 of the general statutes, revision of 1958, revised to 1968, or
58 any predecessor statutes in this state, or an attempt to commit any of
59 said crimes, or (C) in any other state, any crimes the essential elements
60 of which are substantially the same as any of the crimes enumerated in
61 subdivision (1) of this subsection or this subdivision.

62 (c) A persistent serious felony offender is a person who (1) stands
63 convicted of a felony, and (2) has been, prior to the commission of the
64 present felony, convicted of and imprisoned under an imposed term of
65 more than one year or of death, in this state or in any other state or in a
66 federal correctional institution, for a crime. This subsection shall not
67 apply where the present conviction is for a crime enumerated in
68 subdivision (1) of subsection (a) of this section and the prior conviction
69 was for a crime other than those enumerated in subsection (a) of this
70 section.

71 (d) A persistent serious sexual offender is a person, other than a
72 person who qualifies as a persistent dangerous sexual offender under
73 subsection (b) of this section, who qualifies as a persistent serious felony
74 offender under subsection (c) of this section and the felony of which
75 such person presently stands convicted is a violation of section 53a-70b
76 of the general statutes, revision of 1958, revised to January 1, 2019, or
77 subdivision (2) of subsection (a) of section 53-21, or section 53a-70, 53a-
78 70a, 53a-71, 53a-72a or 53a-72b and the prior conviction is for a violation
79 of section 53-21 of the general statutes, revised to January 1, 1995,
80 involving sexual contact, committed prior to October 1, 1995, a violation
81 of section 53a-70b of the general statutes, revision of 1958, revised to
82 January 1, 2019, or subdivision (2) of section 53-21 of the general
83 statutes, committed on or after October 1, 1995, and prior to October 1,

84 2000, a violation of section 53a-70b of the general statutes, revision of
85 1958, revised to January 1, 2019, or a violation of subdivision (2) of
86 subsection (a) of section 53-21 or a violation of section 53a-70, 53a-70a,
87 53a-71, 53a-72a or 53a-72b.

88 (e) A persistent larceny offender is a person who (1) stands convicted
89 of larceny in the third degree in violation of the provisions of section
90 53a-124 in effect prior to October 1, 1982, or larceny in the fourth, fifth
91 or sixth degree, and (2) has been, at separate times, twice convicted of
92 the crime of larceny for violations committed during the ten years prior
93 to the commission of the present larceny.

94 (f) A persistent offender for possession of a controlled substance is a
95 person who (1) stands convicted of possession of a controlled substance
96 in violation of the provisions of section 21a-279, and (2) has been, at
97 separate times prior to the commission of the present possession of a
98 controlled substance, twice convicted of the crime of possession of a
99 controlled substance during the ten years prior to the commission of the
100 present violation of section 21a-279.

101 (g) A persistent felony offender is a person who (1) stands convicted
102 of a felony other than a class D or E felony, and (2) has been, at separate
103 times prior to the commission of the present felony, twice convicted of
104 a felony other than a class D or E felony during the ten years prior to the
105 commission of the present violation.

106 (h) It shall be an affirmative defense to the charge of being a persistent
107 offender under this section that (1) as to any prior conviction on which
108 the state is relying the defendant was pardoned on the ground of
109 innocence, and (2) without such conviction, the defendant was not two
110 or more times convicted and imprisoned as required by this section.

111 (i) When any person has been found to be a persistent dangerous
112 felony offender, the court, in lieu of imposing the sentence of
113 imprisonment authorized by the general statutes for the crime of which
114 such person presently stands convicted, shall (1) sentence such person
115 to a term of imprisonment that is not (A) less than twice the minimum

116 term of imprisonment authorized for such crime, or (B) more than twice
117 the maximum term of imprisonment authorized for such crime or forty
118 years, whichever is greater, provided, if a mandatory minimum term of
119 imprisonment is authorized for such crime, such sentence shall include
120 a mandatory minimum term of imprisonment that is twice such
121 authorized mandatory minimum term of imprisonment, and (2) if such
122 person has, at separate times prior to the commission of the present
123 crime, been twice convicted of and imprisoned for any of the crimes
124 enumerated in subsection (a) of this section, sentence such person to a
125 term of imprisonment that is not less than three times the minimum
126 term of imprisonment authorized for such crime or more than life,
127 provided, if a mandatory minimum term of imprisonment is authorized
128 for such crime, such sentence shall include a mandatory minimum term
129 of imprisonment that is three times such authorized mandatory
130 minimum term of imprisonment.

131 (j) When any person has been found to be a persistent dangerous
132 sexual offender, the court, in lieu of imposing the sentence of
133 imprisonment authorized by section 53a-35a for the crime of which such
134 person presently stands convicted, shall sentence such person to a term
135 of imprisonment and a period of special parole pursuant to subsection
136 (b) of section 53a-28 which together constitute a sentence of
137 imprisonment for life, as defined in section 53a-35b.

138 (k) When any person has been found to be a persistent serious felony
139 offender, the court in lieu of imposing the sentence of imprisonment
140 authorized by section 53a-35 for the crime of which such person
141 presently stands convicted, or authorized by section 53a-35a if the crime
142 of which such person presently stands convicted was committed on or
143 after July 1, 1981, may impose the sentence of imprisonment authorized
144 by said section for the next more serious degree of felony.

145 (l) When any person has been found to be a persistent serious sexual
146 offender, the court, in lieu of imposing the sentence of imprisonment
147 authorized by section 53a-35a for the crime of which such person
148 presently stands convicted, may impose a sentence of imprisonment

149 and a period of special parole pursuant to subsection (b) of section 53a-
150 28 which together constitute the maximum sentence specified by section
151 53a-35a for the next more serious degree of felony.

152 (m) (1) When any person has been found to be a persistent larceny
153 offender, the court, in lieu of imposing the sentence authorized by
154 section 53a-36 for the crime of which such person presently stands
155 convicted, may impose the sentence of imprisonment for a class D
156 felony authorized by section 53a-35, if the crime of which such person
157 presently stands convicted was committed prior to July 1, 1981, or
158 authorized by section 53a-35a, if the crime of which such person
159 presently stands convicted was committed on or after July 1, 1981, but
160 prior to October 1, 2019.

161 (2) When any person has been found to be a persistent larceny
162 offender, the court, in lieu of imposing the sentence authorized by
163 section 53a-36 for the crime of which such person presently stands
164 convicted for a violation committed on or after October 1, 2019, may
165 impose the sentence of (A) imprisonment for a class E felony authorized
166 by section 53a-35a, if such person presently stands convicted of a
167 violation of section 53a-125, or (B) imprisonment authorized by section
168 53a-36 for the next more serious degree of misdemeanor authorized
169 under section 53a-36 if such person presently stands convicted of a
170 violation of section 53a-125a or 53a-125b.

171 (n) When any person has been found to be a persistent offender for
172 possession of a controlled substance, the court, in lieu of imposing the
173 sentence authorized by section 53a-36 for the crime of which such
174 person presently stands convicted, may impose the sentence of
175 imprisonment for a class E felony authorized by section 53a-35a.

176 (o) When any person has been found to be a persistent felony
177 offender, the court, in lieu of imposing the sentence authorized by
178 section 53a-35a for the crime of which such person presently stands
179 convicted, may impose the sentence of imprisonment authorized by said
180 section for the next more serious degree of felony; provided the sentence

181 imposed may not be less than three years, and provided further three
182 years of the sentence so imposed may not be suspended or reduced by
183 the court.

184 (p) (1) Whenever a person is arrested for any of the crimes
185 enumerated in subsection (a) of this section, the prosecuting authority
186 shall investigate and ascertain whether such person has, at separate
187 times prior to the commission of the present crime, been twice convicted
188 of and imprisoned for any of the crimes enumerated in said subsection
189 (a) and would be eligible to be sentenced under subsection (i) of this
190 section if convicted of such crime.

191 (2) If the prosecuting authority ascertains that such person has, at
192 separate times prior to the commission of the present crime, been twice
193 convicted of and imprisoned for any of the crimes enumerated in
194 subsection (a) of this section and such person has been presented to a
195 geographical area courthouse, the prosecuting authority shall cause
196 such person to be transferred to a judicial district courthouse.

197 (3) No court shall accept a plea of guilty, not guilty or nolo contendere
198 from a person arrested for any of the crimes enumerated in subsection
199 (a) of this section unless it finds that the prosecuting authority has
200 complied with the requirements of subdivision (1) of this subsection.

201 (4) If the prosecuting authority ascertains that such person has, at
202 separate times prior to the commission of the present crime, been twice
203 convicted of and imprisoned for any of the crimes enumerated in
204 subsection (a) of this section but decides not to initiate proceedings to
205 seek the sentence enhancement provided by subsection (i) of this
206 section, the prosecuting authority shall state for the record the specific
207 reason or reasons for not initiating such proceedings.

208 (5) If the prosecuting authority ascertains that such person has, at
209 separate times prior to the commission of the present crime, been twice
210 convicted of and imprisoned for any of the crimes enumerated in
211 subsection (a) of this section and initiates proceedings to seek the
212 sentence enhancement provided by subsection (i) of this section, but

213 subsequently decides to terminate such proceedings, the prosecuting
214 authority shall state for the record the specific reason or reasons for
215 terminating such proceedings.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2020</i>	53a-40
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Statement of Purpose:

To provide a look-back period for sentencing of certain persistent offenders.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]