



General Assembly

February Session, 2002

**Raised Bill No. 5516**

LCO No. 1593

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING ALTERNATIVES TO INCARCERATION FOR PERSONS WITH PSYCHIATRIC DISABILITIES.**

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

1 Section 1. Subsection (d) of section 54-56d of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2002*):

4 (d) If the court finds that the request for an examination is justified  
5 and that, in accordance with procedures established by the judges of  
6 the Superior Court, there is probable cause to believe that the  
7 defendant has committed the crime for which he is charged, the court  
8 shall order an examination of the defendant as to his competency. The  
9 court either may appoint one or more physicians specializing in  
10 psychiatry to examine the defendant or it may order the Commissioner  
11 of Mental Health and Addiction Services to conduct the examination  
12 either by a clinical team consisting of a physician specializing in  
13 psychiatry, a clinical psychologist and one of the following: A clinical  
14 social worker licensed pursuant to chapter 383b or a psychiatric nurse  
15 clinical specialist holding a master's degree in nursing, or by one or  
16 more physicians specializing in psychiatry, except that no employee of

17 the Department of Mental Health and Addiction Services who has  
18 served as a member of a clinical team in the course of such  
19 employment for at least five years prior to October 1, 1995, shall be  
20 precluded from being appointed as a member of a clinical team. If the  
21 Commissioner of Mental Health and Addiction Services is ordered to  
22 conduct the examination, he shall select the members of the clinical  
23 team or the physician or physicians. If the examiners determine that  
24 the defendant is not competent, they shall then determine whether  
25 there is substantial probability that the defendant, if provided with a  
26 course of treatment, will regain competency within the maximum  
27 period of any placement order under this section, or whether the  
28 defendant appears to be eligible for a civil commitment, with  
29 monitoring by the Court Support Services Division, pursuant to  
30 subdivision (2) of subsection (h) of this section, as amended by this act.  
31 The court may authorize a physician specializing in psychiatry, a  
32 clinical psychologist, a clinical social worker licensed pursuant to  
33 chapter 383b or a psychiatric nurse clinical specialist holding a master's  
34 degree in nursing selected by the defendant to observe the  
35 examination. Counsel for the defendant may observe the examination.  
36 The examination shall be completed within fifteen days from the date  
37 it was ordered and the examiner or examiners shall prepare and sign,  
38 without notarization, a written report and file it with the court within  
39 twenty-one business days of the date of the order. On receipt of the  
40 written report, the clerk of the court shall cause copies to be delivered  
41 immediately to the state's attorney and to counsel for the defendant.

42 Sec. 2. Subsection (h) of section 54-56d of the general statutes is  
43 repealed and the following is substituted in lieu thereof (*Effective*  
44 *October 1, 2002*):

45 (h) (1) If, at the hearing, the court finds that there is a substantial  
46 probability that the defendant, if provided with a course of treatment,  
47 will regain competency within the period of any placement order  
48 under this section, the court shall either order placement of the  
49 defendant for treatment for the purpose of rendering him competent,

50 or shall proceed pursuant to subdivision (2) of this subsection.

51 (2) (A) If, at the hearing, the court finds that there is a substantial  
52 probability that the defendant, if provided with a course of treatment,  
53 will regain competency within the period of any placement order  
54 under this section, the court may, on its own motion, on a motion by  
55 the state, or on a motion by the defendant, order placement of the  
56 defendant at a treatment facility pending civil commitment  
57 proceedings, with monitoring by the Court Support Services Division.  
58 The placement shall be in the custody of the Commissioner of Mental  
59 Health and Addiction Services, the Commissioner of Children and  
60 Families or the Commissioner of Mental Retardation. Such order shall:  
61 (i) Include an authorization for the Commissioner of Mental Health  
62 and Addiction Services, the Commissioner of Children and Families or  
63 the Commissioner of Mental Retardation to proceed to apply for a civil  
64 commitment of such defendant pursuant to sections 17a-75 to 17a-83,  
65 inclusive, as amended, 17a-270 to 17a-283, inclusive, or 17a-495 to 17a-  
66 538, inclusive; (ii) permit the defendant to agree to participate  
67 voluntarily in a treatment plan devised by the Commissioner of  
68 Mental Health and Addiction Services, the Commissioner of Mental  
69 Retardation or the Commissioner of Children and Families, and  
70 monitored by the Court Support Services Division, and require that the  
71 defendant comply with such treatment plan; and (iii) provide that if  
72 the application for civil commitment is denied or not pursued by the  
73 Commissioner of Mental Health and Addiction Services, the  
74 Commissioner of Children and Families or the Commissioner of  
75 Mental Retardation, or if, in the case of a defendant who is  
76 participating voluntarily in a treatment plan, such defendant ceases  
77 such voluntary participation, the person in charge of the treatment  
78 facility or a designee shall submit a written progress report to the court  
79 pursuant to subsection (j) of this section, and the defendant shall be  
80 returned to the court for a hearing pursuant to subsection (k) of this  
81 section. The period of placement and monitoring under such order  
82 shall not exceed the period of the maximum sentence which the  
83 defendant could receive on conviction of the charges against such

84 defendant, or eighteen months, whichever is less. The Court Support  
85 Services Division shall monitor the defendant's compliance with the  
86 court's order. If the defendant has complied, at the end of the period of  
87 placement and monitoring, the court shall approve the entry of a nolle  
88 prosequi to the charges against the defendant, or shall dismiss such  
89 charges.

90 (B) This subdivision shall not be applicable: (i) To any person  
91 charged with a class A felony, a class B felony, except a violation of  
92 section 53a-122 that does not involve the use, attempted use or  
93 threatened use of physical force against another person, or a violation  
94 of section 14-227a, as amended, subdivision (2) of subsection (a) of  
95 section 53-21, section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71,  
96 53a-72a or 53a-72b, (ii) to any person charged with a crime or motor  
97 vehicle violation who, as a result of the commission of such crime or  
98 motor vehicle violation, causes the death of another person, or (iii)  
99 unless good cause is shown, to any person charged with a class C  
100 felony.

101 Sec. 3. Subsection (j) of section 54-56d of the general statutes is  
102 repealed and the following is substituted in lieu thereof (*Effective*  
103 *October 1, 2002*):

104 (j) The person in charge of the treatment facility or his designee shall  
105 submit a written progress report to the court (1) at least seven days  
106 prior to the date of any hearing on the issue of the defendant's  
107 competency; (2) whenever he believes that the defendant has attained  
108 competency; [or] (3) whenever he believes that there is not a  
109 substantial probability that the defendant will attain competency  
110 within the period covered by the placement order; or (4) whenever a  
111 defendant has been placed for treatment pursuant to subdivision (2) of  
112 subsection (h) of this section, and the application for civil commitment  
113 of such defendant is denied or not pursued. The progress report shall  
114 contain (A) the clinical findings of the person submitting the report  
115 and the facts on which the findings are based; (B) the opinion of the

116 person submitting the report as to whether the defendant has attained  
117 competency or as to whether the defendant is making progress, under  
118 treatment, toward attaining competency within the period covered by  
119 the placement order; and (C) any other information concerning the  
120 defendant requested by the court, such as the method of treatment or  
121 the type, dosage and effect of any medication the defendant is  
122 receiving.

123 Sec. 4. Subsection (n) of section 54-56d of the general statutes is  
124 repealed and the following is substituted in lieu thereof (*Effective*  
125 *October 1, 2002*):

126 (n) The cost of the examination effected by the Commissioner of  
127 Mental Health and Addiction Services and of testimony of persons  
128 conducting the examination effected by the commissioner shall be paid  
129 by the Department of Mental Health and Addiction Services. The cost  
130 of the examination and testimony by physicians appointed by the  
131 court shall be paid by the Judicial Department. If the defendant is  
132 indigent, the fee of the person selected by the defendant to observe the  
133 examination and to testify on his behalf shall be paid by the Public  
134 Defender Services Commission. The expense of treating a defendant  
135 placed in the custody of the Commissioner of Mental Health and  
136 Addiction Services, the Commissioner of Children and Families or the  
137 Commissioner of Mental Retardation pursuant to subdivision (2) of  
138 subsection (h) or subsection (i) of this section shall be computed and  
139 paid for in the same manner as is provided for persons committed by a  
140 probate court under the provisions of sections 17b-19, 17b-63 to 17b-65,  
141 inclusive, 17b-116 to 17b-138, inclusive, as amended, 17b-220 to 17b-  
142 250, inclusive, as amended, 17b-256, as amended, 17b-259, as amended,  
143 17b-263, 17b-287, 17b-340 to 17b-350, inclusive, as amended, 17b-689,  
144 17b-689b and 17b-743 to 17b-747, inclusive, as amended.

145 Sec. 5. (NEW) (*Effective October 1, 2002*) (a) When used in this  
146 section, "eligible defendant" means a person found by the court to have  
147 a significant psychiatric disability or a history of treatment for a

148 significant psychiatric disability, and who currently is in need of and  
149 would benefit from appropriate and available treatment programs,  
150 and "psychiatric disability" means a mental or emotional condition that  
151 has substantial adverse effects on the defendant's ability to function  
152 and requires the defendant to receive care and treatment, but shall not  
153 include an abnormality manifested primarily by repeated criminal or  
154 otherwise antisocial conduct.

155 (b) There shall be a pretrial program for alternative placement of  
156 eligible defendants accused of a crime or crimes or a motor vehicle  
157 violation or violations for which a sentence to a term of imprisonment  
158 may be imposed, which crimes or violations are not of a serious  
159 nature. Services pursuant to such program may be provided by the  
160 Commissioner of Mental Health and Addiction Services, the  
161 Commissioner of Mental Retardation, the Commissioner of Children  
162 and Families, or through a private provider agreed upon by the state  
163 and the eligible defendant.

164 (c) The court may, in its discretion, invoke such program on motion  
165 of a state's attorney or prosecuting attorney, or on motion of the  
166 defendant without objection by the state's attorney or prosecuting  
167 attorney, with respect to an eligible defendant (1) who agrees to  
168 disclose to the court the existence of any records of any prior cases and  
169 any pending cases concerning the eligible defendant that came before  
170 the courts of probate regarding such eligible defendant's mental health  
171 and the disposition of such cases, and (2) who can demonstrate to the  
172 satisfaction of the court the benefits to be gained by invoking such  
173 program, provided the eligible defendant shall agree thereto and  
174 provided notice has been given by the eligible defendant, on a form  
175 approved by rule of court, to the victim or victims of such crime or  
176 motor vehicle violation, if any, by registered or certified mail and such  
177 victim or victims have an opportunity to be heard thereon. In  
178 determining whether to grant an application under this section with  
179 respect to a person who has been adjudged a youthful offender under  
180 the provisions of sections 54-76b to 54-76n of the general statutes,

181 inclusive, as amended, more than five years prior to the date of such  
182 application, and notwithstanding the provisions of section 54-76l of the  
183 general statutes, the court shall have access to the youthful offender  
184 records of such person and may consider the nature and circumstances  
185 of the crime with which such person was charged as a youth.

186 (d) This section shall not be applicable: (1) To any person charged  
187 with a class A felony, a class B felony, except a violation of section 53a-  
188 122 of the general statutes that does not involve the use, attempted use  
189 or threatened use of physical force against another person, or a  
190 violation of section 14-227a, as amended, subdivision (2) of subsection  
191 (a) of section 53-21 of the general statutes, section 53a-56b, 53a-60d,  
192 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b of the general  
193 statutes, (2) to any person charged with a crime or motor vehicle  
194 violation who, as a result of the commission of such crime or motor  
195 vehicle violation, causes the death of another person, or (3) unless  
196 good cause is shown, to any person charged with a class C felony.

197 (e) (1) Any eligible defendant who enters such program shall agree  
198 to the tolling of any statute of limitations with respect to such crime  
199 and to a waiver of the right to a speedy trial. Any such eligible  
200 defendant shall appear in court and shall, under such conditions as the  
201 court shall order, be released to the custody of the Court Support  
202 Services Division. If the eligible defendant refuses to accept, or, having  
203 accepted, violates such conditions, the eligible defendant's case shall be  
204 brought to trial. The period of such probation or supervision, or both,  
205 shall not exceed two years.

206 (2) The court shall order that as a condition of such probation the  
207 eligible defendant participate in a treatment plan. The treatment  
208 provider shall report every ninety days to the Court Support Services  
209 Division regarding the progress of the eligible defendant under the  
210 treatment plan, except, in the event of substantial noncompliance with  
211 the treatment plan, such report shall be made as soon as reasonably  
212 possible. An eligible defendant who participates in such program of

213 alternative placement shall provide written consent for such reports  
214 for the duration of such program.

215 (3) The court may order that as a condition of such probation the  
216 defendant participate in the zero-tolerance drug supervision program  
217 established pursuant to section 53a-39d of the general statutes.

218 (4) If the defendant has reached the age of sixteen years but has not  
219 reached the age of eighteen years, the court may order that as a  
220 condition of such probation the eligible defendant be referred for  
221 services to a youth service bureau established pursuant to section  
222 17a-39 of the general statutes, provided the court finds, through an  
223 assessment by a youth service bureau or its designee, that the eligible  
224 defendant is in need of and likely to benefit from such services.

225 (5) When determining any conditions of probation to order for a  
226 person entering such program who was charged with a misdemeanor  
227 that did not involve the use, attempted use or threatened use of  
228 physical force against another person or a motor vehicle violation, the  
229 court shall consider ordering the person to perform community service  
230 in the community in which the offense or violation occurred. If the  
231 court determines that community service is appropriate, such  
232 community service may be implemented by a community court  
233 established in accordance with section 51-181c of the general statutes if  
234 the offense or violation occurred within the jurisdiction of a  
235 community court established by said section.

236 (6) If the eligible defendant is charged with a violation of section  
237 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l of the general statutes,  
238 the court may order that as a condition of such probation the eligible  
239 defendant participate in a hate crimes diversion program as provided  
240 in subsection (f) of this section.

241 (f) If the court orders the eligible defendant to participate in a hate  
242 crimes diversion program as a condition of probation, the eligible  
243 defendant shall pay to the court a participation fee of four hundred

244 twenty-five dollars. No person may be excluded from such program  
245 for inability to pay such fee, provided (1) such person files with the  
246 court an affidavit of indigency or inability to pay, (2) such indigency or  
247 inability to pay is confirmed by the Office of Adult Probation, and (3)  
248 the court enters a finding thereof. The Office of Adult Probation shall  
249 contract with service providers, develop standards and oversee  
250 appropriate hate crimes diversion programs to meet the requirements  
251 of this section. Any defendant whose employment or residence makes  
252 it unreasonable to attend a hate crimes diversion program in this state  
253 may attend a program in another state which has standards  
254 substantially similar to, or higher than, those of this state, subject to the  
255 approval of the court and payment of the application and program fees  
256 as provided in this section. The hate crimes diversion program shall  
257 consist of an educational program and supervised community service.

258 (g) If an eligible defendant released to the custody of the Court  
259 Support Services Division satisfactorily completes such eligible  
260 defendant's period of probation, such eligible defendant may apply for  
261 dismissal of the charges against such eligible defendant and the court,  
262 on finding such satisfactory completion, shall dismiss such charges. If  
263 the eligible defendant does not apply for dismissal of the charges  
264 against such eligible defendant after satisfactorily completing such  
265 eligible defendant's period of probation, the court, upon receipt of a  
266 report submitted by the Court Support Services Division that the  
267 eligible defendant satisfactorily completed such eligible defendant's  
268 period of probation, may on its own motion make a finding of such  
269 satisfactory completion and dismiss such charges. Upon dismissal, all  
270 records of such charges shall be erased pursuant to section 54-142a of  
271 the general statutes. An order of the court denying a motion to dismiss  
272 the charges against an eligible defendant who has completed such  
273 eligible defendant's period of probation or supervision or terminating  
274 the participation of a defendant in such program shall be a final  
275 judgment for purposes of appeal.

276 Sec. 6. Section 17a-681a of the general statutes is repealed and the

277 following is substituted in lieu thereof (*Effective October 1, 2002*):

278 Prior to the [arrest] trial of a person charged [solely] with [the  
 279 commission of a misdemeanor] a crime other than a class A felony or a  
 280 class B felony, except a violation of section 53a-122 that does not  
 281 involve the use, attempted use or threatened use of physical force  
 282 against another person, the Department of Mental Health and  
 283 Addiction Services shall, to the maximum extent possible within the  
 284 limits of available appropriations, with the consent of the arrested  
 285 person, cause a clinical assessment to be performed of any person who  
 286 has previously received mental health services or treatment for  
 287 substance abuse from the department or who would reasonably  
 288 benefit from such services to determine whether such person should be  
 289 referred for community-based mental health services. If the person is  
 290 determined to be in need of such services and is willing to accept the  
 291 services offered, the court shall be informed of the result of the  
 292 assessment and the recommended treatment plan for consideration by  
 293 the court in the disposition of the criminal case.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>

**Statement of Purpose:**

To provide alternatives to incarceration for persons with psychiatric disabilities, including a process for streamlined admission to a treatment program and a form of accelerated rehabilitation allowing dismissal of the criminal charges against such persons when appropriate treatment programs are put in place.

*[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.]*