



General Assembly

February Session, 2012

Raised Bill No. 5555

LCO No. 2690

02690_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING DIVERSIONARY PROGRAMS.

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

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 Section 54-56i of the general statutes is repealed and the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

3 (a) There is established a pretrial drug education and community
4 service program for persons charged with a violation of section
5 21a-267 or 21a-279 or persons charged with a third violation of section
6 21a-279a. The drug education and community service program shall
7 include a [ten-session drug intervention program, a] fifteen-session
8 drug intervention program, [and] a substance abuse treatment
9 program of not less than fifteen sessions, and the performance of
10 community service.

11 (b) Upon application by any such person for participation in such
12 program and payment to the court of an application fee of one
13 hundred dollars and a nonrefundable evaluation fee of one hundred
14 fifty dollars, the court shall, but only as to the public, order the court
15 file sealed. [provided such person states under oath, in open court or
16 before any person designated by the clerk and duly authorized to

17 administer oaths, under penalties of perjury, that such person has
18 never had such program invoked in such person's behalf.] A person
19 shall be ineligible for participation in such pretrial drug education and and
20 community service program if such person has twice previously
21 participated in (1) the [eight-session, ten-session or fifteen-session]
22 pretrial drug education program [, or substance abuse treatment
23 program] established under the provisions of this section [or] in effect
24 on October 1, 2012, (2) the [pretrial] community service labor program
25 established under section 53a-39c, as amended by this act, (3) the drug
26 education and community service program established under this
27 section, or (4) any combination of such programs, except that the court
28 may allow a person who has twice previously participated in the
29 programs set forth in subdivisions (1) to (4), inclusive, of this
30 subsection to participate in the pretrial drug education and community
31 service program one additional time, for good cause shown. The
32 evaluation and application fee imposed [by] under this subsection
33 shall be credited to the pretrial account established under section 54-
34 56k.

35 (c) The court, after consideration of the recommendation of the
36 state's attorney, assistant state's attorney or deputy assistant state's
37 attorney in charge of the case, may, in its discretion, grant such
38 application. If the court grants such application, the court shall refer
39 such person (1) to the Court Support Services Division for
40 confirmation of the eligibility of the applicant, [and] (2) to the
41 Department of Mental Health and Addiction Services for evaluation
42 and determination of an appropriate drug education or substance
43 abuse treatment program for the first or second time such application
44 is granted, and (3) to a state licensed substance abuse treatment
45 program for evaluation and determination of an appropriate substance
46 abuse treatment program for the third time such application is
47 granted.

48 (d) (1) Upon confirmation of eligibility and receipt of the evaluation
49 and determination required [pursuant to] under subsection (c) of this

50 section, such person shall be referred by the Court Support Services
51 Division to the Department of Mental Health and Addiction Services
52 [by the Court Support Services Division] or to a state licensed
53 substance abuse treatment program for placement in the appropriate
54 drug education or substance abuse treatment program. [Participants
55 in]

56 (2) Persons who have been granted entry into the drug education
57 and community service program for the first time shall [receive
58 appropriate drug intervention services or substance abuse treatment
59 program services, as recommended by the evaluation conducted
60 pursuant to subsection (c) of this section, and ordered by the court]
61 participate in a fifteen-week drug education program. Persons who
62 have been granted entry into the drug education and community
63 service program for the second time shall participate in either a fifteen-
64 week drug education program or a substance abuse treatment
65 program, as ordered by the court based on the evaluation and
66 determination required under subsection (c) of this section. Persons
67 who have been granted entry into the drug education and community
68 service program for a third time shall be referred to a state licensed
69 substance abuse program for evaluation and participation in a course
70 of treatment as ordered by the court based on the evaluation and
71 determination required under subsection (c) of this section.

72 (3) Persons who have been granted entry into the drug education
73 and community service program shall also participate in a community
74 service program administered by the Court Support Services Division
75 pursuant to section 53a-39c, as amended by this act. Persons who have
76 been granted entry into the drug education and community service
77 program for the first time shall participate in the community service
78 program for a period of five days. Persons who have been granted
79 entry into the drug education and community service program for the
80 second time shall participate in the community service program for a
81 period of fifteen days. Persons who have been granted entry into the
82 drug education and community service program for a third or

83 additional time shall participate in the community service program for
84 a period of thirty days.

85 (4) Placement in the drug education and community service
86 program pursuant to this section shall not exceed one year. Persons
87 receiving substance abuse treatment program services in accordance
88 with the provisions of this section shall only receive such services at
89 state licensed substance abuse treatment program facilities that are in
90 compliance with all state standards governing the operation of such
91 facilities. Any person who enters the program shall agree: [(1)] (A) To
92 the tolling of the statute of limitations with respect to such crime; [(2)]
93 (B) to a waiver of such person's right to a speedy trial; [(3)] (C) to
94 complete participation in the [ten-session drug intervention program,
95 fifteen-session drug intervention program or substance abuse
96 treatment program, as recommended by the evaluation conducted
97 pursuant to subsection (c) of this section, and] drug education and
98 community service program as ordered by the court; [(4)] (D) to
99 commence participation in the drug education and community service
100 program not later than ninety days after the date of entry of the court
101 order unless granted a delayed entry into the program by the court;
102 and [(5)] (E) upon completion of participation in the [pretrial] drug
103 education and community service program, to accept placement in a
104 treatment program upon the recommendation of a provider under
105 contract with the Department of Mental Health and Addiction Services
106 or placement in a treatment program that has standards substantially
107 similar to, or higher than, a program of a provider under contract with
108 the Department of Mental Health and Addiction Services if the Court
109 Support Services Division deems it appropriate. [The Court Support
110 Services Division shall require as a condition of participation in the
111 drug education program that any person participating in the ten-
112 session drug intervention program or the substance abuse treatment
113 program also participate in the community service labor program,
114 established pursuant to section 53a-39c, for not less than five days; and
115 that any person participating in the fifteen-session drug intervention
116 program also participate in said community service labor program, for

117 not less than ten days.]

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

126 (f) If such person satisfactorily completes the assigned program,
127 such person may apply for dismissal of the charges against such
128 person and the court, on reviewing the record of such person's
129 participation in such program submitted by the Court Support
130 Services Division and on finding such satisfactory completion, shall
131 dismiss the charges. If such person does not apply for dismissal of the
132 charges against such person after satisfactorily completing the
133 assigned program, the court, upon receipt of the record of such
134 person's participation in such program submitted by the Court
135 Support Services Division, may on its own motion make a finding of
136 such satisfactory completion and dismiss the charges. Upon motion of
137 such person and a showing of good cause, the court may extend the
138 placement period for a reasonable period [for] of time to allow such
139 person to complete the assigned program. A record of participation in
140 such program shall be retained by the Court Support Services Division
141 for a period of ten years from the date the court grants the application
142 for participation in the program.

143 (g) At the time the court grants the application for participation in
144 the pretrial drug education and community service program, [such]
145 any person ordered to participate in the pretrial drug education and
146 community service program shall pay to the court a nonrefundable
147 program fee of [three hundred fifty dollars if such person is ordered to
148 participate in the ten-session drug intervention program or five

149 hundred dollars if such person is ordered to participate in the fifteen-
150 session drug intervention program] six hundred dollars. If the court
151 orders participation in a substance abuse treatment program, such
152 person shall pay to the court a nonrefundable program fee of one
153 hundred dollars and shall be responsible for the costs associated with
154 such program. No person may be excluded from any such program for
155 inability to pay such fee or cost, provided (1) such person files with the
156 court an affidavit of indigency or inability to pay, (2) such indigency or
157 inability to pay is confirmed by the Court Support Services Division,
158 and (3) the court enters a finding thereof. The court may waive all or
159 any portion of such fee depending on such person's ability to pay. If
160 the court finds that a person is indigent or unable to pay for a
161 substance abuse treatment program, the costs of such program shall be
162 paid from the pretrial account established under section 54-56k. If the
163 court denies the application, such person shall not be required to pay
164 the program fee. If the court grants the application, and such person is
165 later determined to be ineligible for participation in such pretrial drug
166 education and community service program or fails to complete the
167 assigned program, the program fee shall not be refunded. [All
168 program fees] Eighty-five per cent of each program fee paid shall be
169 credited to the pretrial account established under section 54-56k and
170 fifteen per cent of each program fee paid shall be credited to the
171 alternative incarceration program account.

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

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

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

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

214 Sec. 2. Section 53a-39c of the general statutes is repealed and the
215 following is substituted in lieu thereof (*Effective October 1, 2012*):

216 (a) There is established, within available appropriations, a
217 community service labor program for persons [charged with]
218 convicted of a first violation of section 21a-267 or 21a-279 who have not
219 previously been convicted of a violation of section [21a-267,] 21a-277 []
220 or 21a-278. [or 21a-279.] Upon application by any such person for
221 participation in such program the court may grant such application
222 and, [(1) if such person has not previously been placed in the
223 community service labor program, the court may either suspend
224 prosecution and place such person in such program or, upon a plea of
225 guilty without trial where a term of imprisonment is part of a stated
226 plea agreement, suspend any sentence of imprisonment and make
227 participation in such program a condition of probation or conditional
228 discharge in accordance with section 53a-30; or (2) if such person has
229 previously been placed in such program, the court may,] upon a plea
230 of guilty without trial where a term of imprisonment is part of a stated
231 plea agreement, suspend any sentence of imprisonment and make
232 participation in such program a condition of probation or conditional
233 discharge in accordance with [said] section 53a-30. No person may be
234 placed in such program who has [twice] previously been placed in
235 such program.

236 (b) Any person who enters such program shall pay to the court a
237 participation fee of two hundred five dollars, except that no person
238 may be excluded from such program for inability to pay such fee,
239 provided (1) such person files with the court an affidavit of indigency
240 or inability to pay, (2) such indigency is confirmed by the Court
241 Support Services Division, and (3) the court enters a finding thereof.
242 All program fees collected under this subsection shall be deposited
243 into the alternative incarceration program account. The period of
244 participation in the community service labor program shall be thirty
245 days.

246 [(c) Any person for whom prosecution is suspended and who is
247 placed in the community service labor program pursuant to subsection
248 (a) of this section shall agree to the tolling of the statute of limitations
249 with respect to such crime and to a waiver of such person's right to a
250 speedy trial. A pretrial community service labor program established
251 under this section for persons for whom prosecution is suspended
252 shall include a drug education component. If such person satisfactorily
253 completes the program of community service labor to which such
254 person was assigned, such person may apply for dismissal of the
255 charges against such person and the court, on reviewing the record of
256 such person's participation in such program and on finding such
257 satisfactory completion, shall dismiss the charges. If the program
258 provider certifies to the court that such person did not successfully
259 complete the program of community service labor to which such
260 person was assigned or is no longer amenable to participation in such
261 program, the court shall enter a plea of not guilty for such person and
262 immediately place the case on the trial list.

263 (d) The period of participation in a community service labor
264 program shall be a minimum of fourteen days for a first violation and
265 thirty days for a second violation involving a plea of guilty and
266 conviction.]

267 Sec. 3. Subsection (c) of section 54-56e of the 2012 supplement to the
268 general statutes is repealed and the following is substituted in lieu
269 thereof (*Effective October 1, 2012*):

270 (c) This section shall not be applicable: (1) To any person charged
271 with a class A felony, a class B felony, except a violation of section 53a-
272 122 that does not involve the use, attempted use or threatened use of
273 physical force against another person, or a violation of section 14-227a,
274 subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-
275 60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except subdivision (1) of
276 subsection (a) of section 53a-71, 53a-72a, 53a-72b, 53a-90a, 53a-196e or
277 53a-196f, (2) to any person charged with a crime or motor vehicle

278 violation who, as a result of the commission of such crime or motor
279 vehicle violation, causes the death of another person, (3) to any person
280 accused of a family violence crime as defined in section 46b-38a who
281 (A) is eligible for the pretrial family violence education program
282 established under section 46b-38c, or (B) has previously had the
283 pretrial family violence education program invoked in such person's
284 behalf, (4) to any person charged with a violation of section 21a-267 or
285 21a-279 who (A) is eligible for the pretrial drug education program
286 established under section 54-56i, as amended by this act, or (B) has
287 previously had the pretrial drug education program invoked in such
288 person's behalf, (5) unless good cause is shown, to any person charged
289 with a class C felony or a violation of subdivision (1) of subsection (a)
290 of section 53a-71, or (6) to any person charged with a violation of
291 section 9-359 or 9-359a.

292 Sec. 4. Section 54-56m of the general statutes is repealed and the
293 following is substituted in lieu thereof (*Effective October 1, 2012*):

294 (a) There shall be established, in [the geographical area of the
295 Superior Court for the towns of Berlin, New Britain, Newington,
296 Rocky Hill and Wethersfield, the geographical area of the Superior
297 Court for the towns of Bethlehem, Middlebury, Naugatuck, Prospect,
298 Southbury, Watertown, Wolcott, Woodbury and Waterbury, and such
299 other geographical areas of the Superior Court as the Chief Court
300 Administrator may designate] each geographical area of the Superior
301 Court, programs of mediation wherein the court may refer a criminal
302 prosecution to mediation for resolution. For the purposes of this
303 section, "mediation" means the process where two or more persons to a
304 dispute agree to meet with an impartial third party to work toward a
305 resolution of the dispute which is satisfactory to all parties in
306 accordance with principles of mediation commonly used in labor
307 management disputes.

308 (b) If mediation is successful, the prosecuting authority, upon
309 recommendation of the family relations counselor or mediation officer,

310 shall enter a nolle prosequi and the prosecution shall be terminated
311 and the defendant released from custody.

312 (c) If mediation is unsuccessful or the defendant fails to comply
313 with the terms of any mediation agreement, the family relations
314 counselor or mediation officer shall notify the prosecuting authority
315 and prosecution of the defendant may be initiated.

316 (d) There shall be established, in [the two geographical areas of the
317 Superior Court enumerated in subsection (a) of this section and in such
318 other geographical areas of the Superior Court as the Chief Court
319 Administrator may designate] each geographical area of the Superior
320 Court, units to provide mediation services in cases referred by the
321 court to mediation. In addition, mediation services in cases referred by
322 the court to mediation may also be provided by private agencies under
323 contract with the Judicial Department.

324 Sec. 5. Section 54-56h of the general statutes is repealed and the
325 following is substituted in lieu thereof (*Effective October 1, 2012*):

326 (a) The court may, in the disposition of any criminal or motor
327 vehicle case, including a dismissal or the imposition of a sentence,
328 consider the fact that the defendant has made a monetary contribution
329 to the Criminal Injuries Compensation Fund established under section
330 54-215 or a monetary contribution or contribution of community
331 service work hours to a private nonprofit charity or other nonprofit
332 organization.

333 (b) In entering a nolle prosequi, the state's attorney, assistant state's
334 attorney or deputy assistant state's attorney in charge of the case may
335 consider the fact that the defendant has made a monetary contribution
336 to the Criminal Injuries Compensation Fund or a monetary
337 contribution or contribution of community service work hours to a
338 private nonprofit charity or other nonprofit organization.

339 (c) A monetary contribution made by a defendant to the Criminal

340 Injuries Compensation Fund as provided in this section may be paid to
341 either the clerk of the court or the Office of Victim Services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	54-56i
Sec. 2	<i>October 1, 2012</i>	53a-39c
Sec. 3	<i>October 1, 2012</i>	54-56e(c)
Sec. 4	<i>October 1, 2012</i>	54-56m
Sec. 5	<i>October 1, 2012</i>	54-56h

Statement of Purpose:

To: (1) Revise the pretrial drug education program by redesignating the program as a pretrial drug education and community service program and revising eligibility and participation requirements for the program, (2) limit eligibility for the community service labor program to enumerated offenses after conviction, (3) revise the eligibility criteria for accelerated rehabilitation, (4) expand mediation programs in criminal prosecutions to all geographical area court locations, and (5) permit a court or prosecutor to consider the fact that a defendant has made a monetary contribution to a private nonprofit charity or other nonprofit organization, in a manner currently permitted for the consideration of community service work.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]