



Substitute House Bill No. 6699

Public Act No. 13-159

AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.

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

Section 1. Section 54-56i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

(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 fifty 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 and

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community service program if such person has twice previously participated in (1) the [eight-session, ten-session or fifteen-session] pretrial drug education program [, or substance abuse treatment program] established under the provisions of this section [or] in effect prior to October 1, 2013, (2) the [pretrial] community service labor program established under section 53a-39c, as amended by this act, (3) the drug education and community service program established under this section, or (4) any of such programs, except that the court may allow a person who has twice previously participated in such programs to participate in the pretrial drug education and community service program one additional time, for good cause shown. The evaluation and application fee imposed [by] under 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 (1) to the Court Support Services Division for confirmation of the eligibility of the applicant, [and] (2) to the Department of Mental Health and Addiction Services for evaluation and determination of an appropriate drug education or substance abuse treatment program for the first or second time such application is granted, and (3) to a state licensed substance abuse treatment program for evaluation and determination of an appropriate substance abuse treatment program for the third time such application is granted, 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 any such 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

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the United States Department of Veterans Affairs pursuant to Title 38 of the United States Code.

(d) (1) (A) Upon confirmation of eligibility and receipt of the evaluation and determination required [pursuant to] under subsection (c) of this section, such person shall be placed in the drug education and community service program and referred by the Court Support Services Division 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 or to a state licensed substance abuse treatment program for placement in the appropriate drug education or substance abuse treatment program, 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.

(B) Persons who have been granted entry into the drug education and community service program for the first time shall participate in a fifteen-week drug education program. Persons who have been granted entry into the drug education and community service program for the second time shall participate in either a fifteen-week drug education program or a substance abuse treatment program of not less than fifteen sessions, as ordered by the court based on the evaluation and determination required under subsection (c) of this section. Persons who have been granted entry into the drug education and community service program for a third time shall be referred to a state licensed substance abuse program for evaluation and participation in a course of treatment as ordered by the court based on the evaluation and determination required under subsection (c) of this section.

(C) Persons who have been granted entry into the drug education

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and community service program shall also participate in a community service program administered by the Court Support Services Division pursuant to section 53a-39c, as amended by this act. Persons who have been granted entry into the drug education and community service program for the first time shall participate in the community service program for a period of five days. Persons who have been granted entry into the drug education and community service program for the second time shall participate in the community service program for a period of fifteen days. Persons who have been granted entry into the drug education and community service program for a third or additional time shall participate in the community service program for a period of thirty days.

(D) Placement in the drug education and community service 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 subsection.

(E) Any person who enters the drug education and community service program shall agree: [(A)] (i) To the tolling of the statute of limitations with respect to such crime; [(B)] (ii) to a waiver of such person's right to a speedy trial; [(C)] (iii) 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] drug education and community service program,

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as ordered by the court; [(D)] (iv) to commence participation in the drug education and community service 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 [(E)] (v) upon completion of participation in the [pretrial] drug education and community service program, to accept [(i)] (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)] (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, 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.

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(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] of time to allow 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 the pretrial drug education and community service program, [such] any person ordered to participate in the drug education program 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

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to participate in the fifteen-session drug intervention program] six hundred dollars. If the court orders participation in a substance abuse treatment program, such person shall pay to the court a nonrefundable program fee of one hundred dollars and 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 substance abuse 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 and community service 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 placement in a [ten-session drug intervention program, a fifteen-session drug intervention] drug education 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.

(i) When a person subsequently requests reinstatement into a drug

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[intervention] education 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] any person reinstated into the drug education program 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] and any person reinstated into a substance abuse treatment program shall be responsible for the costs, if any, associated with being reinstated into the treatment program. Unless good cause is shown, such [fees] program fee 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] education 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] education 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.

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Sec. 2. Section 53a-39c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

(b) Any person who enters such program shall pay to the court a participation fee of two hundred five dollars, except that no person may be excluded from such program for inability to pay such fee, provided (1) such person files with the court an affidavit of indigency or inability to pay, (2) such indigency is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. All program fees collected under this subsection shall be deposited into the alternative incarceration program account.

(c) The period of participation in the community service labor

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program shall be thirty days.

[(c) Any person for whom prosecution is suspended and who is placed in the community service labor program pursuant to subsection (a) of this section shall agree to the tolling of the statute of limitations with respect to such crime and to a waiver of such person's right to a speedy trial. A pretrial community service labor program established under this section for persons for whom prosecution is suspended shall include a drug education component. If such person satisfactorily completes the program of community service labor to which such person was assigned, 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 and on finding such satisfactory completion, shall dismiss the charges. If the program provider certifies to the court that such person did not successfully complete the program of community service labor to which such person was assigned or is no longer amenable to participation in such program, the court shall enter a plea of not guilty for such person and immediately place the case on the trial list.

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

Sec. 3. Subsection (c) of section 54-56e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) This section shall not be applicable: (1) To any person charged with a class A felony, a class B felony, except a violation of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of section 14-227a, subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-

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60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged with a crime or motor vehicle violation who, as a result of the commission of such crime or motor vehicle violation, causes the death of another person, (3) to any person accused of a family violence crime as defined in section 46b-38a who (A) is eligible for the pretrial family violence education program established under section 46b-38c, or (B) has previously had the pretrial family violence education program invoked in such person's behalf, (4) to any person charged with a violation of section 21a-267 or 21a-279 who (A) is eligible for the pretrial drug education and community service program established under section 54-56i, as amended by this act, or (B) has previously had the pretrial drug education program or the pretrial drug education and community service program invoked [in] on such person's behalf, (5) unless good cause is shown, to (A) any person charged with a class C felony, or (B) any person charged with committing a violation of subdivision (1) of subsection (a) of section 53a-71 while such person was less than four years older than the other person, or (6) to any person charged with a violation of section 9-359 or 9-359a.

Sec. 4. Section 54-66a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any bail bond posted in any criminal proceeding in this state shall be automatically terminated and released whenever the defendant: (1) Is granted accelerated rehabilitation pursuant to section 54-56e, as amended by this act; (2) is granted admission to the pretrial alcohol education program pursuant to section 54-56g; (3) is granted admission to the pretrial family violence education program pursuant to section 46b-38c; (4) is granted admission to the community service labor program pursuant to section 53a-39c, as amended by this act; (5) is granted admission to the pretrial drug education and community

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service program pursuant to section 54-56i, as amended by this act; (6) has the complaint or information filed against such defendant dismissed; (7) is acquitted; (8) is sentenced by the court; (9) is granted admission to the pretrial school violence prevention program pursuant to section 54-56j; (10) is charged with a violation of section 29-33 and prosecution has been suspended pursuant to subsection (h) of section 29-33; or (11) is granted admission to the supervised diversionary program for persons with psychiatric disabilities pursuant to section 54-56l.