



Senate

General Assembly

File No. 74

February Session, 2010

Substitute Senate Bill No. 229

Senate, March 18, 2010

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE PRETRIAL SUPERVISED
DIVERSIONARY PROGRAM FOR PERSONS WITH PSYCHIATRIC
DISABILITIES.***

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

1 Section 1. Section 54-56l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) There shall be a supervised diversionary program for persons
4 with psychiatric disabilities accused of a crime or crimes or a motor
5 vehicle violation or violations for which a sentence to a term of
6 imprisonment may be imposed, which crimes or violations are not of a
7 serious nature. For the purposes of this section, "psychiatric disability"
8 means a mental or emotional condition, other than solely substance
9 abuse, that (1) has substantial adverse effects on the defendant's ability
10 to function, and (2) requires care and treatment.

11 (b) A person shall be ineligible for participation in such supervised
12 diversionary program if such person (1) is ineligible to participate in

13 the pretrial program for accelerated rehabilitation under subsection (c)
14 of section 54-56e, or (2) has twice previously participated in such
15 supervised diversionary program.

16 (c) Upon application by any such person for participation in such
17 supervised diversionary program, the court shall, but only as to the
18 public, order the court file sealed, provided such person states under
19 oath, in open court or before any person designated by the clerk and
20 duly authorized to administer oaths, under penalties of perjury, that
21 such person has not had such supervised diversionary program
22 invoked in such person's behalf more than once. Court personnel shall
23 provide notice, on a form approved by rule of court, to any victim of
24 such crime or motor vehicle violation, by registered or certified mail,
25 that such person has applied for the supervised diversionary program
26 and that such victim has an opportunity to be heard by the court on
27 the matter.

28 (d) The court shall refer such person to the Court Support Services
29 Division for confirmation of such person's eligibility [and assessment
30 of the person's mental health condition] for participation in such
31 supervised diversionary program. The prosecuting attorney shall
32 provide the division with a copy of the police report in the case to
33 assist the division in [its assessment] confirming such person's
34 eligibility. The division shall consult with a mental health professional
35 to determine if [the person is amenable to] such person has a
36 psychiatric disability with symptoms that can reasonably be expected
37 to be diminished by participating in treatment services, if such person
38 is amenable to participating in such treatment services, and if
39 appropriate [services and] treatment services are available. If the
40 division determines that [the person is amenable to] such person has a
41 psychiatric disability with symptoms that can reasonably be expected
42 to be diminished by participating in treatment services, that such
43 person is amenable to participating in such treatment services and that
44 appropriate [services and] treatment services are available, [it] the
45 division shall develop a plan for treatment [plan] services tailored to
46 the person and shall present [it] the plan to the court.

47 (e) Upon confirmation of eligibility and consideration of the plan for
48 treatment [plan] services presented by the Court Support Services
49 Division, the court may grant [such] the application. If the court grants
50 the application, such person shall be referred to the division. The
51 division shall collaborate with the Department of Mental Health and
52 Addiction Services or a service provider to place such person in a
53 program that provides appropriate [community supervision, treatment
54 and] treatment services. The person shall be subject to the supervision
55 of a probation officer who has a reduced caseload and specialized
56 training in working with persons with psychiatric disabilities. The
57 period of probation or supervision, or both, for any person in the
58 supervised diversionary program shall not exceed two years.

59 (f) The Court Support Services Division shall establish [policy]
60 policies and procedures to require division employees to notify any
61 victim of the person admitted to the supervised diversionary program
62 of any conditions ordered by the court that directly affect the victim
63 and of such person's scheduled court appearances with respect to the
64 case.

65 (g) Any person who enters the supervised diversionary program
66 shall agree: (1) To the tolling of the statute of limitations with respect
67 to such crime or violation; (2) to a waiver of such person's right to a
68 speedy trial; and (3) to any conditions that may be established by the
69 division concerning participation in the supervised diversionary
70 program including conditions concerning participation in meetings or
71 sessions of the supervised diversionary program.

72 (h) If the Court Support Services Division informs the court that
73 such person is ineligible for the supervised diversionary program and
74 the court makes a determination of ineligibility or if the division
75 certifies to the court that such person did not successfully complete the
76 assigned supervised diversionary program, the court shall order the
77 court file to be unsealed, enter a plea of not guilty for such person and
78 immediately place the case on the trial list.

79 (i) If such person satisfactorily completes the assigned supervised

80 diversionary program, such person may apply for dismissal of the
81 charges against such person and the court, on reviewing the record of
82 such person's participation in such program submitted by the Court
83 Support Services Division and on finding such satisfactory completion,
84 shall dismiss the charges. If such person does not apply for dismissal
85 of the charges against such person after satisfactorily completing the
86 assigned program, the court, upon receipt of the record of such
87 person's participation in such program submitted by the Court
88 Support Services Division, may on its own motion make a finding of
89 such satisfactory completion and dismiss the charges. Except as
90 provided in subsection (j) of this section, upon dismissal, all records of
91 such charges shall be erased pursuant to section 54-142a. An order of
92 the court denying a motion to dismiss the charges against a person
93 who has completed such person's period of probation or supervision
94 or terminating the participation of a person in such program shall be a
95 final judgment for purposes of appeal.

96 (j) The Court Support Services Division shall develop and maintain
97 a database of information concerning persons admitted to the
98 supervised diversionary program that shall be available to the state
99 police and organized local police departments for use by sworn police
100 officers when responding to incidents involving such persons. Such
101 information shall include the person's name, date of birth, Social
102 Security number, the violation or violations with which the person was
103 charged, the dates of program participation and whether a deadly
104 weapon or dangerous instrument was involved in the violation or
105 violations for which the program application was granted. The
106 division shall enter such information in the database upon such
107 person's entry into the supervised diversionary program, update such
108 information as necessary and retain such information for a period of
109 five years after the date of such person's entry into the supervised
110 diversionary program.

111 (k) The Court Support Services Division, in collaboration with the
112 Department of Mental Health and Addiction Services, shall develop
113 standards and oversee appropriate treatment [programs] services to

114 meet the requirements of this section and may contract with service
 115 providers to provide such [programs] services or assist in placing
 116 persons pursuant to subsection (e) of this section.

117 (l) The Court Support Services Division shall retain the police report
 118 provided to it by the prosecuting attorney and the record of
 119 supervision including the dates of supervision and shall provide such
 120 information to the court, prosecuting attorney and defense counsel
 121 whenever a court is considering whether to grant an application by
 122 such person for participation in the supervised diversionary program
 123 for a second time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	54-56l

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes changes to the Court Support Services Division's (CSSD) pretrial supervised diversionary program for criminal defendants with psychiatric disabilities who have been charged with relatively minor offenses. These changes are technical, clarifying or conform statute to current practice and will not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 229*****AN ACT CONCERNING THE PRETRIAL SUPERVISED
DIVERSIONARY PROGRAM FOR PERSONS WITH PSYCHIATRIC
DISABILITIES.*****SUMMARY:**

This bill narrows the scope of the Court Support Services Division's (CSSD) pretrial supervised diversionary program for criminal defendants with psychiatric disabilities who have been charged with relatively minor offenses. The law defines "psychiatric disability" as a mental or emotional condition, other than just substance abuse, that (1) has substantial adverse effects on the defendant's ability to function and (2) requires care and treatment.

In the bill, CSSD makes eligibility recommendations to the court after consulting with a mental health professional to determine if the defendant has a psychiatric disability with symptoms that can be expected to diminish by participating in treatment. By law, CSSD must determine if the person is amenable to participation; the bill makes participation dependent on service availability. In addition, defendants are ineligible if they (1) have participated in the program twice before or (2) are ineligible for the accelerated rehabilitation program. The court makes the final eligibility determination.

The bill also:

1. sets a two-year maximum period of supervision or probation for defendants participating in the program and
2. permits CSSD to contract with service providers to assist in placing defendants in appropriate treatment programs.

EFFECTIVE DATE: October 1, 2010

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 0 (03/03/2010)