



General Assembly

February Session, 2004

Raised Bill No. 5554

LCO No. 1944

* _____ HB05554JUD__031804_____ *

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT ESTABLISHING A PSYCHIATRIC PRETRIAL ALTERNATIVE PLACEMENT PROGRAM.

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

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this
2 section:

3 (1) "Eligible defendant" means a person found by the court to have a
4 significant psychiatric disability or a history of treatment for a
5 significant psychiatric disability and who currently is in need of and
6 would benefit from appropriate and available treatment programs;
7 and

8 (2) "Psychiatric disability" means a mental or emotional condition
9 that has substantial adverse effects on the defendant's ability to
10 function and requires the defendant to receive care and treatment, but
11 does not include an abnormality manifested primarily by repeated
12 criminal or other antisocial conduct.

13 (b) There shall be a pretrial program for alternative placement of
14 eligible defendants accused of a crime or motor vehicle violation for

15 which a sentence to a term of imprisonment may be imposed, which
16 crime or violation is not of a serious nature. Services pursuant to such
17 program may be provided by the Commissioner of Mental Health and
18 Addiction Services, by the Commissioner of Children and Families or
19 through a private provider approved by the Commissioner of Mental
20 Health and Addiction Services or the Commissioner of Children and
21 Families.

22 (c) Except as provided in subsection (d) of this section, the court
23 may, in its discretion, invoke the program for alternative placement
24 pursuant to this section on motion of the defendant or on motion of a
25 state's attorney or prosecuting attorney with respect to an eligible
26 defendant who (1) agrees to disclose to the court the existence of any
27 records of any prior cases and any pending cases concerning the
28 eligible defendant that came before the courts of probate regarding
29 such eligible defendant's mental health and the disposition of such
30 cases, and (2) can demonstrate to the satisfaction of the court the
31 benefits to be gained by invoking such program, provided (A) the
32 eligible defendant agrees to comply with the conditions of such
33 program, and (B) notice has been given by the eligible defendant, on a
34 form approved by the Office of the Chief Court Administrator, to the
35 victim or victims of such crime or motor vehicle violation, if any, by
36 registered or certified mail, and such victim or victims have an
37 opportunity to be heard thereon. In determining whether to invoke
38 such program with respect to an eligible defendant who has been
39 adjudged a youthful offender under the provisions of sections 54-76b
40 to 54-76n, inclusive, of the general statutes, as amended, more than five
41 years prior to the date of such motion, and notwithstanding the
42 provisions of section 54-76l of the general statutes, the court shall have
43 access to the youthful offender records of such eligible defendant and
44 may consider the nature and circumstances of the crime with which
45 the eligible defendant was charged as a youth.

46 (d) This section shall not apply: (1) To any person charged with a
47 class A felony, a class B felony, except a violation of section 53a-122 of

48 the general statutes that does not involve the use, attempted use or
49 threatened use of physical force against another person, or a violation
50 of section 14-227a of the general statutes, as amended, subdivision (2)
51 of subsection (a) of section 53-21 of the general statutes or section
52 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b
53 of the general statutes; (2) to any person charged with a crime or motor
54 vehicle violation who, as a result of the commission of such crime or
55 motor vehicle violation, causes the death of another person; or (3)
56 unless good cause is shown, to any person charged with a class C
57 felony.

58 (e) (1) Any eligible defendant who enters the program for
59 alternative placement pursuant to this section shall agree to the tolling
60 of any statute of limitations with respect to the crime or violation and
61 to a waiver of the right to a speedy trial. Such eligible defendant shall
62 appear in court and shall, under such conditions as the court shall
63 order, be released to the custody of the Court Support Services
64 Division. If the eligible defendant refuses to accept or, having
65 accepted, violates such conditions, the eligible defendant's case shall be
66 brought to trial. The period of such probation shall not exceed two
67 years.

68 (2) The court shall order that, as a condition of probation pursuant
69 to subdivision (1) of this subsection, the eligible defendant participate
70 in a treatment plan. The provider of treatment services under the
71 treatment plan shall report not less than once every ninety days to the
72 Court Support Services Division regarding the progress of the eligible
73 defendant under such plan, except, in the event of substantial
74 noncompliance with the treatment plan by the eligible defendant, such
75 report shall be made as soon as reasonably possible after such
76 noncompliance. Any eligible defendant who participates in the
77 program for alternative placement pursuant to this section shall
78 provide written consent for the furnishing of such reports to the Court
79 Support Services Division for the duration of such participation.

80 (3) The court may order that, as a condition of probation pursuant to
81 subdivision (1) of this subsection, the defendant participate in the zero-
82 tolerance drug supervision program established pursuant to section
83 53a-39d of the general statutes.

84 (4) If the eligible defendant has reached the age of sixteen years but
85 has not reached the age of eighteen years, the court may order that, as
86 a condition of probation pursuant to subdivision (1) of this subsection,
87 the eligible defendant be referred for services to a youth service bureau
88 established pursuant to section 10-19m of the general statutes,
89 provided the court finds, through an assessment by a youth service
90 bureau or its designee, that the eligible defendant is in need of and
91 likely to benefit from such services.

92 (5) When determining the conditions of probation pursuant to
93 subdivision (1) of this subsection to order for an eligible defendant
94 who was charged with a misdemeanor that did not involve the use,
95 attempted use or threatened use of physical force against another
96 person or with a motor vehicle violation, the court shall consider
97 ordering the eligible defendant to perform community service in the
98 community in which the crime or violation occurred. If the court
99 determines that community service is appropriate, such community
100 service may be implemented by a community court designated in
101 accordance with section 51-181c of the general statutes, as amended, if
102 the crime or violation occurred within the jurisdiction of the
103 community court.

104 (6) If the eligible defendant is charged with a violation of section
105 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l of the general statutes,
106 the court may order that, as a condition of probation pursuant to
107 subdivision (1) of this subsection, the eligible defendant participate in
108 a hate crimes diversion program as provided in subsection (f) of this
109 section.

110 (f) If the court orders the eligible defendant to participate in a hate
111 crimes diversion program pursuant to subdivision (6) of subsection (e)

112 of this section, the eligible defendant shall pay to the court a
113 participation fee of four hundred twenty-five dollars. No eligible
114 defendant may be excluded from such program for inability to pay
115 such fee, provided (1) such eligible defendant files with the court an
116 affidavit of indigency or inability to pay, (2) such indigency or inability
117 to pay is confirmed by the Court Support Services Division, and (3) the
118 court enters a finding thereof. The Judicial Department shall contract
119 with service providers, develop standards and oversee appropriate
120 hate crimes diversion programs to meet the requirements of this
121 section. Any eligible defendant whose employment or residence makes
122 it unreasonable to attend a hate crimes diversion program in this state
123 may attend a program in another state that has standards substantially
124 similar to, or higher than, those of this state, subject to the approval of
125 the court and payment of the participation fee as provided in this
126 subsection. The hate crimes diversion program shall consist of an
127 educational program and supervised community service.

128 (g) If an eligible defendant released to the custody of the Court
129 Support Services Division pursuant to subdivision (1) of subsection (e)
130 of this section satisfactorily completes such eligible defendant's period
131 of probation, the eligible defendant may apply for dismissal of the
132 charges against the eligible defendant and the court, on finding such
133 satisfactory completion, shall dismiss such charges. If such eligible
134 defendant does not apply for dismissal of the charges against the
135 eligible defendant after satisfactorily completing the eligible
136 defendant's period of probation, the court, upon receipt of a report
137 submitted by the Court Support Services Division that the eligible
138 defendant satisfactorily completed the eligible defendant's period of
139 probation, may on its own motion make a finding of such satisfactory
140 completion and dismiss such charges. Upon dismissal, all records of
141 such charges shall be erased pursuant to section 54-142a of the general
142 statutes. An order of the court denying a motion to dismiss the charges
143 against an eligible defendant who has completed such eligible
144 defendant's period of probation or terminating the participation of an
145 eligible defendant in the program for alternative placement pursuant

146 to this section shall be a final judgment for purposes of appeal.

147 Sec. 2. Section 17a-486 of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective October 1, 2004*):

149 Prior to the [arrestment] trial of a person charged [solely with the
150 commission of a misdemeanor] with a crime other than a class A
151 felony or a class B felony, except a violation of section 53a-122 that
152 does not involve the use, attempted use or threatened use of physical
153 force against another person, the Department of Mental Health and
154 Addiction Services shall, to the maximum extent possible within the
155 limits of available appropriations, with the consent of [the arrested]
156 such person, cause a clinical assessment to be performed of any such
157 person who has previously received mental health services or
158 treatment for substance abuse from the department or who would
159 reasonably benefit from such services to determine whether such
160 person should be referred for community-based mental health
161 services. If the person is determined to be in need of such services and
162 is willing to accept the services offered, the court shall be informed of
163 the result of the assessment and the recommended treatment plan for
164 consideration by the court in the disposition of the criminal case.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

JUD *Joint Favorable*