



General Assembly

Amendment

February Session, 2002

LCO No. 5022

HB0551605022HD0

Offered by:

REP. DIAMANTIS, 79th Dist.
REP. MALONE, 47th Dist.
REP. DYSON, 94th Dist.
REP. LAWLOR, 99th Dist.

To: Subst. House Bill No. 5516

File No. 323

Cal. No. 208

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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4 repealed and the following is substituted in lieu thereof (*Effective*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

6 (d) If the court finds that the request for an examination is justified
7 and that, in accordance with procedures established by the judges of
8 the Superior Court, there is probable cause to believe that the
9 defendant has committed the crime for which he is charged, the court
10 shall order an examination of the defendant as to his competency. The
11 court either may appoint one or more physicians specializing in
12 psychiatry to examine the defendant or it may order the Commissioner

13 of Mental Health and Addiction Services to conduct the examination
14 either by a clinical team consisting of a physician specializing in
15 psychiatry, a clinical psychologist and one of the following: A clinical
16 social worker licensed pursuant to chapter 383b or a psychiatric nurse
17 clinical specialist holding a master's degree in nursing, or by one or
18 more physicians specializing in psychiatry, except that no employee of
19 the Department of Mental Health and Addiction Services who has
20 served as a member of a clinical team in the course of such
21 employment for at least five years prior to October 1, 1995, shall be
22 precluded from being appointed as a member of a clinical team. If the
23 Commissioner of Mental Health and Addiction Services is ordered to
24 conduct the examination, he shall select the members of the clinical
25 team or the physician or physicians. If the examiners determine that
26 the defendant is not competent, they shall then determine whether
27 there is substantial probability that the defendant, if provided with a
28 course of treatment, will regain competency within the maximum
29 period of any placement order under this section, or whether the
30 defendant appears to be eligible for a civil commitment, with
31 monitoring by the Court Support Services Division, pursuant to
32 subdivision (2) of subsection (h) of this section, as amended by this act.
33 The court may authorize a physician specializing in psychiatry, a
34 clinical psychologist, a clinical social worker licensed pursuant to
35 chapter 383b or a psychiatric nurse clinical specialist holding a master's
36 degree in nursing selected by the defendant to observe the
37 examination. Counsel for the defendant may observe the examination.
38 The examination shall be completed within fifteen days from the date
39 it was ordered and the examiner or examiners shall prepare and sign,
40 without notarization, a written report and file it with the court within
41 twenty-one business days of the date of the order. On receipt of the
42 written report, the clerk of the court shall cause copies to be delivered
43 immediately to the state's attorney and to counsel for the defendant.

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

47 (h) (1) If, at the hearing, the court finds that there is a substantial
48 probability that the defendant, if provided with a course of treatment,
49 will regain competency within the period of any placement order
50 under this section, the court shall either order placement of the
51 defendant for treatment for the purpose of rendering him competent,
52 or proceed pursuant to subdivision (2) of this subsection.

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

81 pursuant to subsection (j) of this section, and the defendant shall be
82 returned to the court for a hearing pursuant to subsection (k) of this
83 section. The period of placement and monitoring under such order
84 shall not exceed the period of the maximum sentence which the
85 defendant could receive on conviction of the charges against such
86 defendant, or eighteen months, whichever is less. The Court Support
87 Services Division shall monitor the defendant's compliance with the
88 court's order. If the defendant has complied, at the end of the period of
89 placement and monitoring, the court shall approve the entry of a nolle
90 prosequi to the charges against the defendant, or shall dismiss such
91 charges.

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

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

106 (j) The person in charge of the treatment facility or his designee shall
107 submit a written progress report to the court (1) at least seven days
108 prior to the date of any hearing on the issue of the defendant's
109 competency; (2) whenever he believes that the defendant has attained
110 competency; [or] (3) whenever he believes that there is not a
111 substantial probability that the defendant will attain competency
112 within the period covered by the placement order; or (4) whenever a
113 defendant has been placed for treatment pursuant to subdivision (2) of

114 subsection (h) of this section, as amended by this act and the
115 application for civil commitment of such defendant is denied or not
116 pursued. The progress report shall contain (A) the clinical findings of
117 the person submitting the report and the facts on which the findings
118 are based; (B) the opinion of the person submitting the report as to
119 whether the defendant has attained competency or as to whether the
120 defendant is making progress, under treatment, toward attaining
121 competency within the period covered by the placement order; and (C)
122 any other information concerning the defendant requested by the
123 court, such as the method of treatment or the type, dosage and effect of
124 any medication the defendant is receiving.

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

128 (m) If at any time the court determines that there is not a substantial
129 probability that the defendant will attain competency within the
130 period of treatment allowed by this section, or if at the end of that
131 period the court finds that the defendant is still not competent, the
132 court shall either release the defendant from custody or order the
133 defendant placed in the custody of the Commissioner of Mental Health
134 and Addiction Services, the Commissioner of Children and Families or
135 the Commissioner of Mental Retardation. The commissioner given
136 custody or his designee shall then apply for civil commitment
137 according to sections 17a-75 to 17a-83, inclusive, as amended, 17a-270
138 to 17a-283, inclusive, as amended, and 17a-495 to 17a-528, inclusive.
139 The court shall hear arguments as to whether the defendant should be
140 released or should be placed in the custody of the Commissioner of
141 Mental Health and Addiction Services, the Commissioner of Children
142 and Families or the Commissioner of Mental Retardation. If the court
143 orders the release or placement in the custody of the Commissioner of
144 Mental Health and Addiction Services, the Commissioner of Children
145 and Families or the Commissioner of Mental Retardation of a
146 defendant charged with the commission of a crime that resulted in the
147 death or serious physical injury, as defined in section 53a-3, as

148 amended, of another person, it may, on its own motion or on motion of
149 the prosecuting authority, order, as a condition of such release,
150 periodic examinations of the defendant as to his competency. Such an
151 examination shall be conducted in accordance with subsection (d) of
152 this section, as amended by this act. Upon receipt of the written report
153 as provided in said subsection (d) the court shall, upon the request of
154 either party filed not later than thirty days after the court receives such
155 report, conduct a hearing as provided in subsection (e) of this section.
156 Such hearing shall be held not later than ninety days after the court
157 receives such report. If the court finds that the defendant has attained
158 competency, he shall be returned to the custody of the Commissioner
159 of Correction or released, if he has met the conditions for release, and
160 the court shall continue with the criminal proceedings. Periodic
161 examinations ordered by the court under this subsection shall continue
162 until the court finds that the defendant has attained competency or
163 until the time within which the defendant may be prosecuted for the
164 crime with which he is charged, as provided in section 54-193 or 54-
165 193a, has expired, whichever occurs first. The court shall dismiss, with
166 or without prejudice, any charges for which a nolle prosequi is not
167 entered when the time within which the defendant may be prosecuted
168 for the crime with which he is charged, as provided in section 54-193
169 or 54-193a, has expired. Notwithstanding the erasure provisions of
170 section 54-142a, police and court records and records of any state's
171 attorney pertaining to a charge which is nolle or dismissed without
172 prejudice while the defendant is not competent shall not be erased
173 until the time for the prosecution of the defendant expires under
174 section 54-193 or 54-193a. A defendant who is not civilly committed as
175 a result of an application made by the Commissioner of Mental Health
176 and Addiction Services, the Commissioner of Children and Families or
177 the Commissioner of Mental Retardation pursuant to this section shall
178 be released. A defendant who is civilly committed pursuant to such an
179 application shall be treated in the same manner as any other civilly
180 committed person.

181 Sec. 5. Subsection (n) of section 54-56d of the general statutes is

182 repealed and the following is substituted in lieu thereof (*Effective*
183 *October 1, 2002*):

184 (n) The cost of the examination effected by the Commissioner of
185 Mental Health and Addiction Services and of testimony of persons
186 conducting the examination effected by the commissioner shall be paid
187 by the Department of Mental Health and Addiction Services. The cost
188 of the examination and testimony by physicians appointed by the
189 court shall be paid by the Judicial Department. If the defendant is
190 indigent, the fee of the person selected by the defendant to observe the
191 examination and to testify on his behalf shall be paid by the Public
192 Defender Services Commission. The expense of treating a defendant
193 placed in the custody of the Commissioner of Mental Health and
194 Addiction Services, the Commissioner of Children and Families or the
195 Commissioner of Mental Retardation pursuant to subdivision (2) of
196 subsection (h) or subsection (i) of this section shall be computed and
197 paid for in the same manner as is provided for persons committed by a
198 probate court under the provisions of sections 17b-19, 17b-63 to 17b-65,
199 inclusive, 17b-116 to 17b-138, inclusive, as amended, 17b-220 to 17b-
200 250, inclusive, as amended, 17b-256, as amended, 17b-259, as amended,
201 17b-263, 17b-287, 17b-340 to 17b-350, inclusive, as amended, 17b-689,
202 17b-689b and 17b-743 to 17b-747, inclusive, as amended.

203 Sec. 6. (NEW) (*Effective October 1, 2002*) (a) When used in this
204 section, "eligible defendant" means a person found by the court to have
205 a significant psychiatric disability or a history of treatment for a
206 significant psychiatric disability, and who currently is in need of and
207 would benefit from appropriate and available treatment programs,
208 and "psychiatric disability" means a mental or emotional condition that
209 has substantial adverse effects on the defendant's ability to function
210 and requires the defendant to receive care and treatment, but shall not
211 include an abnormality manifested primarily by repeated criminal or
212 otherwise antisocial conduct.

213 (b) There shall be a pretrial program for alternative placement of
214 eligible defendants accused of a crime or crimes or a motor vehicle

215 violation or violations for which a sentence to a term of imprisonment
216 may be imposed, which crimes or violations are not of a serious
217 nature. Services pursuant to such program may be provided by the
218 Commissioner of Mental Health and Addiction Services, by the
219 Commissioner of Children and Families or through a private provider
220 agreed upon by the state and the eligible defendant.

221 (c) The court may, in its discretion, invoke such program on motion
222 of a state's attorney or prosecuting attorney, or on motion of the
223 defendant, with respect to an eligible defendant (1) who agrees to
224 disclose to the court the existence of any records of any prior cases and
225 any pending cases concerning the eligible defendant that came before
226 the courts of probate regarding such eligible defendant's mental health
227 and the disposition of such cases, and (2) who can demonstrate to the
228 satisfaction of the court the benefits to be gained by invoking such
229 program, provided the eligible defendant shall agree thereto and
230 provided notice has been given by the eligible defendant, on a form
231 approved by the office of the Chief Court Administrator, to the victim
232 or victims of such crime or motor vehicle violation, if any, by
233 registered or certified mail and such victim or victims have an
234 opportunity to be heard thereon. In determining whether to grant an
235 application under this section with respect to a person who has been
236 adjudged a youthful offender under the provisions of sections 54-76b
237 to 54-76n of the general statutes, inclusive, as amended, more than five
238 years prior to the date of such application, and notwithstanding the
239 provisions of section 54-76l of the general statutes, the court shall have
240 access to the youthful offender records of such person and may
241 consider the nature and circumstances of the crime with which such
242 person was charged as a youth.

243 (d) This section shall not be applicable: (1) To any person charged
244 with a class A felony, a class B felony, except a violation of section 53a-
245 122 of the general statutes that does not involve the use, attempted use
246 or threatened use of physical force against another person, or a
247 violation of section 14-227a, as amended, subdivision (2) of subsection
248 (a) of section 53-21 of the general statutes, section 53a-56b, 53a-60d,

249 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b of the general
250 statutes, (2) to any person charged with a crime or motor vehicle
251 violation who, as a result of the commission of such crime or motor
252 vehicle violation, causes the death of another person, or (3) unless
253 good cause is shown, to any person charged with a class C felony.

254 (e) (1) Any eligible defendant who enters such program shall agree
255 to the tolling of any statute of limitations with respect to such crime
256 and to a waiver of the right to a speedy trial. Any such eligible
257 defendant shall appear in court and shall, under such conditions as the
258 court shall order, be released to the custody of the Court Support
259 Services Division. If the eligible defendant refuses to accept, or, having
260 accepted, violates such conditions, the eligible defendant's case shall be
261 brought to trial. The period of such probation or supervision, or both,
262 shall not exceed two years.

263 (2) The court shall order that as a condition of such probation the
264 eligible defendant participate in a treatment plan. The treatment
265 provider shall report every ninety days to the Court Support Services
266 Division regarding the progress of the eligible defendant under the
267 treatment plan, except, in the event of substantial noncompliance with
268 the treatment plan, such report shall be made as soon as reasonably
269 possible. An eligible defendant who participates in such program of
270 alternative placement shall provide written consent for such reports
271 for the duration of such program.

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

275 (4) If the defendant has reached the age of sixteen years but has not
276 reached the age of eighteen years, the court may order that as a
277 condition of such probation the eligible defendant be referred for
278 services to a youth service bureau established pursuant to section
279 17a-39 of the general statutes, provided the court finds, through an
280 assessment by a youth service bureau or its designee, that the eligible

281 defendant is in need of and likely to benefit from such services.

282 (5) When determining any conditions of probation to order for a
283 person entering such program who was charged with a misdemeanor
284 that did not involve the use, attempted use or threatened use of
285 physical force against another person or a motor vehicle violation, the
286 court shall consider ordering the person to perform community service
287 in the community in which the offense or violation occurred. If the
288 court determines that community service is appropriate, such
289 community service may be implemented by a community court
290 established in accordance with section 51-181c of the general statutes if
291 the offense or violation occurred within the jurisdiction of a
292 community court established by said section.

293 (6) If the eligible defendant is charged with a violation of section
294 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l of the general statutes,
295 the court may order that as a condition of such probation the eligible
296 defendant participate in a hate crimes diversion program as provided
297 in subsection (f) of this section.

298 (f) If the court orders the eligible defendant to participate in a hate
299 crimes diversion program as a condition of probation, the eligible
300 defendant shall pay to the court a participation fee of four hundred
301 twenty-five dollars. No person may be excluded from such program
302 for inability to pay such fee, provided (1) such person files with the
303 court an affidavit of indigency or inability to pay, (2) such indigency or
304 inability to pay is confirmed by the Court Support Services Division,
305 and (3) the court enters a finding thereof. The Judicial Department
306 shall contract with service providers, develop standards and oversee
307 appropriate hate crimes diversion programs to meet the requirements
308 of this section. Any eligible defendant whose employment or residence
309 makes it unreasonable to attend a hate crimes diversion program in
310 this state may attend a program in another state which has standards
311 substantially similar to, or higher than, those of this state, subject to the
312 approval of the court and payment of the application and program fees
313 as provided in this section. The hate crimes diversion program shall

314 consist of an educational program and supervised community service.

315 (g) If an eligible defendant released to the custody of the Court
316 Support Services Division satisfactorily completes such eligible
317 defendant's period of probation, such eligible defendant may apply for
318 dismissal of the charges against such eligible defendant and the court,
319 on finding such satisfactory completion, shall dismiss such charges. If
320 the eligible defendant does not apply for dismissal of the charges
321 against such eligible defendant after satisfactorily completing such
322 eligible defendant's period of probation, the court, upon receipt of a
323 report submitted by the Court Support Services Division that the
324 eligible defendant satisfactorily completed such eligible defendant's
325 period of probation, may on its own motion make a finding of such
326 satisfactory completion and dismiss such charges. Upon dismissal, all
327 records of such charges shall be erased pursuant to section 54-142a of
328 the general statutes. An order of the court denying a motion to dismiss
329 the charges against an eligible defendant who has completed such
330 eligible defendant's period of probation or supervision or terminating
331 the participation of an eligible defendant in such program shall be a
332 final judgment for purposes of appeal.

333 Sec. 7. Section 17a-681a of the general statutes is repealed and the
334 following is substituted in lieu thereof (*Effective October 1, 2002*):

335 Prior to the [arraignment] trial of a person charged [solely] with [the
336 commission of a misdemeanor] a crime other than a class A felony or a
337 class B felony, except a violation of section 53a-122 that does not
338 involve the use, attempted use or threatened use of physical force
339 against another person, the Department of Mental Health and
340 Addiction Services shall, to the maximum extent possible within the
341 limits of available appropriations, with the consent of the arrested
342 person, cause a clinical assessment to be performed of any person who
343 has previously received mental health services or treatment for
344 substance abuse from the department or who would reasonably
345 benefit from such services to determine whether such person should be
346 referred for community-based mental health services. If the person is

347 determined to be in need of such services and is willing to accept the
348 services offered, the court shall be informed of the result of the
349 assessment and the recommended treatment plan for consideration by
350 the court in the disposition of the criminal case.

351 Sec. 8. Section 54-125a of the general statutes, as amended by section
352 74 of public act 01-9 of the June special session, is repealed and the
353 following is substituted in lieu thereof (*Effective October 1, 2002*):

354 (a) A person convicted of one or more crimes who is incarcerated on
355 or after October 1, 1990, who received a definite sentence or aggregate
356 sentence of more than two years, and who has been confined under
357 such sentence or sentences for not less than one-half of the aggregate
358 sentence or one-half of the most recent sentence imposed by the court,
359 whichever is greater, may be allowed to go at large on parole in the
360 discretion of the panel of the Board of Parole for the institution in
361 which the person is confined, if (1) it appears from all available
362 information, including any reports from the Commissioner of
363 Correction that the panel may require, that there is reasonable
364 probability that such inmate will live and remain at liberty without
365 violating the law, and (2) such release is not incompatible with the
366 welfare of society. At the discretion of the panel, and under the terms
367 and conditions as may be prescribed by the panel including requiring
368 the parolee to submit personal reports, the parolee shall be allowed to
369 return to the parolee's home or to reside in a residential community
370 center, or to go elsewhere. The parolee shall, while on parole, remain
371 in the legal custody and control of the board until the expiration of the
372 maximum term or terms for which the parolee was sentenced. Any
373 parolee released on the condition that the parolee reside in a
374 residential community center may be required to contribute to the cost
375 incidental to such residence. Each order of parole shall fix the limits of
376 the parolee's residence, which may be changed in the discretion of
377 such panel. Within three weeks after the commitment of each person
378 sentenced to more than one year, the state's attorney for the judicial
379 district shall send to the Board of Parole the record, if any, of such
380 person.

381 (b) (1) No person convicted of any of the following offenses, which
382 was committed on or after July 1, 1981, shall be eligible for parole
383 under subsection (a) of this section: Capital felony, as defined in
384 section 53a-54b, as amended, felony murder, as defined in section 53a-
385 54c, arson murder, as defined in section 53a-54d, murder, as defined in
386 section 53a-54a, or any offense committed with a firearm, as defined in
387 section 53a-3, as amended, in or on, or within one thousand five
388 hundred feet of, the real property comprising a public or private
389 elementary or secondary school. (2) A person convicted of an offense,
390 other than an offense specified in subdivision (1) of this subsection,
391 where the underlying facts and circumstances of the offense involve
392 the use, attempted use or threatened use of physical force against
393 another person shall be ineligible for parole under subsection (a) of
394 this section until such person has served not less than eighty-five per
395 cent of the definite sentence imposed.

396 (c) The Board of Parole shall, not later than July 1, 1996, adopt
397 regulations in accordance with chapter 54 to ensure that a person
398 convicted of an offense described in subdivision (2) of subsection (b) of
399 this section is not released on parole until such person has served
400 eighty-five per cent of the definite sentence imposed by the court. Such
401 regulations shall include guidelines and procedures for classifying a
402 person as a violent offender that are not limited to a consideration of
403 the elements of the offense or offenses for which such person was
404 convicted.

405 (d) Not later than January 15, 2002, the Board of Parole shall submit
406 a report to the Secretary of the Office of Policy and Management and,
407 in accordance with the provisions of section 11-4a, to the joint standing
408 committees of the General Assembly having cognizance of matters
409 relating to the Board of Parole, public safety and appropriations and
410 the budgets of state agencies setting forth the number of all persons
411 whose eligibility for parole release is subject to subsection (a) of this
412 section who, as of January 1, 2002, have completed seventy-five per
413 cent of their definite sentence and have not been approved for parole
414 release. Not later than February 15, 2002, and not later than the

415 fifteenth day of each month thereafter, the Board of Parole shall submit
416 a report to the Secretary of the Office of Policy and Management and,
417 in accordance with the provisions of section 11-4a, to the joint standing
418 committees of the General Assembly having cognizance of matters
419 relating to the Board of Parole, public safety and appropriations and
420 the budgets of state agencies setting forth the number of all such
421 persons who have completed seventy-five per cent of their definite
422 sentence in the preceding month and were not approved for parole
423 release.

424 (e) Notwithstanding the provisions of subsection (a) of this section,
425 any person whose eligibility for parole release is subject to said
426 subsection and who has not been released on parole by the board in its
427 discretion, shall be placed on parole supervision upon completion by
428 such person of seventy-five per cent of such person's definite sentence
429 unless: (1) Such person has been given a level five security or chronic
430 disciplinary status classification by the Department of Correction, (2)
431 such person is the subject of a class A disciplinary report by the
432 Department of Correction for assault on staff or another inmate, rioting
433 or escape during such person's period of incarceration, (3) such person
434 has a pending criminal charge for the alleged commission of a felony
435 during such person's period of incarceration, or (4) such person has
436 failed to cooperate in his or her own rehabilitation.

437 Sec. 9. (NEW) (Effective October 1, 2002) (a) Not later than January 1,
438 2003, the Chief Court Administrator shall establish a pilot
439 zero-tolerance alcohol supervision program to monitor the
440 consumption of alcohol by persons placed on probation who have
441 been convicted of a violation of section 14-227a of the general statutes,
442 as amended by this act, or section 53a-56b or 53a-60d of the general
443 statutes or who have a history of alcohol abuse.

444 (b) Eligibility for participation in the program shall be limited to
445 individuals who have been convicted of an offense, have been
446 identified as having a history of alcohol abuse and have been
447 sentenced to a period of probation and ordered by the court, as a

448 condition of such probation, to participate in the program and shall be
449 based upon criteria, including a limit on the maximum number of
450 eligible participants, established by the Chief Court Administrator.

451 (c) Any person entering such program shall, as a condition of
452 participating in such program, agree to: (1) Submit to periodic breath
453 tests to determine the presence of alcohol in the blood of such person,
454 (2) detention in a halfway house facility each time such test produces a
455 positive result, (3) comply with all rules established by the halfway
456 house if detained in such facility, and (4) waive the right to a hearing.

457 (d) Participants in the zero-tolerance alcohol supervision program
458 shall submit to periodic breath tests to determine the presence of
459 alcohol in the blood of such person. The Office of Adult Probation shall
460 cause to be installed in the dwelling of each participant a device that
461 measures the amount of alcohol in such participant's blood as shown
462 by a chemical analysis of the participant's breath when such
463 participant blows into the device and that electronically transmits the
464 results of such analysis to such participant's probation officer. If the
465 test produces a positive result, the participant shall be detained in a
466 halfway house facility for a period of two days for the first positive test
467 result and for a period of five days for each subsequent positive test
468 result.

469 (e) Any person who has submitted to a breath test pursuant to
470 subsection (d) of this section that produced a positive result may
471 request that a breath test be administered, at such person's expense, to
472 confirm the results of the first test, except that if the participant is
473 determined to be indigent, based upon financial affidavits, the Judicial
474 Department shall pay the cost of the test. The second test shall be a
475 breath test, separate and independent of the initial test. The participant
476 shall be detained in a halfway house pending the results of the second
477 test. If such second test does not produce a positive result, the
478 participant, if detained in a halfway house, shall be released and the
479 fee, if paid by the participant, shall be refunded to the participant.

480 (f) A participant enrolled in the zero-tolerance alcohol supervision
481 program may be charged with a violation of probation if the
482 participant's probation officer determines that the participant has
483 violated the conditions of probation or the conditions of the program.

484 (g) Not later than January 1, 2004, the Chief Court Administrator
485 shall submit a report on the pilot zero-tolerance alcohol supervision
486 program to the joint standing committee of the General Assembly
487 having cognizance of matters relating to criminal justice.

488 Sec. 10. Subsection (h) of section 14-227a of the general statutes is
489 repealed and the following is substituted in lieu thereof (*Effective*
490 *October 1, 2002*):

491 (h) Any person who violates any provision of subsection (a) of this
492 section shall: (1) For conviction of a first violation, (A) be fined not less
493 than five hundred dollars nor more than one thousand dollars and (B)
494 be (i) imprisoned not more than six months, forty-eight consecutive
495 hours of which may not be suspended or reduced in any manner or (ii)
496 imprisoned not more than six months, with the execution of such
497 sentence of imprisonment suspended entirely and a period of
498 probation imposed requiring as a condition of such probation that
499 such person perform one hundred hours of community service, as
500 defined in section 14-227e, and (C) have such person's motor vehicle
501 operator's license or nonresident operating privilege suspended for
502 one year; (2) for conviction of a second violation within ten years after
503 a prior conviction for the same offense, (A) be fined not less than one
504 thousand dollars nor more than four thousand dollars, (B) be (i)
505 imprisoned not more than two years, one hundred twenty consecutive
506 days of which may not be suspended or reduced in any manner, and
507 sentenced to a period of probation requiring as a condition of such
508 probation that such person perform one hundred hours of community
509 service, as defined in section 14-227e, or (ii) imprisoned not more than
510 two years, twenty consecutive days of which may not be suspended or
511 reduced in any manner, and sentenced to a period of probation
512 requiring as a condition of such probation that such person participate

513 in the pilot zero-tolerance alcohol supervision program established
 514 under section 9 of this act, and (C) have such person's motor vehicle
 515 operator's license or nonresident operating privilege suspended for
 516 three years or until the date of such person's twenty-first birthday,
 517 whichever is longer; and (3) for conviction of a third and subsequent
 518 violation within ten years after a prior conviction for the same offense,
 519 (A) be fined not less than two thousand dollars nor more than eight
 520 thousand dollars, (B) be imprisoned not more than three years, one
 521 year of which may not be suspended or reduced in any manner, and
 522 sentenced to a period of probation requiring as a condition of such
 523 probation that such person perform one hundred hours of community
 524 service, as defined in section 14-227e, and (C) have such person's
 525 motor vehicle operator's license or nonresident operating privilege
 526 permanently revoked upon such third offense. For purposes of the
 527 imposition of penalties for a second or third and subsequent offense
 528 pursuant to this subsection, a conviction under the provisions of
 529 subsection (a) of this section [14-227a] in effect on October 1, 1981, or as
 530 amended thereafter, a conviction under the provisions of either
 531 subdivision (1) or (2) of subsection (a) of this section, a conviction
 532 under the provisions of section 53a-56b or 53a-60d or a conviction in
 533 any other state of any offense the essential elements of which are
 534 determined by the court to be substantially the same as subdivision (1)
 535 or (2) of subsection (a) of this section or section 53a-56b or 53a-60d,
 536 shall constitute a prior conviction for the same offense."

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>
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>

