



Substitute Senate Bill No. 114

Public Act No. 12-42

***AN ACT CONCERNING SERVICES FOR VETERANS IN PRETRIAL
DIVERSIONARY PROGRAMS.***

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

Section 1. Section 54-56l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) There shall be a supervised diversionary program for persons with psychiatric disabilities, or persons who are veterans, who are accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature. For the purposes of this section, (1) "psychiatric disability" means a mental or emotional condition, other than solely substance abuse, that [(1)] (A) has substantial adverse effects on the defendant's ability to function, and [(2)] (B) requires care and treatment, and (2) "veteran" means a person who is found, pursuant to subsection (d) of this section, to have a mental health condition that is amenable to treatment, and is (A) a veteran, as defined in subsection (a) of section 27-103, or (B) eligible to receive services from the United States Department of Veterans Affairs pursuant to Title 38 of the United States Code.

(b) A person shall be ineligible [for participation] to participate in

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such supervised diversionary program if such person (1) is ineligible to participate in the pretrial program for accelerated rehabilitation under subsection (c) of section 54-56e, or (2) has twice previously participated in such supervised diversionary program.

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

(d) The court shall refer such person to the Court Support Services Division for confirmation of eligibility and assessment of the person's mental health condition. The prosecuting attorney shall provide the division with a copy of the police report in the case to assist the division in its assessment. The division shall determine if the person is amenable to treatment and if appropriate community supervision, treatment and services [and treatment] are available. If the division determines that the person is amenable to treatment and that appropriate community supervision, treatment and services [and treatment] are available, [it] the division shall develop a treatment plan tailored to the person and shall present [it] the treatment plan to the court.

(e) Upon confirmation of eligibility and consideration of the treatment plan presented by the Court Support Services Division, the court may grant [such] the application for participation in the program. If the court grants the application, such person shall be

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referred to the division. The division [shall] may collaborate with the Department of Mental Health and Addiction Services, the Department of Veterans' Affairs or the United States Department of Veterans Affairs, as applicable, to place such person in a program that provides appropriate community supervision, treatment and services. The person shall be subject to the supervision of a probation officer who has a reduced caseload and specialized training in working with persons with psychiatric disabilities.

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

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

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

(i) If such person satisfactorily completes the assigned program, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program submitted by the Court Support

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

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

(k) The Court Support Services Division, in [collaboration] consultation with the Department of Mental Health and Addiction Services, shall develop standards and oversee appropriate treatment programs to meet the requirements of this section and may contract

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with service providers to provide such programs.

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

Sec. 2. Subsection (b) of section 54-56e of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(b) The court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to a defendant (1) who, the court believes, will probably not offend in the future, (2) who has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) of section 14-224 or section 14-227a, and (3) who states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury, that the defendant has never had such program invoked in the defendant's behalf or, with respect to a defendant who is a veteran, that the defendant has not had such program invoked in the defendant's behalf more than once previously, provided the defendant shall agree thereto and provided notice has been given by the defendant, on a form approved by rule of court, to the victim or victims of such crime or motor vehicle violation, if any, by registered or certified mail and such victim or victims have an opportunity to be heard thereon. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars. For the purposes of this section, "veteran" means a person who is (A) a veteran, as defined in

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subsection (a) of section 27-103, or (B) eligible to receive services from the United States Department of Veterans Affairs pursuant to Title 38 of the United States Code.

Sec. 3. Section 54-56i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) There is established a pretrial drug education program for persons charged with a violation of section 21a-267 or 21a-279. The drug education program shall include a ten-session drug intervention program, a fifteen-session drug intervention program and a substance abuse treatment program.

(b) Upon application by any such person for participation in such program and payment to the court of an application fee of one hundred dollars and a nonrefundable evaluation fee of one hundred dollars, the court shall, but only as to the public, order the court file sealed provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury, that such person has never had such program invoked in such person's behalf. A person shall be ineligible for participation in such pretrial drug education program if such person has previously participated in the eight-session, ten-session or fifteen-session drug education program, or substance abuse treatment program established under this section or the pretrial community service labor program established under section 53a-39c. The evaluation and application fee imposed by this subsection shall be credited to the pretrial account established under section 54-56k.

(c) The court, after consideration of the recommendation of the state's attorney, assistant state's attorney or deputy assistant state's attorney in charge of the case, may, in its discretion, grant such application. If the court grants such application, the court shall refer such person to the Court Support Services Division for confirmation of

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the eligibility of the applicant and to the Department of Mental Health and Addiction Services, except that, if such person is a veteran, the court may refer such person to the Department of Veterans' Affairs or the United States Department of Veterans Affairs, as applicable, for evaluation. For the purposes of this subsection and subsection (d) of this section, "veteran" means a person who is (A) a veteran, as defined in subsection (a) of section 27-103, or (B) eligible to receive services from the United States Department of Veterans Affairs pursuant to Title 38 of the United States Code.

(d) (1) Upon confirmation of eligibility and receipt of the evaluation required pursuant to subsection (c) of this section, such person shall be placed in the drug education program and referred [to the Department of Mental Health and Addiction Services] by the Court Support Services Division [for placement in the drug education program. Participants in the drug education program shall receive] for the purpose of receiving appropriate drug intervention services or substance abuse treatment program services, as recommended by the evaluation conducted pursuant to subsection (c) of this section [,] and ordered by the court, to the Department of Mental Health and Addiction Services, except that, if such person is a veteran, the division may refer such person to the Department of Veterans' Affairs or the United States Department of Veterans Affairs, subject to the provisions of subdivision (2) of this subsection. Placement in the drug education program pursuant to this section shall not exceed one year. Persons receiving substance abuse treatment program services in accordance with the provisions of this section shall only receive such services at state licensed substance abuse treatment program facilities that are in compliance with all state standards governing the operation of such facilities, except that, if such person is a veteran, such person may receive services from facilities under the supervision of the Department of Veterans' Affairs or the United States Department of Veterans Affairs, subject to the provisions of subdivision (2) of this

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subsection. Any person who enters the program shall agree: [(1)] (A) To the tolling of the statute of limitations with respect to such crime; [(2)] (B) to a waiver of such person's right to a speedy trial; [(3)] (C) to complete participation in the ten-session drug intervention program, fifteen-session drug intervention program or substance abuse treatment program, as recommended by the evaluation conducted pursuant to subsection (c) of this section, and ordered by the court; [(4)] (D) to commence participation in the drug education program not later than ninety days after the date of entry of the court order unless granted a delayed entry into the program by the court; and [(5)] (E) upon completion of participation in the pretrial drug education program, to accept (i) placement in a treatment program upon the recommendation of a provider under contract with the Department of Mental Health and Addiction Services or a provider under the supervision of the Department of Veterans' Affairs or the United States Department of Veterans Affairs, or (ii) placement in a treatment program that has standards substantially similar to, or higher than, a program of a provider under contract with the Department of Mental Health and Addiction Services, if the Court Support Services Division deems it appropriate. The Court Support Services Division shall require as a condition of participation in the drug education program that any person participating in the ten-session drug intervention program or the substance abuse treatment program also participate in the community service labor program, established pursuant to section 53a-39c, for not less than five days; and that any person participating in the fifteen-session drug intervention program also participate in said community service labor program, for not less than ten days.

(2) The Court Support Services Division may only refer a veteran to the Department of Veterans' Affairs or the United States Department of Veterans Affairs for the receipt of services under the program if (A) the division determines that such services will be provided in a timely manner under standards substantially similar to, or higher than,

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standards for services provided by the Department of Mental Health and Addiction Services under the program, and (B) the applicable department agrees to submit timely program participation and completion reports to the division in the manner required by the division.

(e) If the Court Support Services Division informs the court that such person is ineligible for the program and the court makes a determination of ineligibility or if the program provider certifies to the court that such person did not successfully complete the assigned program and such person did not request, or the court denied, reinstatement in the program under subsection (i) of this section, the court shall order the court file to be unsealed, enter a plea of not guilty for such person and immediately place the case on the trial list.

(f) If such person satisfactorily completes the assigned program, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If such person does not apply for dismissal of the charges against such person after satisfactorily completing the assigned program, the court, upon receipt of the record of such person's participation in such program submitted by the Court Support Services Division, may on its own motion make a finding of such satisfactory completion and dismiss the charges. Upon motion of such person and a showing of good cause, the court may extend the placement period for a reasonable period for such person to complete the assigned program. A record of participation in such program shall be retained by the Court Support Services Division for a period of ten years from the date the court grants the application for participation in the program.

(g) At the time the court grants the application for participation in

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the pretrial drug education program, such person shall pay to the court a nonrefundable program fee of three hundred fifty dollars if such person is ordered to participate in the ten-session drug intervention program or five hundred dollars if such person is ordered to participate in the fifteen-session drug intervention program. If the court orders participation in a substance abuse treatment program, such person shall be responsible for the costs associated with such program. No person may be excluded from any such program for inability to pay such fee or cost, provided (1) such person files with the court an affidavit of indigency or inability to pay, (2) such indigency or inability to pay is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. The court may waive all or any portion of such fee depending on such person's ability to pay. If the court finds that a person is indigent or unable to pay for a treatment program, the costs of such program shall be paid from the pretrial account established under section 54-56k. If the court denies the application, such person shall not be required to pay the program fee. If the court grants the application, and such person is later determined to be ineligible for participation in such pretrial drug education program or fails to complete the assigned program, the program fee shall not be refunded. All program fees shall be credited to the pretrial account established under section 54-56k.

(h) If a person returns to court with certification from a program provider that such person did not successfully complete the assigned program or is no longer amenable to treatment, the provider, to the extent practicable, shall include a recommendation to the court as to whether a ten-session drug intervention program, a fifteen-session drug intervention program or placement in a substance abuse treatment program would best serve such person's needs. The provider shall also indicate whether the current program referral was an initial referral or a reinstatement to the program.

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(i) When a person subsequently requests reinstatement into a drug intervention program or a substance abuse treatment program and the Court Support Services Division verifies that such person is eligible for reinstatement into such program and thereafter the court favorably acts on such request, such person shall pay a nonrefundable program fee of one hundred seventy-five dollars if ordered to complete a ten-session drug intervention program or two hundred fifty dollars if ordered to complete a fifteen-session drug intervention program, as the case may be. Unless good cause is shown, such fees shall not be waived. If the court grants a person's request to be reinstated into a substance abuse treatment program, such person shall be responsible for the costs, if any, associated with being reinstated into the treatment program. All program fees collected in connection with a reinstatement to a drug intervention program shall be credited to the pretrial account established under section 54-56k. No person shall be permitted more than two program reinstatements pursuant to this subsection.

(j) The Department of Mental Health and Addiction Services shall develop standards and oversee appropriate drug education programs that it administers to meet the requirements of this section and may contract with service providers to provide such programs. The department shall adopt regulations, in accordance with chapter 54, to establish standards for such drug education programs.

(k) Any person whose employment or residence or schooling makes it unreasonable to attend a drug intervention program or substance abuse treatment program in this state may attend a program in another state that has standards similar to, or higher than, those of this state, subject to the approval of the court and payment of the program fee or costs as provided in this section.

Approved May 31, 2012