



General Assembly

**Substitute Bill No. 114**

February Session, 2012

\* \_\_\_\_\_SB00114JUD\_\_032812\_\_\_\_\_\*

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

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 Section 54-56l of the general statutes is repealed and the  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, 2012*):

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

17 (b) A person shall be ineligible [for participation] to participate in  
18 such supervised diversionary program if such person (1) is ineligible to  
19 participate in the pretrial program for accelerated rehabilitation under

20 subsection (c) of section 54-56e, or (2) has twice previously participated  
21 in such supervised diversionary program.

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

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

45 (e) Upon confirmation of eligibility and consideration of the  
46 treatment plan presented by the Court Support Services Division, the  
47 court may grant [such] the application for participation in the  
48 program. If the court grants the application, such person shall be  
49 referred to the division. The division [shall] may collaborate with the  
50 Department of Mental Health and Addiction Services, the Department  
51 of Veterans' Affairs or the United States Department of Veterans  
52 Affairs, as applicable, to place such person in a program that provides

53 appropriate community supervision, treatment and services. The  
54 person shall be subject to the supervision of a probation officer who  
55 has a reduced caseload and specialized training in working with  
56 persons with psychiatric disabilities.

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

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

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

75 (i) If such person satisfactorily completes the assigned program,  
76 such person may apply for dismissal of the charges against such  
77 person and the court, on reviewing the record of such person's  
78 participation in such program submitted by the Court Support  
79 Services Division and on finding such satisfactory completion, shall  
80 dismiss the charges. If such person does not apply for dismissal of the  
81 charges against such person after satisfactorily completing the  
82 assigned program, the court, upon receipt of the record of such  
83 person's participation in such program submitted by the Court  
84 Support Services Division, may on its own motion make a finding of

85 such satisfactory completion and dismiss the charges. Except as  
86 provided in subsection (j) of this section, upon dismissal, all records of  
87 such charges shall be erased pursuant to section 54-142a. An order of  
88 the court denying a motion to dismiss the charges against a person  
89 who has completed such person's period of probation or supervision  
90 or terminating the participation of a person in such program shall be a  
91 final judgment for purposes of appeal.

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

106 (k) The Court Support Services Division, in [collaboration]  
107 consultation with the Department of Mental Health and Addiction  
108 Services, shall develop standards and oversee appropriate treatment  
109 programs to meet the requirements of this section and may contract  
110 with service providers to provide such programs.

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

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

121 (b) The court may, in its discretion, invoke such program on motion  
122 of the defendant or on motion of a state's attorney or prosecuting  
123 attorney with respect to a defendant (1) who, the court believes, will  
124 probably not offend in the future, (2) who has no previous record of  
125 conviction of a crime or of a violation of section 14-196, subsection (c)  
126 of section 14-215, section 14-222a, subsection (a) of section 14-224 or  
127 section 14-227a, and (3) who states under oath, in open court or before  
128 any person designated by the clerk and duly authorized to administer  
129 oaths, under the penalties of perjury, that the defendant has never had  
130 such program invoked in the defendant's behalf or, with respect to a  
131 defendant who is a veteran, that the defendant has not had such  
132 program invoked in the defendant's behalf more than once previously,  
133 provided the defendant shall agree thereto and provided notice has  
134 been given by the defendant, on a form approved by rule of court, to  
135 the victim or victims of such crime or motor vehicle violation, if any,  
136 by registered or certified mail and such victim or victims have an  
137 opportunity to be heard thereon. Any defendant who makes  
138 application for participation in such program shall pay to the court an  
139 application fee of thirty-five dollars. For the purposes of this section,  
140 "veteran" means a person who is (A) a veteran, as defined in  
141 subsection (a) of section 27-103, or (B) eligible to receive services from  
142 the United States Department of Veterans Affairs pursuant to Title 38  
143 of the United States Code.

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

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

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

166 (c) The court, after consideration of the recommendation of the  
167 state's attorney, assistant state's attorney or deputy assistant state's  
168 attorney in charge of the case, may, in its discretion, grant such  
169 application. If the court grants such application, the court shall refer  
170 such person to the Court Support Services Division for confirmation of  
171 the eligibility of the applicant and to the Department of Mental Health  
172 and Addiction Services, except that, if such person is a veteran, the  
173 court may refer such person to the Department of Veterans' Affairs or  
174 the United States Department of Veterans Affairs, as applicable, for  
175 evaluation. For the purposes of this subsection and subsection (d) of  
176 this section, "veteran" means a person who is (A) a veteran, as defined  
177 in subsection (a) of section 27-103, or (B) eligible to receive services  
178 from the United States Department of Veterans Affairs pursuant to  
179 Title 38 of the United States Code.

180 (d) (1) Upon confirmation of eligibility and receipt of the evaluation  
181 required pursuant to subsection (c) of this section, such person shall be  
182 placed in the drug education program and referred [to the Department  
183 of Mental Health and Addiction Services] by the Court Support  
184 Services Division [for placement in the drug education program.

185 Participants in the drug education program shall receive] for the  
186 purpose of receiving appropriate drug intervention services or  
187 substance abuse treatment program services, as recommended by the  
188 evaluation conducted pursuant to subsection (c) of this section [.] and  
189 ordered by the court, to the Department of Mental Health and  
190 Addiction Services, except that, if such person is a veteran, the division  
191 may refer such person to the Department of Veterans' Affairs or the  
192 United States Department of Veterans Affairs, subject to the provisions  
193 of subdivision (2) of this subsection. Placement in the drug education  
194 program pursuant to this section shall not exceed one year. Persons  
195 receiving substance abuse treatment program services in accordance  
196 with the provisions of this section shall only receive such services at  
197 state licensed substance abuse treatment program facilities that are in  
198 compliance with all state standards governing the operation of such  
199 facilities, except that, if such person is a veteran, such person may  
200 receive services from facilities under the supervision of the  
201 Department of Veterans' Affairs or the United States Department of  
202 Veterans Affairs, subject to the provisions of subdivision (2) of this  
203 subsection. Any person who enters the program shall agree: [(1)] (A)  
204 To the tolling of the statute of limitations with respect to such crime;  
205 [(2)] (B) to a waiver of such person's right to a speedy trial; [(3)] (C) to  
206 complete participation in the ten-session drug intervention program,  
207 fifteen-session drug intervention program or substance abuse  
208 treatment program, as recommended by the evaluation conducted  
209 pursuant to subsection (c) of this section, and ordered by the court;  
210 [(4)] (D) to commence participation in the drug education program not  
211 later than ninety days after the date of entry of the court order unless  
212 granted a delayed entry into the program by the court; and [(5)] (E)  
213 upon completion of participation in the pretrial drug education  
214 program, to accept (i) placement in a treatment program upon the  
215 recommendation of a provider under contract with the Department of  
216 Mental Health and Addiction Services or a provider under the  
217 supervision of the Department of Veterans' Affairs or the United States  
218 Department of Veterans Affairs, or (ii) placement in a treatment  
219 program that has standards substantially similar to, or higher than, a

220 program of a provider under contract with the Department of Mental  
221 Health and Addiction Services, if the Court Support Services Division  
222 deems it appropriate. The Court Support Services Division shall  
223 require as a condition of participation in the drug education program  
224 that any person participating in the ten-session drug intervention  
225 program or the substance abuse treatment program also participate in  
226 the community service labor program, established pursuant to section  
227 53a-39c, for not less than five days; and that any person participating  
228 in the fifteen-session drug intervention program also participate in  
229 said community service labor program, for not less than ten days.

230 (2) The Court Support Services Division may only refer a veteran to  
231 the Department of Veterans' Affairs or the United States Department of  
232 Veterans Affairs for the receipt of services under the program if (A) the  
233 division determines that such services will be provided in a timely  
234 manner under standards substantially similar to, or higher than,  
235 standards for services provided by the Department of Mental Health  
236 and Addiction Services under the program, and (B) the applicable  
237 department agrees to submit timely program participation and  
238 completion reports to the division in the manner required by the  
239 division.

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

248 (f) If such person satisfactorily completes the assigned program,  
249 such person may apply for dismissal of the charges against such  
250 person and the court, on reviewing the record of such person's  
251 participation in such program submitted by the Court Support  
252 Services Division and on finding such satisfactory completion, shall

253 dismiss the charges. If such person does not apply for dismissal of the  
254 charges against such person after satisfactorily completing the  
255 assigned program, the court, upon receipt of the record of such  
256 person's participation in such program submitted by the Court  
257 Support Services Division, may on its own motion make a finding of  
258 such satisfactory completion and dismiss the charges. Upon motion of  
259 such person and a showing of good cause, the court may extend the  
260 placement period for a reasonable period for such person to complete  
261 the assigned program. A record of participation in such program shall  
262 be retained by the Court Support Services Division for a period of ten  
263 years from the date the court grants the application for participation in  
264 the program.

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

287 to the pretrial account established under section 54-56k.

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

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

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

