



General Assembly

February Session, 2002

Amendment

LCO No. 3804

HB0568203804HR0

Offered by:

REP. URBAN, 43rd Dist.

To: House Bill No. 5682

File No. 414

Cal. No. 254

**"AN ACT CONCERNING THE COMPOSITION OF THE
COMMISSION ON PRISON AND JAIL OVERCROWDING."**

1 After line 17, add the following:

2 "Sec. 2. Subsection (a) of section 53a-30 of the general statutes, as
3 amended by section 15 of public act 01-84, is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2002*):

5 (a) When imposing sentence of probation or conditional discharge,
6 the court may, as a condition of the sentence, order that the defendant:
7 (1) Work faithfully at a suitable employment or faithfully pursue a
8 course of study or of vocational training that will equip the defendant
9 for suitable employment; (2) undergo medical or psychiatric treatment
10 and remain in a specified institution, when required for that purpose;
11 (3) support the defendant's dependents and meet other family
12 obligations; (4) make restitution of the fruits of the defendant's offense
13 or make restitution, in an amount the defendant can afford to pay or
14 provide in a suitable manner, for the loss or damage caused thereby

15 and the court may fix the amount thereof and the manner of
16 performance; (5) if a minor, (A) reside with the minor's parents or in a
17 suitable foster home, (B) attend school, and (C) contribute to the
18 minor's own support in any home or foster home; (6) post a bond or
19 other security for the performance of any or all conditions imposed; (7)
20 refrain from violating any criminal law of the United States, this state
21 or any other state; (8) if convicted of a misdemeanor or a felony, other
22 than a capital felony, a class A felony or a violation of section 21a-278,
23 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any
24 offense for which there is a mandatory minimum sentence which may
25 not be suspended or reduced by the court, and any sentence of
26 imprisonment is suspended, participate in an alternate incarceration
27 program; (9) reside in a residential community center or halfway
28 house approved by the Commissioner of Correction, and contribute to
29 the cost incident to such residence; (10) participate in a program of
30 community service labor in accordance with section 53a-39c; (11)
31 participate in a program of community service in accordance with
32 section 51-181c; (12) if convicted of a violation of subdivision (2) of
33 subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71,
34 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13)
35 if convicted of a criminal offense against a victim who is a minor, a
36 nonviolent sexual offense or a sexually violent offense, as defined in
37 section 54-250, or of a felony that the court finds was committed for a
38 sexual purpose, as provided in section 54-254, register such person's
39 identifying factors, as defined in section 54-250, with the
40 Commissioner of Public Safety when required pursuant to section 54-
41 251, 54-252 or 54-253, as the case may be; (14) be subject to electronic
42 monitoring; (15) if convicted of a violation of section 46a-58, 53-37a,
43 53a-181j, 53a-181k or 53a-181l, participate in an anti-bias crime
44 education program; (16) if convicted of a violation of section 53-247,
45 undergo psychiatric or psychological counseling or participate in an
46 animal cruelty prevention and education program; (17) satisfy any
47 other conditions reasonably related to the defendant's rehabilitation.
48 The court shall cause a copy of any such order to be delivered to the
49 defendant and to the probation officer, if any.

50 Sec. 3. Section 54-56e of the general statutes, as amended by public
51 act 01-16, is repealed and the following is substituted in lieu thereof
52 (*Effective October 1, 2002*):

53 (a) There shall be a pretrial program for accelerated rehabilitation of
54 persons accused of a crime or crimes or a motor vehicle violation or
55 violations for which a sentence to a term of imprisonment may be
56 imposed, which crimes or violations are not of a serious nature.

57 (b) The court may, in its discretion, invoke such program on motion
58 of the defendant or on motion of a state's attorney or prosecuting
59 attorney with respect to a defendant (1) who, the court believes, will
60 probably not offend in the future, (2) who has no previous record of
61 conviction of a crime or of a violation of section 14-196, subsection (c)
62 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
63 section 14-227a, (3) who has not been adjudged a youthful offender
64 within the preceding five years under the provisions of sections 54-76b
65 to 54-76n, inclusive, and (4) who states under oath, in open court or
66 before any person designated by the clerk and duly authorized to
67 administer oaths, under the penalties of perjury that the defendant has
68 never had such program invoked in the defendant's behalf, provided
69 the defendant shall agree thereto and provided notice has been given
70 by the defendant, on a form approved by rule of court, to the victim or
71 victims of such crime or motor vehicle violation, if any, by registered
72 or certified mail and such victim or victims have an opportunity to be
73 heard thereon. In determining whether to grant an application under
74 this section with respect to a person who has been adjudged a youthful
75 offender under the provisions of sections 54-76b to 54-76n, inclusive,
76 more than five years prior to the date of such application, and
77 notwithstanding the provisions of section 54-76l, the court shall have
78 access to the youthful offender records of such person and may
79 consider the nature and circumstances of the crime with which such
80 person was charged as a youth. Any defendant who makes application
81 for participation in such program shall pay to the court an application
82 fee of thirty-five dollars.

83 (c) This section shall not be applicable: (1) To any person charged
84 with a class A felony, a class B felony, except a violation of section 53a-
85 122 that does not involve the use, attempted use or threatened use of
86 physical force against another person, or a violation of section 14-227a,
87 subdivision (2) of subsection (a) of section 53-21, section 53a-56b,
88 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, (2) to any
89 person charged with a crime or motor vehicle violation who, as a result
90 of the commission of such crime or motor vehicle violation, causes the
91 death of another person, (3) to any person accused of a family violence
92 crime as defined in section 46b-38a who (A) is eligible for the pretrial
93 family violence education program established under section 46b-38c,
94 or (B) has previously had the pretrial family violence education
95 program invoked in such person's behalf, (4) to any person charged
96 with a violation of section 21a-267 or 21a-279 who (A) is eligible for the
97 pretrial drug education program established under section 54-56i, or
98 (B) has previously had the pretrial drug education program invoked in
99 such person's behalf, or (5) unless good cause is shown, to any person
100 charged with a class C felony.

101 (d) Except as provided in [subsection (e)] subsections (e) and (f) of
102 this section, any defendant who enters such program shall pay to the
103 court a participation fee of one hundred dollars. Any defendant who
104 enters such program shall agree to the tolling of any statute of
105 limitations with respect to such crime and to a waiver of the right to a
106 speedy trial. Any such defendant shall appear in court and shall, under
107 such conditions as the court shall order, be released to the custody of
108 the Office of Adult Probation, except that, if a criminal docket for
109 drug-dependent persons has been established pursuant to section
110 51-181b in the judicial district, such defendant may be transferred,
111 under such conditions as the court shall order, to the court handling
112 such docket for supervision by such court. If the defendant refuses to
113 accept, or, having accepted, violates such conditions, the defendant's
114 case shall be brought to trial. The period of such probation or
115 supervision, or both, shall not exceed two years. The court may order
116 that as a condition of such probation the defendant participate in the

117 zero-tolerance drug supervision program established pursuant to
118 section 53a-39d. If the defendant has reached the age of sixteen years
119 but has not reached the age of eighteen years, the court may order that
120 as a condition of such probation the defendant be referred for services
121 to a youth service bureau established pursuant to section 17a-39,
122 provided the court finds, through an assessment by a youth service
123 bureau or its designee, that the defendant is in need of and likely to
124 benefit from such services. When determining any conditions of
125 probation to order for a person entering such program who was
126 charged with a misdemeanor that did not involve the use, attempted
127 use or threatened use of physical force against another person or a
128 motor vehicle violation, the court shall consider ordering the person to
129 perform community service in the community in which the offense or
130 violation occurred. If the court determines that community service is
131 appropriate, such community service may be implemented by a
132 community court established in accordance with section 51-181c if the
133 offense or violation occurred within the jurisdiction of a community
134 court established by said section. If the defendant is charged with a
135 violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, the
136 court may order that as a condition of such probation the defendant
137 participate in a hate crimes diversion program as provided in
138 subsection (e) of this section. If a defendant is charged with a violation
139 of section 53-247, the court may order that as a condition of such
140 probation the defendant participate in an animal cruelty prevention
141 and education program as provided in subsection (f) of this section.

142 (e) If the court orders the defendant to participate in a hate crimes
143 diversion program as a condition of probation, the defendant shall pay
144 to the court a participation fee of four hundred twenty-five dollars. No
145 person may be excluded from such program for inability to pay such
146 fee, provided (1) such person files with the court an affidavit of
147 indigency or inability to pay, (2) such indigency or inability to pay is
148 confirmed by the Office of Adult Probation, and (3) the court enters a
149 finding thereof. The Office of Adult Probation shall contract with
150 service providers, develop standards and oversee appropriate hate

151 crimes diversion programs to meet the requirements of this section.
152 Any defendant whose employment or residence makes it unreasonable
153 to attend a hate crimes diversion program in this state may attend a
154 program in another state which has standards substantially similar to,
155 or higher than, those of this state, subject to the approval of the court
156 and payment of the application and program fees as provided in this
157 section. The hate crimes diversion program shall consist of an
158 educational program and supervised community service.

159 (f) If the court orders the defendant to participate in an animal
160 cruelty prevention and education program as a condition of probation,
161 the defendant shall pay to the court a participation fee of two hundred
162 dollars. No person may be excluded from such program for inability to
163 pay such fee, provided (1) such person files with the court an affidavit
164 of indigency or inability to pay, (2) such indigency or inability to pay is
165 confirmed by the Office of Adult Probation, and (3) the court enters a
166 finding thereof. The Office of Adult Probation shall contract with
167 service providers, develop standards and oversee appropriate animal
168 cruelty prevention and education programs to meet the requirements
169 of this section. Any defendant whose employment or residence makes
170 it unreasonable to attend an animal cruelty prevention and education
171 program in this state may attend a program in another state which has
172 standards substantially similar to, or higher than, those of this state,
173 subject to the approval of the court and payment of the application and
174 program fees as provided in this section.

175 ~~[(f)]~~ (g) If a defendant released to the custody of the Office of Adult
176 Probation satisfactorily completes such defendant's period of
177 probation, such defendant may apply for dismissal of the charges
178 against such defendant and the court, on finding such satisfactory
179 completion, shall dismiss such charges. If the defendant does not apply
180 for dismissal of the charges against such defendant after satisfactorily
181 completing such defendant's period of probation, the court, upon
182 receipt of a report submitted by the Office of Adult Probation that the
183 defendant satisfactorily completed such defendant's period of
184 probation, may on its own motion make a finding of such satisfactory

185 completion and dismiss such charges. If a defendant transferred to the
186 court handling the criminal docket for drug-dependent persons
187 satisfactorily completes such defendant's period of supervision, the
188 court shall release the defendant to the custody of the Office of Adult
189 Probation under such conditions as the court shall order or shall
190 dismiss such charges. Upon dismissal, all records of such charges shall
191 be erased pursuant to section 54-142a. An order of the court denying a
192 motion to dismiss the charges against a defendant who has completed
193 such defendant's period of probation or supervision or terminating the
194 participation of a defendant in such program shall be a final judgment
195 for purposes of appeal.

196 Sec. 4. Subsection (c) of section 46b-140 of the general statutes is
197 repealed and the following is substituted in lieu thereof (*Effective*
198 *October 1, 2002*):

199 (c) The court may order, as a condition of probation, that the child
200 (1) reside with a parent, relative or guardian or in a suitable foster
201 home or other residence approved by the court, (2) attend school and
202 class on a regular basis and comply with school policies on student
203 conduct and discipline, (3) refrain from violating any federal or state
204 law or municipal or local ordinance, (4) undergo any medical or
205 psychiatric evaluation or treatment deemed necessary by the court, (5)
206 submit to random drug or alcohol testing, or both, (6) participate in a
207 program of alcohol or drug treatment, or both, (7) make restitution to
208 the victim of the offense in accordance with subsection (d) of this
209 section, (8) participate in an alternative incarceration program or other
210 program established through the Office of Alternative Sanctions, (9)
211 participate in a program of community service, and (10) satisfy any
212 other conditions deemed appropriate by the court. The court shall
213 cause a copy of any such order to be delivered to the child, the child's
214 parents or guardian and the child's probation officer. If the child is
215 convicted as delinquent for a violation of section 53-247, the court shall
216 order, as a condition of probation, that the child undergo psychiatric or
217 psychological counseling or participate in an animal cruelty
218 prevention and education program.

219 Sec. 5. Subsection (b) of section 54-76j of the general statutes is
220 repealed and the following is substituted in lieu thereof (*Effective*
221 *October 1, 2002*):

222 (b) If execution of the sentence is suspended under subdivision (6)
223 of subsection (a), the defendant may be placed on probation or
224 conditional discharge for a period not to exceed three years, provided
225 the court in its discretion may from time to time, while such probation
226 is in force, extend such probation for a period not to exceed five years,
227 including the original probationary period. If the court places the
228 person adjudicated to be a youthful offender on probation, the court
229 may order that as a condition of such probation the person be referred
230 for services to a youth service bureau established pursuant to section
231 17a-39, provided the court finds, through an assessment by a youth
232 service bureau or its designee, that the person is in need of and likely
233 to benefit from such services. If the court places a person adjudicated
234 as a youthful offender on probation, the court may order that as a
235 condition of such probation the person participate in the zero-tolerance
236 drug supervision program established pursuant to section 53a-39d. If
237 the court places a youthful offender on probation, school and class
238 attendance on a regular basis and satisfactory compliance with school
239 policies on student conduct and discipline may be a condition of such
240 probation and, in such a case, failure to so attend or comply shall be a
241 violation of probation. If the court has reason to believe that the person
242 adjudicated to be a youthful offender is or has been an unlawful user
243 of narcotic drugs as defined in section 21a-240, and the court places
244 such youthful offender on probation, the conditions of probation,
245 among other things, shall include a requirement that such person shall
246 submit to periodic tests to determine, by the use of "synthetic opiate
247 antinarcotic in action", nalline test or other detection tests, at a hospital
248 or other facility, equipped to make such tests, whether such person is
249 using narcotic drugs. A failure to report for such tests or a
250 determination that such person is unlawfully using narcotic drugs
251 shall constitute a violation of probation. If the court places a person
252 adjudicated as a youthful offender for a violation of section 53-247, on

253 probation, the court shall order such person to undergo psychiatric or
254 psychological counseling or participate in an animal cruelty
255 prevention and education program."