

Sec. 26. (NEW) (*Effective July 1, 2011*) Notwithstanding any provision of the general statutes, whenever a person is sentenced to a term of imprisonment pursuant to subsection (g) of section 14-227a of the general statutes or section 14-215 of the general statutes, and committed by the court to the custody of the Commissioner of Correction, the commissioner may, after admission and a risk and needs assessment of such person, release such person to such person's residence subject to the condition that such person not leave such residence unless otherwise authorized. Based upon the assessment of such person, the commissioner may require such person to be subject to electronic monitoring, which may include the use of a global positioning system and continuous monitoring for alcohol consumption, and to any other conditions the commissioner deems appropriate. Any person released pursuant to this section shall remain in the custody of the commissioner and shall be supervised by employees of the department during the period of such release. Upon the violation by such person of any condition of such release, the commissioner may revoke such release and return such person to confinement in a correctional facility. **The commissioner shall establish an advisory committee for the purpose of developing a protocol for the training of correctional staff assigned to the assessment and supervision of offenders eligible for release pursuant to this section, evaluation of outcomes of participation in such release, the establishment of victim impact panels and the provision of treatment to such participants.** For purposes of this section, "continuous monitoring for alcohol consumption" means automatically testing breath, blood or transdermal alcohol concentration levels and tamper attempts at least once every hour regardless of the location of the person being monitored.

Sec. 27. (NEW) (*Effective July 1, 2011*) Notwithstanding any provision of the general statutes, whenever a person is sentenced to a term of imprisonment for a violation of section 21a-267 of the general statutes or subsection (c) of section 21a-279 of the general statutes and committed by the court to the custody of the Commissioner of Correction, the commissioner may, after admission and a risk and needs assessment, release such person to such person's residence subject to the condition that such person not leave such residence unless otherwise authorized. Based upon the assessment of such person, the commissioner may require such person to be subject to electronic monitoring, which may include the use of a global positioning system and continuous monitoring for alcohol consumption, to drug testing on a random basis, and to any other conditions that the commissioner may impose. Any person released pursuant to this section shall remain in the custody of the commissioner and shall be supervised by employees of the department during the period of such release. Upon the violation by such person of any condition of such release, the commissioner may revoke such release and return such person to confinement in a correctional facility For purposes of this section, "continuous monitoring for alcohol consumption" means automatically testing breath, blood or transdermal alcohol concentration levels and tamper attempts at least once every hour regardless of the location of the person being monitored.

SUMMARY:

AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING THE JUDICIAL BRANCH, CHILD PROTECTION, CRIMINAL JUSTICE, WEIGH STATIONS AND CERTAIN STATE AGENCY CONSOLIDATIONS.

HOME CONFINEMENT FOR CERTAIN OFFENDERS

Regardless of other statutes, the law allows the DOC commissioner to release a sentenced inmate, after admission and conducting a risk and needs assessment, to the inmate's residence if he or she was sentenced for:

- (1) driving under the influence (DUI);
- (2) operating a motor vehicle with a refused, suspended, or revoked license or registration;
- (3) possessing a controlled substance other than a narcotic, a hallucinogen, or less than four ounces of marijuana; or
- (4) drug paraphernalia crimes. These released offenders cannot leave their home without authorization.

Based on the person's assessment, the commissioner can require:

1. electronic monitoring of the offender, including by a global positioning system;
2. automatic testing of breath, blood, or transdermal alcohol concentration levels and tamper attempts at least hourly regardless of the person's location (made possible, presumably, by an electronic alcohol testing system) and, for drug offenders, random drug tests; and
3. other conditions the commissioner considers appropriate.

Someone released to his or her home remains in DOC custody and is supervised by DOC employees. The commissioner can revoke the release and return the person to prison for violating release conditions.

Advisory Committee

For release of DUI and operating without a license or registration offenders, the bill requires the commissioner to create an advisory committee to develop a protocol for:

1. training DOC staff who assess and supervise offenders eligible for this type of release,
2. evaluating outcomes,
3. establishing victim impact panels, and
4. treating participants.

DUI Criminal Penalties

Conviction	Prison Sentence	Fine	License Suspension
First	Either (1) up to six months with a mandatory minimum of two days or (2) up to six months suspended with probation requiring 100 hours of community service	\$ 500- \$ 1,000	One year
Second	Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service	\$ 1,000- \$ 4,000	<ul style="list-style-type: none"> ● Offender under age 21: the longer of three years or until age 21 ● Offender age 21 or older: one year ● Regardless of age: prohibited from operating a motor vehicle without an ignition interlock device for two years after license suspension ends
Subsequent	Up to three years, with mandatory minimum of one year and probation with 100 hours community service	\$ 2,000- \$ 8,000	Permanent revocation

Penalties for Operating Without License or Registration

1st Offense	Subsequent Offenses
<ul style="list-style-type: none"> ● Up to 90 days in prison ● \$ 150 to \$ 200 fine 	<ul style="list-style-type: none"> ● Up to one year in prison ● \$ 200 to \$ 600 fine

Penalties for Operating When License Suspended Due to Drunk Driving Related Crimes

<i>1st Offense</i>	<i>2nd Offense</i>	<i>Subsequent Offenses</i>
<ul style="list-style-type: none"> ● Up to one year in prison ● 30 day mandatory minimum sentence unless the court finds mitigating circumstances ● \$ 500 to \$ 1,000 fine 	<ul style="list-style-type: none"> ● Up to two years in prison ● 120 day mandatory minimum sentence unless the court finds mitigating circumstances ● \$ 500 to \$ 1,000 fine 	<ul style="list-style-type: none"> ● Up to three years in prison ● One year mandatory minimum sentence unless the court finds mitigating circumstances ● \$ 500 to \$ 1,000 fine

Sec. 14-227a. Operation while under the influence of liquor or drug or while having an elevated blood alcohol content. (a) **Operation while under the influence or while having an elevated blood alcohol content.** No person shall operate a motor vehicle while under the influence of intoxicating liquor or any drug or both. A person commits the offense of operating a motor vehicle while under the influence of intoxicating liquor or any drug or both if such person operates a motor vehicle (1) while under the influence of intoxicating liquor or any drug or both, or (2) while such person has an elevated blood alcohol content. For the purposes of this section, "elevated blood alcohol content" means a ratio of alcohol in the blood of such person that is eight-hundredths of one per cent or more of alcohol, by weight, and "motor vehicle" includes a snowmobile and all-terrain vehicle, as those terms are defined in section 14-379.

(b) **Admissibility of chemical analysis.** Except as provided in subsection (c) of this section, in any criminal prosecution for violation of subsection (a) of this section, evidence respecting the amount of alcohol or drug in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's breath, blood or urine shall be admissible and competent provided: (1) The defendant was afforded a reasonable opportunity to telephone an attorney prior to the performance of the test and consented to the taking of the test upon which such analysis is made; (2) a true copy of the report of the test result was mailed to or personally delivered to the defendant within twenty-four hours or by the end of the next regular business day, after such result was known, whichever is later; (3) the test was performed by or at the direction of a police officer according to methods and with equipment approved by the Department of Public Safety and was performed in accordance with the regulations adopted under subsection (d) of this section; (4) the device used for such test was checked for accuracy in accordance with the regulations adopted under subsection (d) of this section; (5) an additional chemical test of the same type was performed at least thirty minutes after the initial test was performed or, if requested by the police officer for reasonable cause, an additional chemical test of a different type was performed to detect the presence of a drug or drugs other than or in addition to alcohol, provided the results of the initial test shall not be inadmissible under this subsection if reasonable efforts were made to have such additional test performed in accordance with the conditions set forth in this subsection and such additional test was not performed or was not performed within a reasonable time, or the results of such additional test are not admissible for failure to meet a condition set forth in this subsection; and (6) evidence is presented that the test was commenced within two hours of operation. In any prosecution under this section it shall be a rebuttable presumption that the results of such chemical analysis establish the ratio of alcohol in the blood of the defendant at the time of the alleged offense, except that if the results of the additional test indicate that the ratio of alcohol in the blood of such defendant is twelve-hundredths of one per cent or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and the analysis thereof accurately indicate the blood alcohol

content at the time of the alleged offense.

(c) **Evidence of blood alcohol content.** In any prosecution for a violation of subdivision (1) of subsection (a) of this section, reliable evidence respecting the amount of alcohol in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's blood, breath or urine, otherwise admissible under subsection (b) of this section, shall be admissible only at the request of the defendant.

(d) **Testing and analysis of blood, breath and urine.** The Commissioner of Public Safety shall ascertain the reliability of each method and type of device offered for chemical testing and analysis purposes of blood, of breath and of urine and certify those methods and types which said commissioner finds suitable for use in testing and analysis of blood, breath and urine, respectively, in this state. The Commissioner of Public Safety shall adopt regulations, in accordance with chapter 54, governing the conduct of chemical tests, the operation and use of chemical test devices, the training and certification of operators of such devices and the drawing or obtaining of blood, breath or urine samples as said commissioner finds necessary to protect the health and safety of persons who submit to chemical tests and to insure reasonable accuracy in testing results. Such regulations shall not require recertification of a police officer solely because such officer terminates such officer's employment with the law enforcement agency for which certification was originally issued and commences employment with another such agency.

(e) **Evidence of refusal to submit to test.** In any criminal prosecution for a violation of subsection (a) of this section, evidence that the defendant refused to submit to a blood, breath or urine test requested in accordance with section 14-227b shall be admissible provided the requirements of subsection (b) of said section have been satisfied. If a case involving a violation of subsection (a) of this section is tried to a jury, the court shall instruct the jury as to any inference that may or may not be drawn from the defendant's refusal to submit to a blood, breath or urine test.

(f) **Reduction, nolle or dismissal prohibited.** If a person is charged with a violation of the provisions of subsection (a) of this section, the charge may not be reduced, nolle or dismissed unless the prosecuting authority states in open court such prosecutor's reasons for the reduction, nolle or dismissal.

(g) **Penalties for operation while under the influence.** Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars or more than one thousand dollars, and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner, or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a

period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for one year; (2) for conviction of a second violation within ten years after a prior conviction for the same offense, (A) be fined not less than one thousand dollars or more than four thousand dollars, (B) be imprisoned not more than two years, one hundred twenty consecutive days of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) (i) have such person's motor vehicle operator's license or nonresident operating privilege suspended for three years or until the date of such person's twenty-first birthday, whichever is longer, or (ii) if such person has been convicted of a violation of subdivision (1) of subsection (a) of this section on account of being under the influence of intoxicating liquor or of subdivision (2) of subsection (a) of this section, have such person's motor vehicle operator's license or nonresident operating privilege suspended for one year and be prohibited for the two-year period following completion of such period of suspension from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j; and (3) for conviction of a third and subsequent violation within ten years after a prior conviction for the same offense, (A) be fined not less than two thousand dollars or more than eight thousand dollars, (B) be imprisoned not more than three years, one year of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege permanently revoked upon such third offense. For purposes of the imposition of penalties for a second or third and subsequent offense pursuant to this subsection, a conviction under the provisions of subsection (a) of this section in effect on October 1, 1981, or as amended thereafter, a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section, a conviction under the provisions of section 53a-56b or 53a-60d or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense.

(h) Suspension of operator's license or nonresident operating privilege. (1) Each court shall report each conviction under subsection (a) of this section to the Commissioner of Motor Vehicles, in accordance with the provisions of section 14-141. The commissioner shall suspend the motor vehicle operator's license or nonresident operating privilege of the person reported as convicted for the period of time required by subsection (g) of this section. The commissioner shall determine the period of time required by said subsection (g) based on the number of convictions such person has had within the specified time period according to such person's driving history record,

notwithstanding the sentence imposed by the court for such conviction. (2) The motor vehicle operator's license or nonresident operating privilege of a person found guilty under subsection (a) of this section who is under eighteen years of age shall be suspended by the commissioner for the period of time set forth in subsection (g) of this section, or until such person attains the age of eighteen years, whichever period is longer. (3) The motor vehicle operator's license or nonresident operating privilege of a person found guilty under subsection (a) of this section who, at the time of the offense, was operating a motor vehicle in accordance with a special operator's permit issued pursuant to section 14-37a shall be suspended by the commissioner for twice the period of time set forth in subsection (g) of this section. (4) If an appeal of any conviction under subsection (a) of this section is taken, the suspension of the motor vehicle operator's license or nonresident operating privilege by the commissioner, in accordance with this subsection, shall be stayed during the pendency of such appeal.

(i) Installation of ignition interlock device. (1) The Commissioner of Motor Vehicles shall permit a person whose license has been suspended in accordance with the provisions of subparagraph (C)(ii) of subdivision (2) of subsection (g) of this section to operate a motor vehicle if (A) such person has served not less than one year of such suspension, and (B) such person has installed an approved ignition interlock device in each motor vehicle owned or to be operated by such person. No person whose license is suspended by the commissioner for any other reason shall be eligible to operate a motor vehicle equipped with an approved ignition interlock device. (2) All costs of installing and maintaining an ignition interlock device shall be borne by the person required to install such device. (3) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this subsection. The regulations shall establish procedures for the approval of ignition interlock devices, for the proper calibration and maintenance of such devices and for the installation of such devices by any firm approved and authorized by the commissioner. (4) The provisions of this subsection shall not be construed to authorize the continued operation of a motor vehicle equipped with an ignition interlock device by any person whose operator's license or nonresident operating privilege is withdrawn, suspended or revoked for any other reason. (5) The provisions of this subsection shall apply to any person whose license has been suspended in accordance with the provisions of subparagraph (C)(ii) of subdivision (2) of subsection (g) of this section on or after September 1, 2003.

(j) Participation in alcohol education and treatment program. In addition to any fine or sentence imposed pursuant to the provisions of subsection (g) of this section, the court may order such person to participate in an alcohol education and treatment program.

(k) Seizure and admissibility of medical records of injured operator. Notwithstanding the provisions of subsection (b) of this section, evidence respecting the amount of alcohol or drug in the blood or urine of an operator of a motor vehicle

involved in an accident who has suffered or allegedly suffered physical injury in such accident, which evidence is derived from a chemical analysis of a blood sample taken from or a urine sample provided by such person after such accident at the scene of the accident, while en route to a hospital or at a hospital, shall be competent evidence to establish probable cause for the arrest by warrant of such person for a violation of subsection (a) of this section and shall be admissible and competent in any subsequent prosecution thereof if: (1) The blood sample was taken or the urine sample was provided for the diagnosis and treatment of such injury; (2) if a blood sample was taken, the blood sample was taken in accordance with the regulations adopted under subsection (d) of this section; (3) a police officer has demonstrated to the satisfaction of a judge of the Superior Court that such officer has reason to believe that such person was operating a motor vehicle while under the influence of intoxicating liquor or drug or both and that the chemical analysis of such blood or urine sample constitutes evidence of the commission of the offense of operating a motor vehicle while under the influence of intoxicating liquor or drug or both in violation of subsection (a) of this section; and (4) such judge has issued a search warrant in accordance with section 54-33a authorizing the seizure of the chemical analysis of such blood or urine sample. Such search warrant may also authorize the seizure of the medical records prepared by the hospital in connection with the diagnosis or treatment of such injury.

(l) **Participation in victim impact panel program.** If the court sentences a person convicted of a violation of subsection (a) of this section to a period of probation, the court may require as a condition of such probation that such person participate in a victim impact panel program approved by the Court Support Services Division of the Judicial Department. Such victim impact panel program shall provide a nonconfrontational forum for the victims of alcohol-related or drug-related offenses and offenders to share experiences on the impact of alcohol-related or drug-related incidents in their lives. Such victim impact panel program shall be conducted by a nonprofit organization that advocates on behalf of victims of accidents caused by persons who operated a motor vehicle while under the influence of intoxicating liquor or any drug, or both. Such organization may assess a participation fee of not more than twenty-five dollars on any person required by the court to participate in such program.

Sec. 14-215. Operation while registration or license is refused, suspended or revoked.

Penalty. (a) No person to whom an operator's license has been refused, or, except as provided in section 14-215a, whose operator's license or right to operate a motor vehicle in this state has been suspended or revoked, shall operate any motor vehicle during the period of such refusal, suspension or revocation. No person shall operate or cause to be operated any motor vehicle, the registration of which has been refused, suspended or revoked, or any motor vehicle, the right to operate which has been suspended or revoked.

(b) (1) Except as provided in subsection (c) of this section, any person who violates any provision of subsection (a) of this section shall, for a first offense, be fined not less than one hundred fifty dollars or more than two hundred dollars or imprisoned not more than ninety days, or be both fined and imprisoned, and, for any subsequent offense, shall be fined not less than two hundred dollars or more than six hundred dollars or imprisoned not more than one year, or be both fined and imprisoned.

(2) Except as provided in subsection (c) of this section, in addition to the penalty prescribed under subdivision (1) of this subsection, any person who violates any provision of subsection (a) of this section who (A) has, prior to the commission of the present violation, committed a violation of subsection (a) of this section or section 14-36 shall be fined not more than five hundred dollars or sentenced to perform not more than one hundred hours of community service, or (B) has, prior to the commission of the present violation, committed two or more violations of subsection (a) of this section or section 14-36, or any combination thereof, shall be sentenced to a term of imprisonment of one year, ninety days of which may not be suspended or reduced in any manner.

(c) (1) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation on account of a violation of subsection (a) of section 14-227a or section 53a-56b or 53a-60d or pursuant to section 14-227b, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than one year, and, in the absence of any mitigating circumstances as determined by the court, thirty consecutive days of the sentence imposed may not be suspended or reduced in any manner.

(2) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation on account of a second violation of subsection (a) of section 14-227a or section 53a-56b or 53a-60d or for the second time pursuant to section 14-227b, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than two years, and, in the absence of any mitigating circumstances as determined by the court, one hundred twenty consecutive days of the

sentence imposed may not be suspended or reduced in any manner.

(3) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation on account of a third or subsequent violation of subsection (a) of section 14-227a or section 53a-56b or 53a-60d or for the third or subsequent time pursuant to section 14-227b, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than three years, and, in the absence of any mitigating circumstances as determined by the court, one year of the sentence imposed may not be suspended or reduced in any manner.

(4) The court shall specifically state in writing for the record the mitigating circumstances, or the absence thereof.