



General Assembly

January Session, 2001

Raised Bill No. 1428

LCO No. 5066

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING PRISON OVERCROWDING.

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

1 Section 1. (NEW) For the purposes of sections 1 to 6, inclusive, of
2 this act:

3 (1) "Nonviolent drug possession offense" means an offense wherein
4 a person possesses controlled substances for personal use and not with
5 intent to sell or dispense, which possession is not authorized by
6 chapter 420b of the general statutes, and which offense did not involve
7 the use, attempted use or threatened use of physical force against
8 another person and in the commission of which such person neither
9 was armed with nor threatened the use of or displayed or represented
10 by word or conduct that such person possessed any firearm, deadly
11 weapon or dangerous instrument, as those terms are defined in section
12 53a-3 of the general statutes.

13 (2) "Drug treatment program" means a licensed or certified
14 community drug treatment program that may include one or more of
15 the following: Outpatient treatment, halfway house treatment, narcotic
16 replacement therapy, drug education or prevention courses and

17 limited inpatient or residential drug treatment as needed to address
18 special detoxification or relapse situations or severe dependence.

19 (3) "Successful completion of a drug treatment program" means that
20 a person who has had participation in a drug treatment program
21 imposed as a condition of probation under section 2 of this act has
22 completed the prescribed course of drug treatment and, as a result,
23 there is reasonable cause to believe that such person will not abuse
24 controlled substances in the future.

25 Sec. 2. (NEW) (a) Notwithstanding any provision of the general
26 statutes, and except as provided in subsection (c) of this section, there
27 shall be a presumption that any person convicted of a nonviolent drug
28 possession offense on and after the effective date of this act shall be
29 sentenced to a term of imprisonment, with the execution of such
30 sentence of imprisonment suspended entirely, and to a period of
31 probation.

32 (b) As a condition of such probation, the court shall require
33 participation in and successful completion of an appropriate drug
34 treatment program. In addition to any term or condition of probation
35 that may be ordered pursuant to section 53a-31 of the general statutes,
36 the court may also order, as a condition of such probation, that such
37 person participate in vocational training, family counseling, literacy
38 training or community service. The court may require any person who
39 is reasonably able to do so to contribute to the cost of their
40 participation in such drug treatment program.

41 (c) This section shall not be applicable to any person who: (1) Has
42 been convicted within the previous five years of a felony or
43 misdemeanor involving the use, attempted use or threatened use of
44 physical force against another person; (2) in addition to the conviction
45 of the nonviolent drug possession offense, has been convicted in the
46 same proceeding of any felony or of a misdemeanor not related to the
47 use of drugs; (3) has, at separate times prior to the commission of the
48 present nonviolent drug possession offense, been twice convicted of a

49 nonviolent drug possession offense, has participated in two separate
50 courses of drug treatment pursuant to this section and is found by the
51 court, by clear and convincing evidence, to be unamenable to any and
52 all forms of available drug treatment; or (4) refuses participation in a
53 drug treatment program as a condition of probation.

54 (d) Within seven days of an order imposing probation under this
55 section, the Office of Adult Probation shall notify the drug treatment
56 provider designated to provide drug treatment under this section. Not
57 later than thirty days after receiving such notice, the treatment
58 provider shall prepare a treatment plan and forward it to the Office of
59 Adult Probation. After the person begins the drug treatment program,
60 the treatment provider shall prepare and forward a progress report to
61 the Office of Adult Probation on a quarterly basis.

62 (e) If, during the course of drug treatment, the treatment provider
63 notifies the Office of Adult Probation that the defendant is unamenable
64 to the drug treatment being provided, but may be amenable to other
65 drug treatments or related programs, the Office of Adult Probation
66 may move the court to modify the terms of probation to ensure that
67 the person receives the alternative drug treatment or program.

68 (f) If, during the course of drug treatment, the treatment provider
69 notifies the Office of Adult Probation that the defendant is unamenable
70 to the drug treatment being provided and all other forms of drug
71 treatment, the Office of Adult Probation may move for the revocation
72 of such person's probation. At the probation revocation hearing, unless
73 the person proves by a preponderance of the evidence that there is a
74 drug treatment program to which such person is amenable, the court
75 may revoke such person's probation.

76 (g) Drug treatment services provided as a condition of probation
77 under this section shall not exceed a period of twelve months, except
78 that additional aftercare services as a condition of probation may be
79 required for not more than six months.

80 (h) If such person successfully completes such person's drug
81 treatment program and period of probation, such person may apply
82 for dismissal of the charges against such person and the court, on
83 finding such successful completion, shall dismiss such charges. If the
84 person does not apply for dismissal of the charges against such person
85 after successfully completing such person's drug treatment program
86 and period of probation, the court, upon receipt of a report submitted
87 by the Office of Adult Probation that the person successfully
88 completed such person's drug treatment program and period of
89 probation, may on its own motion make a finding of such successful
90 completion and dismiss such charges. Upon dismissal, all records of
91 such charges shall be erased pursuant to section 54-142a of the general
92 statutes. An order of the court denying a motion to dismiss the charges
93 against a person who has completed such person's drug treatment
94 program and period of probation shall be a final judgment for
95 purposes of appeal.

96 Sec. 3. (NEW) (a) If a person sentenced to a period of probation in
97 accordance with section 2 of this act violates that probation by (1)
98 being arrested for an offense other than a nonviolent drug possession
99 offense, or (2) violating a non-drug-related condition of probation, the
100 state may proceed as provided in section 53a-32 of the general statutes
101 with respect to such alleged violation.

102 (b) If a person sentenced to a period of probation in accordance with
103 section 2 of this act violates that probation by (1) being arrested for a
104 nonviolent drug possession offense, or (2) violating a drug-related
105 condition of probation, the state may proceed as provided in section
106 53a-32 of the general statutes with respect to such alleged violation.
107 Notwithstanding the provisions of subsection (b) of section 53a-32 of
108 the general statutes and except as provided in subsections (c) and (d)
109 of this section, the court shall not revoke such probation unless the
110 state proves by a preponderance of the evidence that such person
111 violated a condition of probation and poses a danger to the safety of
112 other persons.

113 (c) If a person sentenced to a period of probation in accordance with
114 section 2 of this act violates that probation for a second time by (1)
115 being arrested for a nonviolent drug possession offense, or (2)
116 violating a drug-related condition of probation, the state may proceed
117 as provided in section 53a-32 of the general statutes with respect to
118 such alleged violation. Notwithstanding the provisions of subsection
119 (b) of section 53a-32 of the general statutes, the court shall not revoke
120 such probation unless the state proves by a preponderance of the
121 evidence that such person violated a condition of probation and that
122 such person poses a danger to the safety of other persons or is
123 unamenable to drug treatment. In determining whether such person is
124 unamenable to drug treatment, the court may consider, to the extent
125 relevant, whether such person (A) has committed a serious violation of
126 rules at the drug treatment program, (B) has repeatedly committed
127 violations of program rules that inhibit such person's ability to
128 function in the program, or (C) has continually refused to participate
129 in the program or asked to be removed from the program.

130 (d) If a person sentenced to a period of probation in accordance with
131 section 2 of this act violates that probation for a third time by (1) being
132 arrested for a nonviolent drug possession offense, or (2) violating a
133 drug-related condition of probation, the state may proceed as provided
134 in section 53a-32 of the general statutes with respect to such alleged
135 violation.

136 Sec. 4. (NEW) (a) If a person on probation on the effective date of
137 this act for a nonviolent drug possession offense violates that
138 probation by (1) being arrested for an offense other than a nonviolent
139 drug possession offense, or (2) violating a non-drug-related condition
140 of probation, the state may proceed as provided in section 53a-32 of the
141 general statutes with respect to such alleged violation.

142 (b) If a person on probation on the effective date of this act for a
143 nonviolent drug possession offense violates that probation by (1) being
144 arrested for a nonviolent drug possession offense, or (2) violating a

145 drug-related condition of probation, the state may proceed as provided
146 in section 53a-32 of the general statutes with respect to such alleged
147 violation. Notwithstanding the provisions of subsection (b) of section
148 53a-32 of the general statutes, the court shall not revoke such probation
149 unless the state proves by a preponderance of the evidence that such
150 person violated a condition of probation and poses a danger to the
151 safety of other persons. If the court modifies or enlarges the conditions
152 of probation, it may require participation in and successful completion
153 of a drug treatment program as provided in section 2 of this act as a
154 condition of probation.

155 (c) If a person on probation on the effective date of this act for a
156 nonviolent drug possession offense violates that probation for a second
157 time by (1) being arrested for a nonviolent drug possession offense, or
158 (2) violating a drug-related condition of probation, the state may
159 proceed as provided in section 53a-32 of the general statutes with
160 respect to such alleged violation. Notwithstanding the provisions of
161 subsection (b) of section 53a-32 of the general statutes, the court shall
162 not revoke such probation unless the state proves by a preponderance
163 of the evidence that such person violated a condition of probation and
164 poses a danger to the safety of other persons or is unamenable to drug
165 treatment. In determining whether such person is unamenable to drug
166 treatment, the court may consider, to the extent relevant, whether such
167 person (A) has committed a serious violation of rules at the drug
168 treatment program, (B) has repeatedly committed violations of
169 program rules that inhibit such person's ability to function in the
170 program, or (C) has continually refused to participate in the program
171 or asked to be removed from the program. If the court modifies or
172 enlarges the conditions of probation, it may impose participation in a
173 drug treatment program as provided in section 2 of this act as a
174 condition of probation.

175 (d) If a person on probation on the effective date of this act for a
176 nonviolent drug possession offense violates that probation for a third
177 time by (1) being arrested for a nonviolent drug possession offense, or

178 (2) violating a drug-related condition of probation, the state may
179 proceed as provided in section 53a-32 of the general statutes with
180 respect to such alleged violation.

181 Sec. 5. (NEW) (a) Notwithstanding any provision of the general
182 statutes, and except as provided in subsection (b) of this section and
183 subsections (b) and (c) of section 6 of this act, the Board of Parole shall
184 not revoke the parole of any person who is arrested for the commission
185 of a nonviolent drug possession offense or who violates a drug-related
186 condition of parole. The Board of Parole shall impose as a condition of
187 parole for any such person that such person participate in and
188 successfully complete an appropriate drug treatment program. The
189 board may also impose, as a condition of such parole, that such person
190 participate in vocational training, family counseling, literacy training
191 or community service. The board may require any person who is
192 reasonably able to do so to contribute to the cost of their participation
193 in such drug treatment program.

194 (b) The provisions of subsection (a) of this section shall not apply to:
195 (1) Any parolee who has been convicted within the previous five years
196 of a felony or misdemeanor involving the use, attempted use or
197 threatened use of physical force against another person; (2) any parolee
198 who, concurrently with an arrest for the commission of a nonviolent
199 drug possession offense or with a violation of any drug-related
200 condition of parole, is arrested for a felony or a misdemeanor not
201 related to the use of drugs; or (3) any parolee who refuses drug
202 treatment as a condition of parole.

203 (c) Within seven days of finding that a parolee has committed a
204 nonviolent drug possession offense or violated any drug-related
205 condition of parole, the Board of Parole shall notify the drug treatment
206 provider designated to provide drug treatment under this section. Not
207 later than thirty days after receiving such notice, the treatment
208 provider shall prepare a treatment plan and forward it to the Board of
209 Parole. After the person begins the drug treatment program, the

210 treatment provider shall prepare and forward a progress report to the
211 Board of Parole on a quarterly basis.

212 (d) If, during the course of drug treatment, the treatment provider
213 notifies the Board of Parole that the parolee is unamenable to the drug
214 treatment being provided, but may be amenable to other drug
215 treatments or related programs, the board may act to modify the terms
216 of parole to ensure that the person receives the alternative drug
217 treatment or program.

218 (e) If, during the course of drug treatment, the treatment provider
219 notifies the Board of Parole that the parolee is unamenable to the drug
220 treatment being provided and all other forms of drug treatment, the
221 board may act to revoke such person's parole. At the parole revocation
222 hearing, unless the parolee proves by a preponderance of the evidence
223 that there is a drug treatment program to which such parolee is
224 amenable, the board may revoke such person's parole.

225 (f) Drug treatment services provided as a condition of parole under
226 this section shall not exceed a period of twelve months, except that
227 additional aftercare services as a condition of parole may be required
228 for not more than six months.

229 Sec. 6. (NEW) (a) If a person for whom participation in a drug
230 treatment program is imposed as a condition of parole pursuant to
231 subsection (a) of section 5 of this act violates that parole by (1) being
232 arrested for an offense other than a nonviolent drug possession
233 offense, or (2) violating a non-drug-related condition of parole, and the
234 Board of Parole acts to revoke parole, a hearing shall be conducted to
235 determine whether parole should be revoked. If the alleged violation
236 of parole is proved, the board may modify or revoke such parole.

237 (b) If a person for whom participation in a drug treatment program
238 is imposed as a condition of parole pursuant to subsection (a) of
239 section 5 of this act violates that parole by (1) being arrested for a
240 nonviolent drug possession offense, or (2) violating a drug-related

241 condition of parole, and the Board of Parole acts to revoke parole, a
242 hearing shall be conducted to determine whether parole should be
243 revoked. The Board of Parole shall not revoke such parole unless the
244 state proves by a preponderance of the evidence that such person
245 violated a condition of parole and that such person poses a danger to
246 the safety of other persons. If the board does not revoke parole, it may
247 intensify the conditions of parole to achieve the goals of drug
248 treatment.

249 (c) If a person for whom participation in a drug treatment program
250 is imposed as a condition of parole pursuant to subsection (a) of
251 section 5 of this act violates that parole for a second time by (1) being
252 arrested for a nonviolent drug possession offense, or (2) violating a
253 drug-related condition of parole, and the Board of Parole acts to
254 revoke parole, a hearing shall be conducted to determine whether
255 parole should be revoked. If the state proves by a preponderance of the
256 evidence that such person violated a condition of parole, the board
257 may modify or revoke such parole and such person shall not be
258 eligible thereafter for release on parole pursuant to the provisions of
259 subsection (a) of section 5 of this act.

260 Sec. 7. (NEW) The court, on its own motion or on motion of the
261 state's attorney or a person charged with a crime or convicted of a
262 crime but not yet sentenced, may order, if the interests of justice will be
263 served, that such person be examined, pursuant to the provisions of
264 section 8 of this act, to determine if the person is a person with
265 psychiatric disabilities and eligible for treatment under section 10 or 13
266 of this act. A probation officer may order that such an examination be
267 conducted as part of a presentence investigation conducted pursuant
268 to the provisions of section 54-91a of the general statutes.

269 Sec. 8. (NEW) (a) The Commissioner of Mental Health and
270 Addiction Services or the commissioner's designee shall appoint one or
271 more clinical examiners to conduct examinations for psychiatric
272 disabilities ordered pursuant to the provisions of section 7 of this act.

273 Each examiner shall be authorized by the department to conduct
274 independent evaluations.

275 (b) The examiner shall determine whether the person being
276 examined was a person with psychiatric disabilities at the time of the
277 crime. If such person is determined to have been a person with
278 psychiatric disabilities, the examiner shall further determine (1) the
279 history and pattern of the disability, and (2) whether the person
280 presently needs and is likely to benefit from treatment for the
281 psychiatric disability.

282 (c) The examiner shall prepare and sign, without notarization, a
283 written examination report and deliver it to the court, the Court
284 Support Services Division, the state's attorney and defense counsel no
285 later than thirty days after the examination was ordered. An
286 examination report ordered pursuant to section 7 of this act shall
287 otherwise be confidential and not open to public inspection or subject
288 to disclosure.

289 (d) No statement made by the person in the course of an
290 examination under the provisions of this section may be admitted in
291 evidence on the issue of guilt in a criminal proceeding concerning the
292 person.

293 Sec. 9. (NEW) After receipt by the court of the examination report,
294 the accused person may make a motion for suspension of prosecution
295 and an order of treatment for psychiatric disabilities pursuant to the
296 provisions of section 10 of this act. Unless the opportunity for a
297 hearing is waived by both the accused person and the state's attorney,
298 the court shall hear the motion. The clinical examiner shall not be
299 required to be present to testify on the report unless the presence of the
300 clinical examiner is requested by the court, the accused person or the
301 state's attorney.

302 Sec. 10. (NEW) (a) The provisions of this section shall not apply to
303 any person charged with a violation of section 53a-54a, 53a-54b, 53a-

304 54c or 53a-54d of the general statutes.

305 (b) The court may order suspension of prosecution and order such
306 person be referred to the Court Support Services Division for
307 placement in an alternative incarceration center as provided in section
308 16 of this act for treatment of such person's psychiatric disabilities, as
309 provided in this section and sections 11 and 12 of this act, if it, after
310 considering information before it concerning the psychiatric
311 disabilities of the person, including the examination report made
312 pursuant to the provisions of section 8 of this act, finds that (1) the
313 accused person was a person with psychiatric disabilities at the time of
314 the crime, (2) the accused person is not dangerous to himself or herself
315 or others or gravely disabled, (3) the accused person is not in need of
316 care and treatment in a hospital for psychiatric disabilities, (4) the
317 accused person presently needs and is likely to benefit from treatment
318 for psychiatric disabilities, (5) there is no less restrictive alternative
319 than placement in the alternative incarceration center, and (6)
320 suspension of prosecution will advance the interests of justice.

321 (c) A suspension of prosecution ordered under the provisions of
322 subsection (b) of this section may be for a period not exceeding two
323 years. During the period of suspension, an accused person shall be
324 placed in the custody of the Court Support Services Division for
325 placement in an alternative incarceration center as provided in section
326 16 of this act and treatment for such person's psychiatric disabilities.
327 The court or the Court Support Services Division may require that the
328 person (1) comply with any of the conditions specified in subsections
329 (a) and (b) of section 53a-30 of the general statutes, and (2) be tested for
330 use of alcohol or drugs during the period of suspension. The accused
331 person shall, unless indigent, pay the cost of treatment ordered under
332 this section.

333 (d) If prosecution is suspended under the provisions of subsection
334 (b) of this section, (1) the statute of limitations applicable to the crime
335 charged shall be tolled during the period of suspension, and (2) the

336 accused person shall be deemed to have waived such person's right to
337 a speedy trial for the crime charged.

338 (e) The court shall not suspend prosecution under subsection (b) of
339 this section unless (1) the accused person has acknowledged that such
340 person understands the consequences of the suspension of
341 prosecution, (2) the accused person has given notice, by registered or
342 certified mail on a form prescribed by the Chief Court Administrator,
343 to the victim, if any, of the crime of which the person is accused and of
344 the pending motion for suspension of prosecution, (3) such victim, if
345 any, has been given an opportunity to be heard on the motion for
346 suspension of prosecution, and (4) the accused person, unless such
347 person is indigent, has paid to the clerk of the court an administration
348 fee of twenty-five dollars.

349 (f) If the prosecution is suspended, the person shall be released on a
350 written promise to appear or on a bond and any other bond posted in
351 any criminal proceeding concerning such person shall be terminated.

352 (g) If the court denies the motion for suspension of prosecution, the
353 state's attorney may proceed with prosecution of the crime.

354 (h) A person shall be deemed to be indigent for the purposes of this
355 section if the court determines the person has an estate insufficient to
356 provide for such person's support or there is no person legally liable or
357 able to support such person.

358 Sec. 11. (NEW) (a) The director of the treatment program shall
359 discharge from treatment any person being treated pursuant to the
360 provisions of section 10 of this act who completes the treatment
361 program. The director of the program shall notify the Court Support
362 Services Division of the director's intent to discharge such person at
363 least seven days before the date the person is to be discharged.

364 (b) At any time before the end of the period of suspension of
365 prosecution, the Court Support Services Division may recommend to

366 the court that the charge be dismissed if the person has (1) completed
367 the treatment program, (2) complied with all conditions set under
368 subsection (c) of section 10 of this act, and (3) abstained from the use of
369 alcohol for one year if such person was alcohol dependent or abstained
370 from the unlawful use of drugs for one year if such person was drug
371 dependent.

372 (c) Not later than one month before the end of the period of
373 suspension of prosecution, the Court Support Services Division shall
374 notify the court of the impending conclusion of the suspension and
375 submit a report on whether the person has completed the treatment
376 program and has complied with all conditions set under subsection (c)
377 of section 10 of this act and on whether the office recommends
378 dismissal of the charge.

379 (d) If the court, on motion by the person discharged from treatment,
380 or on its own motion, finds that the person (1) is responding favorably
381 to treatment at the expiration of the period of suspension of
382 prosecution or has completed the treatment program, and (2) has
383 complied with all other conditions of suspension, it may dismiss the
384 charge for which prosecution had been suspended under the
385 provisions of section 10 of this act. If the court denies the motion and
386 terminates the suspension of prosecution, the state's attorney may
387 proceed with prosecution of the crime.

388 Sec. 12. (NEW) (a) The court shall conduct a hearing to determine
389 whether the conditions of the suspension of prosecution should be
390 modified or the suspension terminated, if the Court Support Services
391 Division, after receipt of a report from the director of the treatment
392 program, notifies the clerk of the court that a person treated pursuant
393 to section 10 of this act (1) has committed a violent act against another
394 person at the alternative incarceration center or a violent act that
395 damages property at the alternative incarceration center, (2) has
396 threatened to commit such a violent act, (3) has committed a serious
397 violation of rules of the alternative incarceration center, (4) has

398 repeatedly committed violations of program rules that inhibit the
399 person's ability to function in the program, (5) has continually refused
400 to participate in the program, (6) has asked to be removed from the
401 program, or (7) is unable to participate in the treatment program
402 because of a medical or psychosocial condition which is not
403 appropriately treated by the program operated by the alternative
404 incarceration center. The director of the treatment program shall have
405 the burden of establishing facts to support the director's report. If the
406 court terminates the suspension, the state's attorney may proceed with
407 prosecution of the crime.

408 (b) If a person being treated has not complied with conditions set
409 pursuant to subsection (c) of section 10 of this act, the Court Support
410 Services Division shall notify the clerk of the court. The court may
411 terminate the suspension of prosecution and the state's attorney may
412 proceed with prosecution of the crime if the court, after a hearing,
413 finds the person has not complied with such conditions.

414 (c) A person who has not completed treatment may not be
415 discharged sooner than four days after the Court Support Services
416 Division is notified of the proposed discharge, except that if immediate
417 discharge from treatment is necessary to protect the health or safety of
418 persons in the alternate incarceration center or staff of the center, the
419 person may be discharged less than four days after notification with
420 the agreement of the Court Support Services Division.

421 Sec. 13. (NEW) (a) The provisions of this section shall not apply to
422 any person convicted of a violation of section 53a-54a, 53a-54b, 53a-54c
423 or 53a-54d of the general statutes.

424 (b) Before sentencing a convicted person, the court may consider
425 any information before it concerning the psychiatric disabilities of the
426 person, including an examination report made pursuant to section 8 of
427 this act. The court may impose a sentence and order the person be
428 referred to the Court Support Services Division for placement in an
429 alternative incarceration center as provided in section 16 of this act for

430 treatment of such person's psychiatric disabilities, as provided in
431 subsection (c) of this section if the court finds that (1) the convicted
432 person was a person with psychiatric disabilities at the time of the
433 crime for which the person was convicted, (2) there was a relationship
434 between the psychiatric disabilities and the crime, (3) the convicted
435 person is not dangerous to himself or herself or others or gravely
436 disabled, (4) the convicted person does not need care and treatment in
437 a hospital for psychiatric disabilities, (5) the convicted person presently
438 needs and is likely to benefit from treatment for psychiatric disabilities,
439 (6) there is no less restrictive alternative than placement in the
440 alternative incarceration center, (7) the person is not ineligible under
441 subsection (a) of this section, and (8) the person meets the criteria for
442 probation under subsection (c) of section 53a-29 of the general statutes.

443 (c) The court may, after imposing sentence, (1) suspend execution of
444 a sentence of imprisonment, either entirely or after a period set by the
445 court, (2) impose a period of probation as provided in this section and
446 subsections (b) and (c) of section 53a-28 of the general statutes, and (3)
447 as a condition of probation, order the Court Support Services Division
448 to place the person in an alternative incarceration center as provided in
449 section 16 of this act for treatment of such person's psychiatric
450 disabilities. The court may require that a probation officer have at least
451 one contact per week with the treatment program in which the person
452 is participating and at least one contact per week with the person when
453 such person is not participating in an inpatient program. Placement in
454 a treatment program shall be no earlier than the date that space is
455 available in a treatment program as reported by the clinical examiner
456 under section 8 of this act.

457 (d) The court may order that the person be transferred immediately
458 to an alternative incarceration center as provided in section 16 of this
459 act provided space is available as provided in subsection (c) of this
460 section. If the court orders an immediate transfer, it shall issue a
461 mittimus directing the judicial marshal to convey the person to the
462 alternative incarceration center.

463 (e) Time spent in an alternative incarceration center by a person
464 pursuant to the provisions of this section shall not be credited against
465 any sentence, the execution of which was suspended because of such
466 treatment.

467 (f) Any violation of conditions set under this section shall be a
468 violation of probation under section 53a-32 of the general statutes.

469 (g) The provisions of this section shall not be construed to limit the
470 application of any provision of the general statutes requiring
471 mandatory minimum sentences and prohibiting probation for certain
472 offenses.

473 Sec. 14. (NEW) (a) The director of the treatment program shall
474 submit a report to the Court Support Services Division whenever a
475 person treated pursuant to section 13 of this act has completed the
476 treatment program. Such report shall recommend whether the person
477 should receive further treatment for psychiatric disabilities.

478 (b) The Court Support Services Division shall notify the clerk of the
479 court when a person (1) has completed the treatment program, (2) has
480 complied with all the conditions set under section 13 of this act, and (3)
481 if alcohol dependent, has abstained from the use of alcohol for two
482 consecutive years, or, if drug dependent, has abstained from the
483 unlawful use of drugs for two consecutive years. Upon receipt of such
484 notification, the clerk shall set a hearing. The Court Support Services
485 Division may advise the court of any recommendation it may make,
486 including if it recommends a modification of sentence or terms of
487 probation or a termination of probation and release of the person.
488 After a hearing, the court may modify the sentence or terms of
489 probation or terminate the probation and release the person.

490 Sec. 15. (NEW) (a) The court shall conduct a hearing to determine if
491 the sentence or terms of probation should be modified if the Court
492 Support Services Division, after a report from the director of the
493 treatment program, notifies the clerk of the court that a person being

494 treated pursuant to section 13 of this act (1) has committed a violent act
495 against another person at the alternative incarceration center or a
496 violent act that damages property at the alternative incarceration
497 center, (2) has threatened to commit such a violent act, (3) has
498 committed a serious violation of rules of the treatment program, (4)
499 has repeatedly committed violations of program rules that inhibit the
500 person's ability to function in the program, (5) has continually refused
501 to participate in the program, (6) has asked to be removed from the
502 program, or (7) is unable to participate in the treatment program
503 because of a medical or psychosocial condition that is not
504 appropriately treated by the program operated by the alternative
505 incarceration center. The director of the treatment program has the
506 burden of establishing facts to support the director's report to the
507 Court Support Services Division.

508 (b) A person who has not completed treatment may not be
509 discharged sooner than four days after the Court Support Services
510 Division is notified of the proposed discharge, except that if immediate
511 discharge from treatment is necessary to protect the health or safety of
512 persons in the program or staff of the program, the person may be
513 discharged less than four days after notification with the agreement of
514 the Court Support Services Division.

515 Sec. 16. (NEW) (a) The Court Support Services Division shall
516 establish in each mental health region in the state a fifteen-bed
517 alternative incarceration center that, in addition to the programs and
518 services offered by an alternative incarceration center, provides a
519 residential and day reporting program for accused and convicted
520 persons with psychiatric disabilities.

521 (b) The program director shall hold a clinical license, and the center
522 shall be staffed by licensed clinical social workers and residential
523 counselors who are trained to work with persons with psychiatric
524 disabilities who are accused or convicted of criminal offenses.

525 (c) The program shall develop a memorandum of agreement with

526 the local mental health authority to provide a full range of psychiatric
527 treatment services to the program participants. The local mental health
528 authority shall assign a clinical coordinator to work with the director
529 of the alternative incarceration center in facilitating timely access to
530 appropriate services and to develop a network of community, social
531 and vocational rehabilitation supports that will enhance successful
532 program participation and long-term community integration.

533 (d) Any person referred to the center pursuant to section 10 or 13 of
534 this act shall be screened to determine such person's eligibility for the
535 program. Such person shall (1) consent to such screening and
536 participation in the program, (2) sign releases authorizing the
537 disclosure of past and current psychiatric information, (3) agree to
538 abide by program rules, and (4) be clinically stable and not dangerous
539 to himself or herself or others. Any person determined to be eligible
540 for the program shall be accepted into the program based on
541 availability of space.

542 (e) The program director and the clinical coordinator shall develop
543 an integrated individualized alternative incarceration program and
544 treatment plan for each person that will include a schedule of daily
545 activities. The alternate incarceration center shall provide supervision,
546 community service, meals, transportation, assistance in applying for
547 any entitlements for which the program participant may be eligible
548 and, if required by the court or Court Support Services Division, drug
549 screening. The local mental health authority shall provide clinical
550 assessment, emergency intervention, outpatient treatment, medication
551 assistance when needed, social supports, case management and
552 community reintegration planning.

553 Sec. 17. Section 54-63f of the general statutes is repealed and the
554 following is substituted in lieu thereof:

555 (a) A person who has been convicted of any offense, except a
556 violation of section 53a-54a, 53a-54b, 53a-54c or 53a-54d, [or any
557 offense involving the use, attempted use or threatened use of physical

558 force against another person,] and is either awaiting sentence or has
559 given oral or written notice of such person's intention to appeal or file
560 a petition for certification or a writ of certiorari may be released
561 pending final disposition of the case, unless the court finds custody to
562 be necessary to provide reasonable assurance of such person's
563 appearance in court, upon the first of the following conditions of
564 release found sufficient by the court to provide such assurance: (1)
565 Upon such person's execution of a written promise to appear, (2) upon
566 such person's execution of a bond without surety in no greater amount
567 than necessary, (3) upon such person's execution of a bond with surety
568 in no greater amount than necessary, (4) upon such person's deposit,
569 with the clerk of the court having jurisdiction of the offense with which
570 such person stands convicted or any assistant clerk of such court who
571 is bonded in the same manner as the clerk or any person or officer
572 authorized to accept bail, a sum of money equal to the amount called
573 for by the bond required by the court, or (5) upon such person's pledge
574 of real property, the equity of which is equal to the amount called for
575 by the bond required by the court, provided the person pledging such
576 property is the owner of such property. When cash bail is offered, such
577 bond shall be executed and the money shall be received in lieu of a
578 surety or sureties upon such bond. Such cash bail shall be retained by
579 the clerk of such court until a final order of the court disposing of the
580 same is passed, provided, if such bond is forfeited, the clerk of such
581 court shall pay the money to the payee named therein, according to the
582 terms and conditions of the bond.

583 (b) There shall be a presumption that a person convicted of any
584 offense involving the use, attempted use or threatened use of physical
585 force against another person shall not be released under subsection (a)
586 of this section. The court may release a person convicted of any such
587 offense, other than a violation of section 53a-54a, 53a-54b, 53a-54c or
588 53a-54d, provided the court, in addition to the findings required under
589 subsection (a) of this section concerning conditions of release, makes
590 the following findings and specifically states such findings in writing
591 for the record: (1) That the conditions imposed on such person's release

592 will reasonably protect any victim of the offense from such person
593 during such person's release, (2) that the conditions imposed on such
594 person's release will reasonably assure such person' s appearance in
595 court when called, (3) that the victim of the offense has been notified,
596 or reasonable efforts have been made to locate and notify the victim,
597 and the victim has been given an opportunity to make or submit a
598 statement concerning whether the person should be released, and the
599 court has considered any such statement made by the victim, and (4)
600 that it is in the interests of justice that such person should be released.

601 Sec. 18. Section 18-86b of the general statutes is repealed and the
602 following is substituted in lieu thereof:

603 (a) Notwithstanding the provisions of sections 18-105 to 18-107,
604 inclusive, the Commissioner of Correction is authorized to improve the
605 operation of the state's correctional facilities by entering into contracts
606 with any governmental or private nonprofit vendor for supervision of
607 not more than five hundred inmates outside the state. Any such
608 governmental or private nonprofit vendor shall agree to be bound by
609 the provisions of the Interstate Corrections Compact, and any
610 [governmental or privately-operated] facility operated by a
611 government or private nonprofit organization to which state inmates
612 are transferred pursuant to a contract under this section shall be
613 located in a state which has enacted and entered into the Interstate
614 Corrections Compact.

615 (b) A state inmate confined in any [governmental or privately-
616 operated] facility operated by a government or private nonprofit
617 organization pursuant to the terms of any contract with the state shall
618 at all times be subject to the authority of the Commissioner of
619 Correction who may at any time remove the inmate for transfer to a
620 state correctional facility or other institution, for transfer to another
621 [governmental or privately-operated] facility operated by a
622 government or private nonprofit organization, for release on probation
623 or parole, for discharge or for any other purpose permitted by the laws

624 of this state.

625 Sec. 19. (NEW) The Commissioner of Correction shall not enter into
626 any contract with a for-profit organization for the supervision or
627 housing of inmates in or outside this state.

628 Sec. 20. (NEW) The Board of Parole shall, in consultation with the
629 Department of Mental Health and Addiction Services, develop a
630 specialized screening program for the performance of a risk
631 assessment of persons eligible for parole.

Statement of Purpose:

To require participation in a drug treatment program in lieu of incarceration for certain persons who commit a nonviolent drug possession offense or violate probation or parole by committing a nonviolent drug possession offense, to establish a diversionary program for persons with psychiatric disabilities, to establish a presumption that persons convicted of violent offenses will not be released on bail pending sentencing or appeal, to prohibit the housing of inmates in for-profit prisons, and to provide risk assessment of persons eligible for parole.

[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.]