



General Assembly

Amendment

February Session, 2002

LCO No. 3948

HB0568003948HR0

Offered by:
REP. URBAN, 43rd Dist.

To: Subst. House Bill No. 5680 File No. 455 Cal. No. 301

"AN ACT CONCERNING SEXUAL ASSAULT OF A MINOR."

1 In line 243, after "(16)" insert "if convicted of a violation of section
2 53-247, undergo psychiatric or psychological counseling or participate
3 in an animal cruelty prevention and education program; (17)"

4 Strike section 18 in its entirety and substitute the following in lieu
5 thereof:

6 "Sec. 18. Section 54-56e of the general statutes, as amended by public
7 act 01-16, is repealed and the following is substituted in lieu thereof
8 (*Effective October 1, 2002*):

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

13 (b) The court may, in its discretion, invoke such program on motion
14 of the defendant or on motion of a state's attorney or prosecuting

15 attorney with respect to a defendant (1) who, the court believes, will
16 probably not offend in the future, (2) who has no previous record of
17 conviction of a crime or of a violation of section 14-196, subsection (c)
18 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
19 section 14-227a, (3) who has not been adjudged a youthful offender
20 within the preceding five years under the provisions of sections 54-76b
21 to 54-76n, inclusive, and (4) who states under oath, in open court or
22 before any person designated by the clerk and duly authorized to
23 administer oaths, under the penalties of perjury that the defendant has
24 never had such program invoked in the defendant's behalf, provided
25 the defendant shall agree thereto and provided notice has been given
26 by the defendant, on a form approved by rule of court, to the victim or
27 victims of such crime or motor vehicle violation, if any, by registered
28 or certified mail and such victim or victims have an opportunity to be
29 heard thereon. In determining whether to grant an application under
30 this section with respect to a person who has been adjudged a youthful
31 offender under the provisions of sections 54-76b to 54-76n, inclusive,
32 more than five years prior to the date of such application, and
33 notwithstanding the provisions of section 54-76l, the court shall have
34 access to the youthful offender records of such person and may
35 consider the nature and circumstances of the crime with which such
36 person was charged as a youth. Any defendant who makes application
37 for participation in such program shall pay to the court an application
38 fee of thirty-five dollars.

39 (c) This section shall not be applicable: (1) To any person charged
40 with a class A felony, a class B felony, except a violation of section 53a-
41 122 that does not involve the use, attempted use or threatened use of
42 physical force against another person, or a violation of section 14-227a,
43 [subdivision (2) of subsection (a) of section 53-21] section 4 or this act,
44 section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or
45 53a-72b, (2) to any person charged with a crime or motor vehicle
46 violation who, as a result of the commission of such crime or motor
47 vehicle violation, causes the death of another person, (3) to any person
48 accused of a family violence crime as defined in section 46b-38a who

49 (A) is eligible for the pretrial family violence education program
50 established under section 46b-38c, or (B) has previously had the
51 pretrial family violence education program invoked in such person's
52 behalf, (4) to any person charged with a violation of section 21a-267 or
53 21a-279 who (A) is eligible for the pretrial drug education program
54 established under section 54-56i, as amended, or (B) has previously
55 had the pretrial drug education program invoked in such person's
56 behalf, or (5) unless good cause is shown, to any person charged with a
57 class C felony.

58 (d) Except as provided in [subsection (e)] subsections (e) and (f) of
59 this section, any defendant who enters such program shall pay to the
60 court a participation fee of one hundred dollars. Any defendant who
61 enters such program shall agree to the tolling of any statute of
62 limitations with respect to such crime and to a waiver of the right to a
63 speedy trial. Any such defendant shall appear in court and shall, under
64 such conditions as the court shall order, be released to the custody of
65 the Office of Adult Probation, except that, if a criminal docket for
66 drug-dependent persons has been established pursuant to section
67 51-181b in the judicial district, such defendant may be transferred,
68 under such conditions as the court shall order, to the court handling
69 such docket for supervision by such court. If the defendant refuses to
70 accept, or, having accepted, violates such conditions, the defendant's
71 case shall be brought to trial. The period of such probation or
72 supervision, or both, shall not exceed two years. The court may order
73 that as a condition of such probation the defendant participate in the
74 zero-tolerance drug supervision program established pursuant to
75 section 53a-39d. If the defendant has reached the age of sixteen years
76 but has not reached the age of eighteen years, the court may order that
77 as a condition of such probation the defendant be referred for services
78 to a youth service bureau established pursuant to section 17a-39,
79 provided the court finds, through an assessment by a youth service
80 bureau or its designee, that the defendant is in need of and likely to
81 benefit from such services. When determining any conditions of
82 probation to order for a person entering such program who was

83 charged with a misdemeanor that did not involve the use, attempted
84 use or threatened use of physical force against another person or a
85 motor vehicle violation, the court shall consider ordering the person to
86 perform community service in the community in which the offense or
87 violation occurred. If the court determines that community service is
88 appropriate, such community service may be implemented by a
89 community court established in accordance with section 51-181c if the
90 offense or violation occurred within the jurisdiction of a community
91 court established by said section. If the defendant is charged with a
92 violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, the
93 court may order that as a condition of such probation the defendant
94 participate in a hate crimes diversion program as provided in
95 subsection (e) of this section. If a defendant is charged with a violation
96 of section 53-247, the court may order that as a condition of such
97 probation the defendant participate in an animal cruelty prevention
98 and education program as provided in subsection (f) of this section.

99 (e) If the court orders the defendant to participate in a hate crimes
100 diversion program as a condition of probation, the defendant shall pay
101 to the court a participation fee of four hundred twenty-five dollars. No
102 person may be excluded from such program for inability to pay such
103 fee, provided (1) such person files with the court an affidavit of
104 indigency or inability to pay, (2) such indigency or inability to pay is
105 confirmed by the Office of Adult Probation, and (3) the court enters a
106 finding thereof. The Office of Adult Probation shall contract with
107 service providers, develop standards and oversee appropriate hate
108 crimes diversion programs to meet the requirements of this section.
109 Any defendant whose employment or residence makes it unreasonable
110 to attend a hate crimes diversion program in this state may attend a
111 program in another state which has standards substantially similar to,
112 or higher than, those of this state, subject to the approval of the court
113 and payment of the application and program fees as provided in this
114 section. The hate crimes diversion program shall consist of an
115 educational program and supervised community service.

116 (f) If the court orders the defendant to participate in an animal

117 cruelty prevention and education program as a condition of probation,
118 the defendant shall pay to the court a participation fee of two hundred
119 dollars. No person may be excluded from such program for inability to
120 pay such fee, provided (1) such person files with the court an affidavit
121 of indigency or inability to pay, (2) such indigency or inability to pay is
122 confirmed by the Office of Adult Probation, and (3) the court enters a
123 finding thereof. The Office of Adult Probation shall contract with
124 service providers, develop standards and oversee appropriate animal
125 cruelty prevention and education programs to meet the requirements
126 of this section. Any defendant whose employment or residence makes
127 it unreasonable to attend an animal cruelty prevention and education
128 program in this state may attend a program in another state which has
129 standards substantially similar to, or higher than, those of this state,
130 subject to the approval of the court and payment of the application and
131 program fees as provided in this section.

132 ~~[(f)]~~ (g) If a defendant released to the custody of the Office of Adult
133 Probation satisfactorily completes such defendant's period of
134 probation, such defendant may apply for dismissal of the charges
135 against such defendant and the court, on finding such satisfactory
136 completion, shall dismiss such charges. If the defendant does not apply
137 for dismissal of the charges against such defendant after satisfactorily
138 completing such defendant's period of probation, the court, upon
139 receipt of a report submitted by the Office of Adult Probation that the
140 defendant satisfactorily completed such defendant's period of
141 probation, may on its own motion make a finding of such satisfactory
142 completion and dismiss such charges. If a defendant transferred to the
143 court handling the criminal docket for drug-dependent persons
144 satisfactorily completes such defendant's period of supervision, the
145 court shall release the defendant to the custody of the Office of Adult
146 Probation under such conditions as the court shall order or shall
147 dismiss such charges. Upon dismissal, all records of such charges shall
148 be erased pursuant to section 54-142a. An order of the court denying a
149 motion to dismiss the charges against a defendant who has completed
150 such defendant's period of probation or supervision or terminating the

151 participation of a defendant in such program shall be a final judgment
152 for purposes of appeal."

153 After line 413, add the following:

154 "Sec. 25. Subsection (c) of section 46b-140 of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective*
156 *October 1, 2002*):

157 (c) The court may order, as a condition of probation, that the child
158 (1) reside with a parent, relative or guardian or in a suitable foster
159 home or other residence approved by the court, (2) attend school and
160 class on a regular basis and comply with school policies on student
161 conduct and discipline, (3) refrain from violating any federal or state
162 law or municipal or local ordinance, (4) undergo any medical or
163 psychiatric evaluation or treatment deemed necessary by the court, (5)
164 submit to random drug or alcohol testing, or both, (6) participate in a
165 program of alcohol or drug treatment, or both, (7) make restitution to
166 the victim of the offense in accordance with subsection (d) of this
167 section, (8) participate in an alternative incarceration program or other
168 program established through the Office of Alternative Sanctions, (9)
169 participate in a program of community service, and (10) satisfy any
170 other conditions deemed appropriate by the court. The court shall
171 cause a copy of any such order to be delivered to the child, the child's
172 parents or guardian and the child's probation officer. If the child is
173 convicted as delinquent for a violation of section 53-247, the court shall
174 order, as a condition of probation, that the child undergo psychiatric or
175 psychological counseling or participate in an animal cruelty
176 prevention and education program.

177 Sec. 26. Subsection (b) of section 54-76j of the general statutes is
178 repealed and the following is substituted in lieu thereof (*Effective*
179 *October 1, 2002*):

180 (b) If execution of the sentence is suspended under subdivision (6)
181 of subsection (a), the defendant may be placed on probation or
182 conditional discharge for a period not to exceed three years, provided

183 the court in its discretion may from time to time, while such probation
184 is in force, extend such probation for a period not to exceed five years,
185 including the original probationary period. If the court places the
186 person adjudicated to be a youthful offender on probation, the court
187 may order that as a condition of such probation the person be referred
188 for services to a youth service bureau established pursuant to section
189 17a-39, provided the court finds, through an assessment by a youth
190 service bureau or its designee, that the person is in need of and likely
191 to benefit from such services. If the court places a person adjudicated
192 as a youthful offender on probation, the court may order that as a
193 condition of such probation the person participate in the zero-tolerance
194 drug supervision program established pursuant to section 53a-39d. If
195 the court places a youthful offender on probation, school and class
196 attendance on a regular basis and satisfactory compliance with school
197 policies on student conduct and discipline may be a condition of such
198 probation and, in such a case, failure to so attend or comply shall be a
199 violation of probation. If the court has reason to believe that the person
200 adjudicated to be a youthful offender is or has been an unlawful user
201 of narcotic drugs as defined in section 21a-240, and the court places
202 such youthful offender on probation, the conditions of probation,
203 among other things, shall include a requirement that such person shall
204 submit to periodic tests to determine, by the use of "synthetic opiate
205 antinarcotic in action", nalline test or other detection tests, at a hospital
206 or other facility, equipped to make such tests, whether such person is
207 using narcotic drugs. A failure to report for such tests or a
208 determination that such person is unlawfully using narcotic drugs
209 shall constitute a violation of probation. If the court places a person
210 adjudicated as a youthful offender for a violation of section 53-247, on
211 probation, the court shall order such person to undergo psychiatric or
212 psychological counseling or participate in an animal cruelty
213 prevention and education program."