



General Assembly

February Session, 2002

**Raised Bill No. 5691**

LCO No. 2324

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING DRUG TREATMENT PROGRAMS AT  
ALTERNATIVE INCARCERATION CENTERS.**

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

1 Section 1. (*Effective from passage*) The Maloney Correctional Staff and  
2 Development Training Center shall be used to house persons referred  
3 for placement in an alternative incarceration center pursuant to  
4 sections 10 to 17, inclusive, of this act.

5 Sec. 2. (NEW) (*Effective October 1, 2002*) For the purposes of sections  
6 2 to 7, inclusive, of this act:

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

16 53a-3 of the general statutes, as amended.

17 (2) "Drug treatment program" means a licensed or certified  
18 community drug treatment program that may include one or more of  
19 the following: Outpatient treatment, halfway house treatment, narcotic  
20 replacement therapy, drug education or prevention courses and  
21 limited inpatient or residential drug treatment as needed to address  
22 special detoxification or relapse situations or severe dependence.

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

29 Sec. 3. (NEW) (*Effective October 1, 2002*) (a) Notwithstanding any  
30 provision of the general statutes, and except as provided in subsection  
31 (c) of this section, there shall be a presumption that any person  
32 convicted of a nonviolent drug possession offense on and after the  
33 effective date of this act shall be sentenced to a term of imprisonment,  
34 with the execution of such sentence of imprisonment suspended  
35 entirely, and to a period of probation.

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

45 (c) This section shall not be applicable to any person who: (1) Has  
46 been convicted within the previous five years of a felony or

47 misdemeanor involving the use, attempted use or threatened use of  
48 physical force against another person; (2) in addition to the conviction  
49 of the nonviolent drug possession offense, has been convicted in the  
50 same proceeding of any felony or of a misdemeanor not related to the  
51 use of drugs; (3) has, at separate times prior to the commission of the  
52 present nonviolent drug possession offense, been twice convicted of a  
53 nonviolent drug possession offense, has participated in two separate  
54 courses of drug treatment pursuant to this section and is found by the  
55 court, by clear and convincing evidence, to be unamenable to any and  
56 all forms of available drug treatment; or (4) refuses participation in a  
57 drug treatment program as a condition of probation.

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

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

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

79 may revoke such person's probation.

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

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

100 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) If a person sentenced to a  
101 period of probation in accordance with section 3 of this act violates  
102 that probation by (1) being arrested for an offense other than a  
103 nonviolent drug possession offense, or (2) violating a non-drug-related  
104 condition of probation, the state may proceed as provided in section  
105 53a-32 of the general statutes with respect to such alleged violation.

106 (b) If a person sentenced to a period of probation in accordance with  
107 section 3 of this act violates that probation by (1) being arrested for a  
108 nonviolent drug possession offense, or (2) violating a drug-related  
109 condition of probation, the state may proceed as provided in section  
110 53a-32 of the general statutes with respect to such alleged violation.

111 Notwithstanding the provisions of subsection (b) of section 53a-32 of  
112 the general statutes and except as provided in subsections (c) and (d)  
113 of this section, the court shall not revoke such probation unless the  
114 state proves by a preponderance of the evidence that such person  
115 violated a condition of probation and poses a danger to the safety of  
116 other persons.

117 (c) If a person sentenced to a period of probation in accordance with  
118 section 3 of this act violates that probation for a second time by (1)  
119 being arrested for a nonviolent drug possession offense, or (2)  
120 violating a drug-related condition of probation, the state may proceed  
121 as provided in section 53a-32 of the general statutes with respect to  
122 such alleged violation. Notwithstanding the provisions of subsection  
123 (b) of section 53a-32 of the general statutes, the court shall not revoke  
124 such probation unless the state proves by a preponderance of the  
125 evidence that such person violated a condition of probation and that  
126 such person poses a danger to the safety of other persons or is  
127 unamenable to drug treatment. In determining whether such person is  
128 unamenable to drug treatment, the court may consider, to the extent  
129 relevant, whether such person (A) has committed a serious violation of  
130 rules at the drug treatment program, (B) has repeatedly committed  
131 violations of program rules that inhibit such person's ability to  
132 function in the program, or (C) has continually refused to participate  
133 in the program or asked to be removed from the program.

134 (d) If a person sentenced to a period of probation in accordance with  
135 section 3 of this act violates that probation for a third time by (1) being  
136 arrested for a nonviolent drug possession offense, or (2) violating a  
137 drug-related condition of probation, the state may proceed as provided  
138 in section 53a-32 of the general statutes with respect to such alleged  
139 violation.

140 Sec. 5. (NEW) (*Effective October 1, 2002*) (a) If a person on probation  
141 on the effective date of this act for a nonviolent drug possession  
142 offense violates that probation by (1) being arrested for an offense

143 other than a nonviolent drug possession offense, or (2) violating a non-  
144 drug-related condition of probation, the state may proceed as provided  
145 in section 53a-32 of the general statutes with respect to such alleged  
146 violation.

147 (b) If a person on probation on the effective date of this act for a  
148 nonviolent drug possession offense violates that probation by (1) being  
149 arrested for a nonviolent drug possession offense, or (2) violating a  
150 drug-related condition of probation, the state may proceed as provided  
151 in section 53a-32 of the general statutes with respect to such alleged  
152 violation. Notwithstanding the provisions of subsection (b) of section  
153 53a-32 of the general statutes, the court shall not revoke such probation  
154 unless the state proves by a preponderance of the evidence that such  
155 person violated a condition of probation and poses a danger to the  
156 safety of other persons. If the court modifies or enlarges the conditions  
157 of probation, it may require participation in and successful completion  
158 of a drug treatment program as provided in section 3 of this act as a  
159 condition of probation.

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

176 or asked to be removed from the program. If the court modifies or  
177 enlarges the conditions of probation, it may impose participation in a  
178 drug treatment program as provided in section 3 of this act as a  
179 condition of probation.

180 (d) If a person on probation on the effective date of this act for a  
181 nonviolent drug possession offense violates that probation for a third  
182 time by (1) being arrested for a nonviolent drug possession offense, or  
183 (2) violating a drug-related condition of probation, the state may  
184 proceed as provided in section 53a-32 of the general statutes with  
185 respect to such alleged violation.

186 Sec. 6. (NEW) (*Effective October 1, 2002*) (a) Notwithstanding any  
187 provision of the general statutes, and except as provided in subsection  
188 (b) of this section and subsections (b) and (c) of section 7 of this act, the  
189 Board of Parole shall not revoke the parole of any person who is  
190 arrested for the commission of a nonviolent drug possession offense or  
191 who violates a drug-related condition of parole. The Board of Parole  
192 shall impose as a condition of parole for any such person that such  
193 person participate in and successfully complete an appropriate drug  
194 treatment program. The board may also impose, as a condition of such  
195 parole, that such person participate in vocational training, family  
196 counseling, literacy training or community service. The board may  
197 require any person who is reasonably able to do so to contribute to the  
198 cost of their participation in such drug treatment program.

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

208 (c) Within seven days of finding that a parolee has committed a  
209 nonviolent drug possession offense or violated any drug-related  
210 condition of parole, the Board of Parole shall notify the drug treatment  
211 provider designated to provide drug treatment under this section. Not  
212 later than thirty days after receiving such notice, the treatment  
213 provider shall prepare a treatment plan and forward it to the Board of  
214 Parole. After the person begins the drug treatment program, the  
215 treatment provider shall prepare and forward a progress report to the  
216 Board of Parole on a quarterly basis.

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

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

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

234 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) If a person for whom  
235 participation in a drug treatment program is imposed as a condition of  
236 parole pursuant to subsection (a) of section 6 of this act violates that  
237 parole by (1) being arrested for an offense other than a nonviolent drug  
238 possession offense, or (2) violating a non-drug-related condition of  
239 parole, and the Board of Parole acts to revoke parole, a hearing shall be

240 conducted to determine whether parole should be revoked. If the  
241 alleged violation of parole is proved, the board may modify or revoke  
242 such parole.

243 (b) If a person for whom participation in a drug treatment program  
244 is imposed as a condition of parole pursuant to subsection (a) of  
245 section 6 of this act violates that parole by (1) being arrested for a  
246 nonviolent drug possession offense, or (2) violating a drug-related  
247 condition of parole, and the Board of Parole acts to revoke parole, a  
248 hearing shall be conducted to determine whether parole should be  
249 revoked. The Board of Parole shall not revoke such parole unless the  
250 state proves by a preponderance of the evidence that such person  
251 violated a condition of parole and that such person poses a danger to  
252 the safety of other persons. If the board does not revoke parole, it may  
253 intensify the conditions of parole to achieve the goals of drug  
254 treatment.

255 (c) If a person for whom participation in a drug treatment program  
256 is imposed as a condition of parole pursuant to subsection (a) of  
257 section 6 of this act violates that parole for a second time by (1) being  
258 arrested for a nonviolent drug possession offense, or (2) violating a  
259 drug-related condition of parole, and the Board of Parole acts to  
260 revoke parole, a hearing shall be conducted to determine whether  
261 parole should be revoked. If the state proves by a preponderance of the  
262 evidence that such person violated a condition of parole, the board  
263 may modify or revoke such parole and such person shall not be  
264 eligible thereafter for release on parole pursuant to the provisions of  
265 subsection (a) of section 6 of this act.

266 Sec. 8. (NEW) (*Effective October 1, 2002*) The court, on its own motion  
267 or on motion of the state's attorney or a person charged with a crime or  
268 convicted of a crime but not yet sentenced, may order, if the interests  
269 of justice will be served, that such person be examined, pursuant to the  
270 provisions of section 9 of this act, to determine if the person is a person  
271 with psychiatric disabilities and eligible for treatment under section 11

272 or 14 of this act. A probation officer may order that such an  
273 examination be conducted as part of a presentence investigation  
274 conducted pursuant to the provisions of section 54-91a of the general  
275 statutes.

276 Sec. 9. (NEW) (*Effective October 1, 2002*) (a) The Commissioner of  
277 Mental Health and Addiction Services or the commissioner's designee  
278 shall appoint one or more clinical examiners to conduct examinations  
279 for psychiatric disabilities ordered pursuant to the provisions of  
280 section 8 of this act. Each examiner shall be authorized by the  
281 department to conduct independent evaluations.

282 (b) The examiner shall determine whether the person being  
283 examined was a person with psychiatric disabilities at the time of the  
284 crime. If such person is determined to have been a person with  
285 psychiatric disabilities, the examiner shall further determine (1) the  
286 history and pattern of the disability, and (2) whether the person  
287 presently needs and is likely to benefit from treatment for the  
288 psychiatric disability.

289 (c) The examiner shall prepare and sign, without notarization, a  
290 written examination report and deliver it to the court, the Court  
291 Support Services Division, the state's attorney and defense counsel no  
292 later than thirty days after the examination was ordered. An  
293 examination report ordered pursuant to section 8 of this act shall  
294 otherwise be confidential and not open to public inspection or subject  
295 to disclosure.

296 (d) No statement made by the person in the course of an  
297 examination under the provisions of this section may be admitted in  
298 evidence on the issue of guilt in a criminal proceeding concerning the  
299 person.

300 Sec. 10. (NEW) (*Effective October 1, 2002*) After receipt by the court of  
301 the examination report, the accused person may make a motion for  
302 suspension of prosecution and an order of treatment for psychiatric

303 disabilities pursuant to the provisions of section 11 of this act. Unless  
304 the opportunity for a hearing is waived by both the accused person  
305 and the state's attorney, the court shall hear the motion. The clinical  
306 examiner shall not be required to be present to testify on the report  
307 unless the presence of the clinical examiner is requested by the court,  
308 the accused person or the state's attorney.

309       Sec. 11. (NEW) (*Effective October 1, 2002*) (a) The provisions of this  
310 section shall not apply to any person charged with a violation of  
311 section 53a-54a, 53a-54b, as amended, 53a-54c or 53a-54d of the general  
312 statutes.

313       (b) The court may order suspension of prosecution and order such  
314 person be referred to the Court Support Services Division for  
315 placement in an alternative incarceration center as provided in section  
316 17 of this act for treatment of such person's psychiatric disabilities, as  
317 provided in this section and section 13 of this act, if it, after considering  
318 information before it concerning the psychiatric disabilities of the  
319 person, including the examination report made pursuant to the  
320 provisions of section 9 of this act, finds that (1) the accused person was  
321 a person with psychiatric disabilities at the time of the crime, (2) the  
322 accused person is not dangerous to himself or herself or others or  
323 gravely disabled, (3) the accused person is not in need of care and  
324 treatment in a hospital for psychiatric disabilities, (4) the accused  
325 person presently needs and is likely to benefit from treatment for  
326 psychiatric disabilities, (5) there is no less restrictive alternative than  
327 placement in the alternative incarceration center, and (6) suspension of  
328 prosecution will advance the interests of justice.

329       (c) A suspension of prosecution ordered under the provisions of  
330 subsection (b) of this section may be for a period not exceeding two  
331 years. During the period of suspension, an accused person shall be  
332 placed in the custody of the Court Support Services Division for  
333 placement in an alternative incarceration center as provided in section  
334 16 of this act and treatment for such person's psychiatric disabilities.

335 The court or the Court Support Services Division may require that the  
336 person (1) comply with any of the conditions specified in subsections  
337 (a) and (b) of section 53a-30 of the general statutes, as amended, and  
338 (2) be tested for use of alcohol or drugs during the period of  
339 suspension. The accused person shall, unless indigent, pay the cost of  
340 treatment ordered under this section.

341 (d) If prosecution is suspended under the provisions of subsection  
342 (b) of this section, (1) the statute of limitations applicable to the crime  
343 charged shall be tolled during the period of suspension, and (2) the  
344 accused person shall be deemed to have waived such person's right to  
345 a speedy trial for the crime charged.

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

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

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

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

366       Sec. 12. (NEW) (*Effective October 1, 2002*) (a) The director of the  
367 treatment program shall discharge from treatment any person being  
368 treated pursuant to the provisions of section 11 of this act who  
369 completes the treatment program. The director of the program shall  
370 notify the Court Support Services Division of the director's intent to  
371 discharge such person at least seven days before the date the person is  
372 to be discharged.

373       (b) At any time before the end of the period of suspension of  
374 prosecution, the Court Support Services Division may recommend to  
375 the court that the charge be dismissed if the person has (1) completed  
376 the treatment program, (2) complied with all conditions set under  
377 subsection (c) of section 10 of this act, and (3) abstained from the use of  
378 alcohol for one year if such person was alcohol dependent or abstained  
379 from the unlawful use of drugs for one year if such person was drug  
380 dependent.

381       (c) Not later than one month before the end of the period of  
382 suspension of prosecution, the Court Support Services Division shall  
383 notify the court of the impending conclusion of the suspension and  
384 submit a report on whether the person has completed the treatment  
385 program and has complied with all conditions set under subsection (c)  
386 of section 11 of this act and on whether the office recommends  
387 dismissal of the charge.

388       (d) If the court, on motion by the person discharged from treatment,  
389 or on its own motion, finds that the person (1) is responding favorably  
390 to treatment at the expiration of the period of suspension of  
391 prosecution or has completed the treatment program, and (2) has  
392 complied with all other conditions of suspension, it may dismiss the  
393 charge for which prosecution had been suspended under the  
394 provisions of section 11 of this act. If the court denies the motion and  
395 terminates the suspension of prosecution, the state's attorney may  
396 proceed with prosecution of the crime.

397       Sec. 13. (NEW) (*Effective October 1, 2002*) (a) The court shall conduct

398 a hearing to determine whether the conditions of the suspension of  
399 prosecution should be modified or the suspension terminated, if the  
400 Court Support Services Division, after receipt of a report from the  
401 director of the treatment program, notifies the clerk of the court that a  
402 person treated pursuant to section 11 of this act (1) has committed a  
403 violent act against another person at the alternative incarceration  
404 center or a violent act that damages property at the alternative  
405 incarceration center, (2) has threatened to commit such a violent act, (3)  
406 has committed a serious violation of rules of the alternative  
407 incarceration center, (4) has repeatedly committed violations of  
408 program rules that inhibit the person's ability to function in the  
409 program, (5) has continually refused to participate in the program, (6)  
410 has asked to be removed from the program, or (7) is unable to  
411 participate in the treatment program because of a medical or  
412 psychosocial condition which is not appropriately treated by the  
413 program operated by the alternative incarceration center. The director  
414 of the treatment program shall have the burden of establishing facts to  
415 support the director's report. If the court terminates the suspension,  
416 the state's attorney may proceed with prosecution of the crime.

417 (b) If a person being treated has not complied with conditions set  
418 pursuant to subsection (c) of section 11 of this act, the Court Support  
419 Services Division shall notify the clerk of the court. The court may  
420 terminate the suspension of prosecution and the state's attorney may  
421 proceed with prosecution of the crime if the court, after a hearing,  
422 finds the person has not complied with such conditions.

423 (c) A person who has not completed treatment may not be  
424 discharged sooner than four days after the Court Support Services  
425 Division is notified of the proposed discharge, except that if immediate  
426 discharge from treatment is necessary to protect the health or safety of  
427 persons in the alternate incarceration center or staff of the center, the  
428 person may be discharged less than four days after notification with  
429 the agreement of the Court Support Services Division.

430 Sec. 14. (NEW) (*Effective October 1, 2002*) (a) The provisions of this  
431 section shall not apply to any person convicted of a violation of section  
432 53a-54a, 53a-54b, as amended, 53a-54c or 53a-54d of the general  
433 statutes.

434 (b) Before sentencing a convicted person, the court may consider  
435 any information before it concerning the psychiatric disabilities of the  
436 person, including an examination report made pursuant to section 9 of  
437 this act. The court may impose a sentence and order the person be  
438 referred to the Court Support Services Division for placement in an  
439 alternative incarceration center as provided in section 17 of this act for  
440 treatment of such person's psychiatric disabilities, as provided in  
441 subsection (c) of this section if the court finds that (1) the convicted  
442 person was a person with psychiatric disabilities at the time of the  
443 crime for which the person was convicted, (2) there was a relationship  
444 between the psychiatric disabilities and the crime, (3) the convicted  
445 person is not dangerous to himself or herself or others or gravely  
446 disabled, (4) the convicted person does not need care and treatment in  
447 a hospital for psychiatric disabilities, (5) the convicted person presently  
448 needs and is likely to benefit from treatment for psychiatric disabilities,  
449 (6) there is no less restrictive alternative than placement in the  
450 alternative incarceration center, (7) the person is not ineligible under  
451 subsection (a) of this section, and (8) the person meets the criteria for  
452 probation under subsection (c) of section 53a-29 of the general statutes,  
453 as amended.

454 (c) The court may, after imposing sentence, (1) suspend execution of  
455 a sentence of imprisonment, either entirely or after a period set by the  
456 court, (2) impose a period of probation as provided in this section and  
457 subsections (b) and (c) of section 53a-28 of the general statutes, as  
458 amended, and (3) as a condition of probation, order the Court Support  
459 Services Division to place the person in an alternative incarceration  
460 center as provided in section 17 of this act for treatment of such  
461 person's psychiatric disabilities. The court may require that a probation  
462 officer have at least one contact per week with the treatment program

463 in which the person is participating and at least one contact per week  
464 with the person when such person is not participating in an inpatient  
465 program. Placement in a treatment program shall be no earlier than the  
466 date that space is available in a treatment program as reported by the  
467 clinical examiner under section 9 of this act.

468 (d) The court may order that the person be transferred immediately  
469 to an alternative incarceration center as provided in section 17 of this  
470 act provided space is available as provided in subsection (c) of this  
471 section. If the court orders an immediate transfer, it shall issue a  
472 mittimus directing the judicial marshal to convey the person to the  
473 alternative incarceration center.

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

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

480 (g) The provisions of this section shall not be construed to limit the  
481 application of any provision of the general statutes requiring  
482 mandatory minimum sentences and prohibiting probation for certain  
483 offenses.

484 Sec. 15. (NEW) (*Effective October 1, 2002*) (a) The director of the  
485 treatment program shall submit a report to the Court Support Services  
486 Division whenever a person treated pursuant to section 14 of this act  
487 has completed the treatment program. Such report shall recommend  
488 whether the person should receive further treatment for psychiatric  
489 disabilities.

490 (b) The Court Support Services Division shall notify the clerk of the  
491 court when a person (1) has completed the treatment program, (2) has  
492 complied with all the conditions set under section 14 of this act, and (3)

493 if alcohol dependent, has abstained from the use of alcohol for two  
494 consecutive years, or, if drug dependent, has abstained from the  
495 unlawful use of drugs for two consecutive years. Upon receipt of such  
496 notification, the clerk shall set a hearing. The Court Support Services  
497 Division may advise the court of any recommendation it may make,  
498 including if it recommends a modification of sentence or terms of  
499 probation or a termination of probation and release of the person.  
500 After a hearing, the court may modify the sentence or terms of  
501 probation or terminate the probation and release the person.

502       Sec. 16. (NEW) (*Effective October 1, 2002*) (a) The court shall conduct  
503 a hearing to determine if the sentence or terms of probation should be  
504 modified if the Court Support Services Division, after a report from the  
505 director of the treatment program, notifies the clerk of the court that a  
506 person being treated pursuant to section 14 of this act (1) has  
507 committed a violent act against another person at the alternative  
508 incarceration center or a violent act that damages property at the  
509 alternative incarceration center, (2) has threatened to commit such a  
510 violent act, (3) has committed a serious violation of rules of the  
511 treatment program, (4) has repeatedly committed violations of  
512 program rules that inhibit the person's ability to function in the  
513 program, (5) has continually refused to participate in the program, (6)  
514 has asked to be removed from the program, or (7) is unable to  
515 participate in the treatment program because of a medical or  
516 psychosocial condition that is not appropriately treated by the  
517 program operated by the alternative incarceration center. The director  
518 of the treatment program has the burden of establishing facts to  
519 support the director's report to the Court Support Services Division.

520       (b) A person who has not completed treatment may not be  
521 discharged sooner than four days after the Court Support Services  
522 Division is notified of the proposed discharge, except that if immediate  
523 discharge from treatment is necessary to protect the health or safety of  
524 persons in the program or staff of the program, the person may be  
525 discharged less than four days after notification with the agreement of

526 the Court Support Services Division.

527 Sec. 17. Section 77 of public act 01-9 of the June special session is  
528 repealed and the following is substituted in lieu thereof (*Effective*  
529 *October 1, 2002*):

530 (a) The Judicial Branch may establish, within available  
531 appropriations, in the judicial district of New Haven, an alternative  
532 incarceration center that, in addition to the programs and services  
533 offered by an alternative incarceration center, provides a residential  
534 and day reporting program for accused and convicted persons with  
535 mental health needs.

536 (b) A full range of mental health services shall, within available  
537 appropriations, be provided to the program participants. A clinical  
538 coordinator shall work with the director of the alternative  
539 incarceration center in facilitating timely access to appropriate services  
540 and shall develop a network of community, social and vocational  
541 rehabilitation supports that will enhance successful program  
542 participation and long-term community integration.

543 (c) Any person referred to the center pursuant to section 11 or 14 of  
544 this act shall be screened to determine such person's eligibility for the  
545 program. Such person shall (1) consent to such screening and  
546 participation in the program, (2) sign releases authorizing the  
547 disclosure of past and current psychiatric information, (3) agree to  
548 abide by program rules, and (4) be clinically stable and not dangerous  
549 to himself or herself or others. Any person determined to be eligible  
550 for the program shall be accepted into the program based on  
551 availability of space.

552 (d) The program director and the clinical coordinator shall develop  
553 an integrated individualized alternative incarceration program and  
554 treatment plan for each person that will include a schedule of daily  
555 activities. The alternate incarceration center shall provide supervision,  
556 community service, meals, transportation, assistance in applying for

557 any entitlements for which the program participant may be eligible  
 558 and, if required by the court or Court Support Services Division, drug  
 559 screening. The local mental health authority shall provide clinical  
 560 assessment, emergency intervention, outpatient treatment, medication  
 561 assistance when needed, social supports, case management and  
 562 community reintegration planning.

|  |                        |
|--|------------------------|
| This act shall take effect as follows: |                        |
| Section 1                              | <i>from passage</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> |
| Sec. 7                                 | <i>October 1, 2002</i> |
| Sec. 8                                 | <i>October 1, 2002</i> |
| Sec. 9                                 | <i>October 1, 2002</i> |
| Sec. 10                                | <i>October 1, 2002</i> |
| Sec. 11                                | <i>October 1, 2002</i> |
| Sec. 12                                | <i>October 1, 2002</i> |
| Sec. 13                                | <i>October 1, 2002</i> |
| Sec. 14                                | <i>October 1, 2002</i> |
| Sec. 15                                | <i>October 1, 2002</i> |
| Sec. 16                                | <i>October 1, 2002</i> |
| Sec. 17                                | <i>October 1, 2002</i> |

**Statement of Purpose:**

To reuse the Maloney Correctional Center as an alternative incarceration center, 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.]*