



House of Representatives

File No. 890

General Assembly

January Session, 2011

(Reprint of File No. 683)

Substitute House Bill No. 6639
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
June 2, 2011

**AN ACT CONCERNING ELIGIBILITY FOR THE ACCELERATED
REHABILITATION PROGRAM.**

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

1 Section 1. Subsection (b) of section 54-56e of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (b) The court may, in its discretion, invoke such program on motion
5 of the defendant or on motion of a state's attorney or prosecuting
6 attorney with respect to a defendant (1) who, the court believes, will
7 probably not offend in the future, (2) who has no previous record of
8 conviction of a crime or of a violation of section 14-196, subsection (c)
9 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
10 section 14-227a, [(3) who has not been adjudged a youthful offender
11 within the preceding five years under the provisions of sections 54-76b
12 to 54-76n, inclusive,] and [(4)] (3) who states under oath, in open court
13 or before any person designated by the clerk and duly authorized to
14 administer oaths, under the penalties of perjury that the defendant has
15 never had such program invoked in the defendant's behalf, provided

16 the defendant shall agree thereto and provided notice has been given
17 by the defendant, on a form approved by rule of court, to the victim or
18 victims of such crime or motor vehicle violation, if any, by registered
19 or certified mail and such victim or victims have an opportunity to be
20 heard thereon. [In determining whether to grant an application under
21 this section with respect to a person who has been adjudged a youthful
22 offender under the provisions of sections 54-76b to 54-76n, inclusive,
23 more than five years prior to the date of such application, and
24 notwithstanding the provisions of section 54-76l, the court shall have
25 access to the youthful offender records of such person and may
26 consider the nature and circumstances of the crime with which such
27 person was charged as a youth.] Any defendant who makes
28 application for participation in such program shall pay to the court an
29 application fee of thirty-five dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	54-56e(b)

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 expands eligibility for the pretrial accelerated rehabilitation and pretrial drug education programs. It is expected that 2,100 offenders who are currently on regular probation would become eligible for these programs. As these offenders are already receiving services of comparable cost under regular probation, there are no additional costs to the Judicial Department associated with shifting them to accelerated rehabilitation.

House "A" struck the underlying bill and its associated fiscal impact and results in the impact described above.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6639 (as amended by House "A")******AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.*****SUMMARY:**

This bill removes the bar on participation in the pretrial accelerated rehabilitation (AR) program for someone adjudged a youthful offender in the past five years. By law and under the bill, a person must meet the other AR eligibility requirements. This means he or she must not (1) have prior convictions of a crime or certain motor vehicle violations, (2) have been in AR before, and (3) be charged with certain crimes.

The law allows the court to decide whether to allow an eligible defendant to participate and the court may allow it if it believes the defendant will probably not offend in the future. The bill eliminates the court's access to the youthful offender records of someone adjudged a youthful offender more than five years ago, which current law allows the court to consider in determining whether to grant participation.

*House Amendment "A" removes provisions in the original bill eliminating the bar to participating in:

1. AR for someone charged with (a) certain 2nd degree sexual assaults when there is good cause for eligibility in the program or (b) a drug paraphernalia or possession crime when the person is eligible for the pretrial drug education program or used that program before and
2. the pretrial drug education program for someone who previously participated in the pretrial community service labor

program.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

AR

AR participants waive their right to a speedy trial and agree to a tolling of the statute of limitations. The court places them under the supervision of the Court Support Services Division for up to two years under conditions it orders. If the defendant successfully completes the program, the court dismisses the charges and the record is erased. If the defendant violates a condition of the program, he or she is brought to trial on the original charges.

Eligibility for AR

By law, a person is ineligible for AR if he or she is charged with one of the following crimes:

1. a class A felony;
2. a class B felony other than 1st degree larceny when the crime did not involve the use or threatened use of physical force against a person;
3. a class C felony unless good cause is shown;
4. a crime or motor vehicle violation that caused someone's death;
5. operating under the influence of alcohol or drugs;
6. risk of injury to a minor involving sex;
7. 2nd degree assault with a motor vehicle;
8. 2nd degree manslaughter with a motor vehicle;
9. 1st, 2nd, or 3rd degree sexual assault;
10. 1st degree aggravated sexual assault;

- 11. sexual assault in a spousal or cohabiting relationship;
- 12. 3rd degree sexual assault with a firearm;
- 13. enticing a minor;
- 14. 2nd or 3rd degree possession of child pornography;
- 15. a family violence crime when he or she is eligible for the pretrial family violence education program or has had that program invoked on his or her behalf before;
- 16. a drug paraphernalia or possession crime if the person is eligible for the pretrial drug education program or used that program before; or
- 17. certain absentee ballot and false statement in absentee ballot crimes.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 45 Nay 0 (04/14/2011)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 39 Nay 12 (05/19/2011)