



House of Representatives

General Assembly

File No. 637

February Session, 2014

Substitute House Bill No. 5594

House of Representatives, April 17, 2014

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DIVERSIONARY PROGRAMS.

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

1 Section 1. (NEW) (*Effective from passage*) The court shall waive all
2 probation fees, including any program fees, for any person sentenced
3 to a period of probation, including a person sentenced as a juvenile or
4 youthful offender, who has been determined indigent by the court and
5 eligible for representation by a public defender, appointed pursuant to
6 section 51-296 of the general statutes.

7 Sec. 2. Section 53a-39c of the 2014 supplement to the general statutes
8 is repealed and the following is substituted in lieu thereof (*Effective*
9 *from passage*):

10 (a) There is established, within available appropriations, a
11 community service labor program for persons convicted of a first
12 violation of section 21a-267 or 21a-279 who have not previously been
13 convicted of a violation of section 21a-277 or 21a-278. Upon application
14 by any such person for participation in such program the court: (1)

15 Shall, but only as to the public, order the court file sealed, and (2) may
16 grant such application and, upon a plea of guilty without trial where a
17 term of imprisonment is part of a stated plea agreement, suspend any
18 sentence of imprisonment and make participation in such program a
19 condition of probation or conditional discharge in accordance with
20 section 53a-30. No person may be placed in such program who has
21 previously been placed in such program.

22 (b) Any person who enters such program shall pay to the court a
23 participation fee of two hundred five dollars, except that: [no] (1) No
24 person may be excluded from such program for inability to pay such
25 fee, provided [(1)] (A) such person files with the court an affidavit of
26 indigency or inability to pay, [(2)] (B) such indigency is confirmed by
27 the Court Support Services Division, and [(3)] (C) the court enters a
28 finding thereof; and (2) the court shall waive all application and
29 program fees for any person who has been determined indigent and
30 eligible for representation by a public defender, appointed pursuant to
31 section 51-296. All program fees collected under this subsection shall
32 be deposited into the alternative incarceration program account.

33 (c) The period of participation in the community service labor
34 program shall be thirty days.

35 Sec. 3. Section 54-56e of the 2014 supplement to the general statutes
36 is repealed and the following is substituted in lieu thereof (*Effective*
37 *from passage*):

38 (a) There shall be a pretrial program for accelerated rehabilitation of
39 persons accused of a crime or crimes or a motor vehicle violation or
40 violations for which a sentence to a term of imprisonment may be
41 imposed, which crimes or violations are not of a serious nature. Upon
42 application by any such person for participation in the program, the
43 court shall, but only as to the public, order the court file sealed.

44 (b) The court may, in its discretion, invoke such program on motion
45 of the defendant or on motion of a state's attorney or prosecuting
46 attorney with respect to a defendant (1) who, the court believes, will

47 probably not offend in the future, (2) who has no previous record of
48 conviction of a crime or of a violation of section 14-196, subsection (c)
49 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
50 section 14-227a, and (3) who states under oath, in open court or before
51 any person designated by the clerk and duly authorized to administer
52 oaths, under the penalties of perjury, (A) that the defendant has never
53 had such program invoked [in] on the defendant's behalf or [] ten or
54 more years have passed since the date that any charge or charges for
55 which the program was invoked on the defendant's behalf were
56 dismissed by the court, or (B) with respect to a defendant who is a
57 veteran, that the defendant has not had such program invoked in the
58 defendant's behalf more than once previously, provided the defendant
59 shall agree thereto and provided notice has been given by the
60 defendant, on a form approved by rule of court, to the victim or
61 victims of such crime or motor vehicle violation, if any, by registered
62 or certified mail and such victim or victims have an opportunity to be
63 heard thereon. Any defendant who makes application for participation
64 in such program shall pay to the court an application fee of thirty-five
65 dollars. For the purposes of this section, "veteran" means a person who
66 is [(A)] (i) a veteran, as defined in subsection (a) of section 27-103, or
67 [(B)] (ii) eligible to receive services from the United States Department
68 of Veterans Affairs pursuant to Title 38 of the United States Code.

69 (c) This section shall not be applicable: (1) To any person charged
70 with a class A felony, a class B felony, except a violation of subdivision
71 (1), (2) or (3) of subsection (a) of section 53a-122 that does not involve
72 the use, attempted use or threatened use of physical force against
73 another person, or a violation of section 14-227a, subdivision (2) of
74 subsection (a) of section 53-21, section 53a-56b, 53a-60d, 53a-70, 53a-
75 70a, 53a-70b, 53a-71, except as provided in subdivision (5) of this
76 subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any
77 person charged with a crime or motor vehicle violation who, as a result
78 of the commission of such crime or motor vehicle violation, causes the
79 death of another person, (3) to any person accused of a family violence
80 crime as defined in section 46b-38a who (A) is eligible for the pretrial
81 family violence education program established under section 46b-38c,

82 as amended by this act, or (B) has previously had the pretrial family
83 violence education program invoked in such person's behalf, (4) to any
84 person charged with a violation of section 21a-267 or 21a-279 who (A)
85 is eligible for the pretrial drug education and community service
86 program established under section 54-56i, as amended by this act, or
87 (B) has previously had the pretrial drug education program or the
88 pretrial drug education and community service program invoked on
89 such person's behalf, (5) unless good cause is shown, to (A) any person
90 charged with a class C felony, or (B) any person charged with
91 committing a violation of subdivision (1) of subsection (a) of section
92 53a-71 while such person was less than four years older than the other
93 person, (6) to any person charged with a violation of section 9-359 or 9-
94 359a, or (7) to any person charged with a motor vehicle violation [(A)]
95 while operating a commercial motor vehicle, as defined in section 14-1,
96 [or (B) who holds a commercial driver's license or commercial driver's
97 instruction permit] at the time of the violation.

98 (d) Except as provided in subsection (e) of this section, any
99 defendant who enters such program shall pay to the court a
100 participation fee of one hundred dollars. Any defendant who enters
101 such program shall agree to the tolling of any statute of limitations
102 with respect to such crime and to a waiver of the right to a speedy trial.
103 Any such defendant shall appear in court and shall, under such
104 conditions as the court shall order, be released to the custody of the
105 Court Support Services Division, except that, if a criminal docket for
106 drug-dependent persons has been established pursuant to section
107 51-181b in the judicial district, such defendant may be transferred,
108 under such conditions as the court shall order, to the court handling
109 such docket for supervision by such court. If the defendant refuses to
110 accept, or, having accepted, violates such conditions, the defendant's
111 case shall be brought to trial. The period of such probation or
112 supervision, or both, shall not exceed two years. If the defendant has
113 reached the age of sixteen years but has not reached the age of eighteen
114 years, the court may order that as a condition of such probation the
115 defendant be referred for services to a youth service bureau
116 established pursuant to section 10-19m, provided the court finds,

117 through an assessment by a youth service bureau or its designee, that
118 the defendant is in need of and likely to benefit from such services.
119 When determining any conditions of probation to order for a person
120 entering such program who was charged with a misdemeanor that did
121 not involve the use, attempted use or threatened use of physical force
122 against another person or a motor vehicle violation, the court shall
123 consider ordering the person to perform community service in the
124 community in which the offense or violation occurred. If the court
125 determines that community service is appropriate, such community
126 service may be implemented by a community court established in
127 accordance with section 51-181c if the offense or violation occurred
128 within the jurisdiction of a community court established by said
129 section. If the defendant is charged with a violation of section 46a-58,
130 53-37a, 53a-181j, 53a-181k or 53a-181l, the court may order that as a
131 condition of such probation the defendant participate in a hate crimes
132 diversion program as provided in subsection (e) of this section. If a
133 defendant is charged with a violation of section 53-247, the court may
134 order that as a condition of such probation the defendant undergo
135 psychiatric or psychological counseling or participate in an animal
136 cruelty prevention and education program provided such a program
137 exists and is available to the defendant.

138 (e) If the court orders the defendant to participate in a hate crimes
139 diversion program as a condition of probation, the defendant shall pay
140 to the court a participation fee of four hundred twenty-five dollars, [.
141 No] except that: (1) No person may be excluded from such program for
142 inability to pay such fee, provided [(1)] (A) such person files with the
143 court an affidavit of indigency or inability to pay, [(2)] (B) such
144 indigency or inability to pay is confirmed by the Court Support
145 Services Division, and [(3)] (C) the court enters a finding thereof; and
146 (2) the court shall waive all application and program fees for any
147 person who has been determined indigent and eligible for
148 representation by a public defender, appointed pursuant to section 51-
149 296. The Judicial Department shall contract with service providers,
150 develop standards and oversee appropriate hate crimes diversion
151 programs to meet the requirements of this section. Any defendant

152 whose employment or residence makes it unreasonable to attend a
153 hate crimes diversion program in this state may attend a program in
154 another state which has standards substantially similar to, or higher
155 than, those of this state, subject to the approval of the court and
156 payment of the application and program fees as provided in this
157 section. The hate crimes diversion program shall consist of an
158 educational program and supervised community service.

159 (f) If a defendant released to the custody of the Court Support
160 Services Division satisfactorily completes such defendant's period of
161 probation, such defendant may apply for dismissal of the charges
162 against such defendant and the court, on finding such satisfactory
163 completion, shall dismiss such charges. If the defendant does not apply
164 for dismissal of the charges against such defendant after satisfactorily
165 completing such defendant's period of probation, the court, upon
166 receipt of a report submitted by the Court Support Services Division
167 that the defendant satisfactorily completed such defendant's period of
168 probation, may on its own motion make a finding of such satisfactory
169 completion and dismiss such charges. If a defendant transferred to the
170 court handling the criminal docket for drug-dependent persons
171 satisfactorily completes such defendant's period of supervision, the
172 court shall release the defendant to the custody of the Court Support
173 Services Division under such conditions as the court shall order or
174 shall dismiss such charges. Upon dismissal, all records of such charges
175 shall be erased pursuant to section 54-142a. An order of the court
176 denying a motion to dismiss the charges against a defendant who has
177 completed such defendant's period of probation or supervision or
178 terminating the participation of a defendant in such program shall be a
179 final judgment for purposes of appeal.

180 Sec. 4. Section 54-56g of the 2014 supplement to the general statutes
181 is repealed and the following is substituted in lieu thereof (*Effective*
182 *from passage*):

183 (a) There shall be a pretrial alcohol education program for persons
184 charged with a violation of section 14-227a, 14-227g, 15-132a, 15-133,

185 15-140l or 15-140n. Upon application by any such person for
186 participation in such program and payment to the court of an
187 application fee of one hundred dollars and a nonrefundable evaluation
188 fee of one hundred dollars, the court shall, but only as to the public,
189 order the court file sealed, provided such person states under oath, in
190 open court or before any person designated by the clerk and duly
191 authorized to administer oaths, under penalties of perjury that: (1) If
192 such person is charged with a violation of section 14-227a, such person
193 has not had such program invoked in such person's behalf within the
194 preceding ten years for a violation of section 14-227a, (2) if such person
195 is charged with a violation of section 14-227g, such person has never
196 had such program invoked in such person's behalf for a violation of
197 section 14-227a or 14-227g, (3) such person has not been convicted of a
198 violation of section 53a-56b or 53a-60d, a violation of subsection (a) of
199 section 14-227a before or after October 1, 1981, or a violation of
200 subdivision (1) or (2) of subsection (a) of section 14-227a on or after
201 October 1, 1985, and (4) such person has not been convicted in any
202 other state at any time of an offense the essential elements of which are
203 substantially the same as section 53a-56b or 53a-60d or subdivision (1)
204 or (2) of subsection (a) of section 14-227a. Unless good cause is shown,
205 a person shall be ineligible for participation in such pretrial alcohol
206 education program if such person's alleged violation of section 14-227a
207 or 14-227g caused the serious physical injury, as defined in section 53a-
208 3, of another person. The application fee imposed by this subsection
209 shall be credited to the Criminal Injuries Compensation Fund
210 established by section 54-215. The evaluation fee imposed by this
211 subsection shall be credited to the pretrial account established under
212 section 54-56k.

213 (b) The court, after consideration of the recommendation of the
214 state's attorney, assistant state's attorney or deputy assistant state's
215 attorney in charge of the case, may, in its discretion, grant such
216 application. If the court grants such application, the court shall refer
217 such person to the Court Support Services Division for assessment and
218 confirmation of the eligibility of the applicant and to the Department
219 of Mental Health and Addiction Services for evaluation. The Court

220 Support Services Division, in making its assessment and confirmation,
221 may rely on the representations made by the applicant under oath in
222 open court with respect to convictions in other states of offenses
223 specified in subsection (a) of this section. Upon confirmation of
224 eligibility and receipt of the evaluation report, the defendant shall be
225 referred to the Department of Mental Health and Addiction Services
226 by the Court Support Services Division for placement in an
227 appropriate alcohol intervention program for one year, or be placed in
228 a state-licensed substance abuse treatment program. The alcohol
229 intervention program shall include a ten-session intervention program
230 and a fifteen-session intervention program. Any person who enters the
231 pretrial alcohol education program shall agree: (1) To the tolling of the
232 statute of limitations with respect to such crime, (2) to a waiver of such
233 person's right to a speedy trial, (3) to complete ten or fifteen counseling
234 sessions in an alcohol intervention program or successfully complete a
235 substance abuse treatment program of not less than twelve sessions
236 pursuant to this section dependent upon the evaluation report and the
237 court order, (4) to commence participation in an alcohol intervention
238 program or substance abuse treatment program not later than ninety
239 days after the date of entry of the court order unless granted a delayed
240 entry into a program by the court, (5) upon completion of participation
241 in the alcohol intervention program, to accept placement in a substance
242 abuse treatment program upon the recommendation of a provider
243 under contract with the Department of Mental Health and Addiction
244 Services pursuant to subsection (f) of this section or placement in a
245 state-licensed substance abuse treatment program which meets
246 standards established by the Department of Mental Health and
247 Addiction Services, if the Court Support Services Division deems it
248 appropriate, and (6) if ordered by the court, to participate in at least
249 one victim impact panel. The suspension of the motor vehicle
250 operator's license of any such person pursuant to section 14-227b shall
251 be effective during the period such person is participating in the
252 pretrial alcohol education program, provided such person shall have
253 the option of not commencing the participation in such program until
254 the period of such suspension is completed. If the Court Support

255 Services Division informs the court that the defendant is ineligible for
256 such program and the court makes a determination of ineligibility or if
257 the program provider certifies to the court that the defendant did not
258 successfully complete the assigned program or is no longer amenable
259 to treatment and such person does not request, or the court denies,
260 program reinstatement under subsection (e) of this section, the court
261 shall order the court file to be unsealed, enter a plea of not guilty for
262 such defendant and immediately place the case on the trial list. If such
263 defendant satisfactorily completes the assigned program, such
264 defendant may apply for dismissal of the charges against such
265 defendant and the court, on reviewing the record of the defendant's
266 participation in such program submitted by the Court Support
267 Services Division and on finding such satisfactory completion, shall
268 dismiss the charges. If the defendant does not apply for dismissal of
269 the charges against such defendant after satisfactorily completing the
270 assigned program the court, upon receipt of the record of the
271 defendant's participation in such program submitted by the Court
272 Support Services Division, may on its own motion make a finding of
273 such satisfactory completion and dismiss the charges. Upon motion of
274 the defendant and a showing of good cause, the court may extend the
275 one-year placement period for a reasonable period for the defendant to
276 complete the assigned program. A record of participation in such
277 program shall be retained by the Court Support Services Division for a
278 period of ten years from the date the court grants the application for
279 participation in such program. The Court Support Services Division
280 shall transmit to the Department of Motor Vehicles a record of
281 participation in such program for each person who satisfactorily
282 completes such program. The Department of Motor Vehicles shall
283 maintain for a period of ten years the record of a person's participation
284 in such program as part of such person's driving record. The Court
285 Support Services Division shall transmit to the Department of Energy
286 and Environmental Protection the record of participation of any person
287 who satisfactorily completes such program who has been charged with
288 a violation of the provisions of section 15-132a, 15-133, 15-140l or 15-
289 140n. The Department of Energy and Environmental Protection shall

290 maintain for a period of ten years the record of a person's participation
291 in such program as a part of such person's boater certification record.

292 (c) At the time the court grants the application for participation in
293 the pretrial alcohol education program, such person shall also pay to
294 the court a nonrefundable program fee of three hundred fifty dollars if
295 such person is ordered to participate in the ten-session intervention
296 program and a nonrefundable program fee of five hundred dollars if
297 such person is ordered to participate in the fifteen-session intervention
298 program. If the court grants the application for participation in the
299 pretrial alcohol education program and such person is ordered to
300 participate in a substance abuse treatment program, such person shall
301 be responsible for the costs associated with participation in such
302 program. No person may be excluded from either program for
303 inability to pay such fee or cost, provided (1) such person files with the
304 court an affidavit of indigency or inability to pay, (2) such indigency or
305 inability to pay is confirmed by the Court Support Services Division,
306 and (3) the court enters a finding thereof. If the court finds that a
307 person is indigent or unable to pay for a treatment program, the costs
308 of such program shall be paid from the pretrial account established
309 under section 54-56k. If the court finds that a person is indigent or
310 unable to pay for an intervention program, the court may waive all or
311 any portion of the fee for such intervention program. The court shall
312 waive all application and program fees for any person who enters such
313 program and has been determined indigent and eligible for
314 representation by a public defender, appointed pursuant to section 51-
315 296. If the court denies the application, such person shall not be
316 required to pay the program fee. If the court grants the application and
317 such person is later determined to be ineligible for participation in
318 such pretrial alcohol education program or fails to complete the
319 assigned program, the program fee shall not be refunded. All program
320 fees shall be credited to the pretrial account established under section
321 54-56k.

322 (d) If a person returns to court with certification from a program
323 provider that such person did not successfully complete the assigned

324 program or is no longer amenable to treatment, the provider, to the
325 extent practicable, shall include a recommendation to the court as to
326 whether a ten-session intervention program, a fifteen-session
327 intervention program or placement in a state-licensed substance abuse
328 treatment program would best serve such person's needs. The
329 provider shall also indicate whether the current program referral was
330 an initial referral or a reinstatement to the program.

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

347 (f) The Department of Mental Health and Addiction Services shall
348 contract with service providers, develop standards and oversee
349 appropriate alcohol programs to meet the requirements of this section.
350 Said department shall adopt regulations, in accordance with chapter
351 54, to establish standards for such alcohol programs. Any person
352 ordered to participate in a treatment program shall do so at a state-
353 licensed treatment program which meets the standards established by
354 said department. Any defendant whose employment or residence
355 makes it unreasonable to attend an alcohol intervention program or a
356 substance abuse treatment program in this state may attend a program
357 in another state which has standards substantially similar to, or higher

358 than, those of this state, subject to the approval of the court and
359 payment of the application, evaluation and program fees and
360 treatment costs, as appropriate, as provided in this section.

361 (g) The court may, as a condition of granting such application,
362 require that such person participate in a victim impact panel program
363 approved by the Court Support Services Division of the Judicial
364 Department. Such victim impact panel program shall provide a
365 nonconfrontational forum for the victims of alcohol-related or drug-
366 related offenses and offenders to share experiences on the impact of
367 alcohol-related or drug-related incidents in their lives. Such victim
368 impact panel program shall be conducted by a nonprofit organization
369 that advocates on behalf of victims of accidents caused by persons who
370 operated a motor vehicle while under the influence of intoxicating
371 liquor or any drug, or both. Such organization may assess a
372 participation fee of not more than seventy-five dollars on any person
373 required by the court to participate in such program, provided such
374 organization shall offer a hardship waiver when it has determined that
375 the imposition of a fee would pose an economic hardship for such
376 person.

377 (h) The provisions of this section shall not be applicable in the case
378 of any person charged with a violation of section 14-227a [(1)] while
379 operating a commercial motor vehicle, as defined in section 14-1, [or
380 (2) who holds a commercial driver's license or commercial driver's
381 instruction permit] at the time of the violation.

382 Sec. 5. Subsection (g) of section 54-56i of the 2014 supplement to the
383 general statutes is repealed and the following is substituted in lieu
384 thereof (*Effective from passage*):

385 (g) At the time the court grants the application for participation in
386 the pretrial drug education and community service program, any
387 person ordered to participate in the drug education program shall pay
388 to the court a nonrefundable program fee of six hundred dollars. If the
389 court orders participation in a substance abuse treatment program,
390 such person shall pay to the court a nonrefundable program fee of one

391 hundred dollars and shall be responsible for the costs associated with
392 such program. No person may be excluded from any such program for
393 inability to pay such fee or cost, provided (1) such person files with the
394 court an affidavit of indigency or inability to pay, (2) such indigency or
395 inability to pay is confirmed by the Court Support Services Division,
396 and (3) the court enters a finding thereof. The court may waive all or
397 any portion of such fee depending on such person's ability to pay. The
398 court shall waive all application and program fees for any person who
399 enters such program and has been determined indigent and eligible for
400 representation by a public defender, appointed pursuant to section 51-
401 296. If the court finds that a person is indigent or unable to pay for a
402 substance abuse treatment program, the costs of such program shall be
403 paid from the pretrial account established under section 54-56k. If the
404 court denies the application, such person shall not be required to pay
405 the program fee. If the court grants the application, and such person is
406 later determined to be ineligible for participation in such pretrial drug
407 education and community service program or fails to complete the
408 assigned program, the program fee shall not be refunded. All program
409 fees shall be credited to the pretrial account established under section
410 54-56k.

411 Sec. 6. Section 54-56j of the general statutes is repealed and the
412 following is substituted in lieu thereof (*Effective from passage*):

413 (a) There shall be a school violence prevention program for students
414 of a public or private secondary school charged with an offense
415 involving the use or threatened use of physical violence in or on the
416 real property comprising a public or private elementary or secondary
417 school or at a school-sponsored activity as defined in subsection (h) of
418 section 10-233a. Upon application by any such person for participation
419 in such program, the court shall, but only as to the public, order the
420 court file sealed, provided such person states under oath, in open court
421 or before any person designated by the clerk and duly authorized to
422 administer oaths, under penalties of perjury that such person (1) has
423 never had such [system] program invoked [in] on such person's behalf
424 [and that such person] or that two or more years have passed since the

425 date that any charge or charges for which the program was invoked
426 were dismissed by the court, (2) has not been convicted of an offense
427 involving the threatened use of physical violence in or on the real
428 property comprising a public or private elementary or secondary
429 school or at a school-sponsored activity as defined in subsection (h) of
430 section 10-233a, and [that such person] (3) has not been convicted in
431 any other state at any time of an offense the essential elements of
432 which are substantially the same as such an offense.

433 (b) The court, after consideration of the recommendation of the
434 state's attorney, assistant state's attorney or deputy assistant state's
435 attorney in charge of the case, may, in its discretion, grant such
436 application. If the court grants such application, it shall refer such
437 person to the Court Support Services Division for assessment and
438 confirmation of the eligibility of the applicant. The Court Support
439 Services Division, in making its assessment and confirmation, may rely
440 on the representations made by the applicant under oath in open court
441 with respect to convictions in other states of offenses specified in
442 subsection (a) of this section. As a condition of eligibility for
443 participation in such program, the student and the parents or guardian
444 of such student shall certify under penalty of false statement that, to
445 the best of such person's knowledge and belief, such person does not
446 possess any firearms, dangerous weapons, controlled substances or
447 other property or materials the possession of which is prohibited by
448 law or in violation of the law. Upon confirmation of eligibility, the
449 defendant shall be referred to the Court Support Services Division for
450 evaluation and placement in an appropriate school violence
451 prevention program for one year.

452 (c) Any person who enters the program shall agree: (1) To the
453 tolling of the statute of limitations with respect to such crime, (2) to a
454 waiver of the right to a speedy trial, (3) to participate in a school
455 violence prevention program offered by a provider under contract
456 with the Court Support Services Division pursuant to subsection (g) of
457 this section, and (4) to successfully complete the assigned program.
458 The court may order such person to perform not more than twenty-

459 five hours of community service if the person is entering the program
460 for a second or subsequent time. If the Court Support Services Division
461 informs the court that the defendant is ineligible for the program and
462 the court makes a determination of ineligibility or if the program
463 provider certifies to the court that the defendant did not successfully
464 complete the assigned program, the court shall order the court file to
465 be unsealed, enter a plea of not guilty for such defendant and
466 immediately place the case on the trial list.

467 (d) The Court Support Services Division shall monitor the
468 defendant's participation in the assigned program and the defendant's
469 compliance with the orders of the court including, but not limited to,
470 maintaining contact with the student and officials of the student's
471 school.

472 (e) If such defendant satisfactorily completes the assigned program
473 and one year has elapsed since the defendant was placed in the
474 program, such defendant may apply for dismissal of the charges
475 against such defendant and the court, on reviewing the record of such
476 defendant's participation in such program submitted by the Court
477 Support Services Division and on finding such satisfactory completion,
478 shall dismiss the charges. If the defendant does not apply for dismissal
479 of the charges against the defendant after satisfactorily completing the
480 assigned program and one year has elapsed since the defendant was
481 placed in the program, the court, upon receipt of the record of the
482 defendant's participation in such program submitted by the Court
483 Support Services Division, may on its own motion make a finding of
484 such satisfactory completion and dismiss the charges.

485 (f) The cost of participation in such program shall be paid by the
486 parent or guardian of such student, except that no student shall be
487 excluded from such program for inability to pay such cost provided (1)
488 the parent or guardian of such student files with the court an affidavit
489 of indigency or inability to pay, and (2) the court enters a finding
490 thereof. The court shall waive all application and program fees for any
491 person who enters such program and has been determined indigent

492 and eligible for representation by a public defender, appointed
493 pursuant to section 51-296.

494 (g) The Court Support Services Division shall contract with service
495 providers, develop standards and oversee appropriate school violence
496 prevention programs to meet the requirements of this section.

497 (h) The school violence prevention program shall consist of at least
498 eight group counseling sessions in anger management and nonviolent
499 conflict resolution. In addition, the court may order any person
500 participating in the program for a second or subsequent time to
501 perform not more than twenty-five hours of community service.

502 Sec. 7. Subsections (h) and (i) of section 46b-38c of the 2014
503 supplement to the general statutes are repealed and the following is
504 substituted in lieu thereof (*Effective from passage*):

505 (h) (1) There shall be a pretrial family violence education program
506 for persons who are charged with family violence crimes. At a
507 minimum, such program shall inform participants of the basic
508 elements of family violence law and applicable penalties. The court
509 may, in its discretion, invoke such program on motion of the
510 defendant when it finds: (A) That the defendant has not previously
511 been convicted of a family violence crime which occurred on or after
512 October 1, 1986; (B) the defendant has not had a previous case assigned
513 to the family violence education program; (C) the defendant has not
514 previously invoked or accepted accelerated rehabilitation under
515 section 54-56e for a family violence crime which occurred on or after
516 October 1, 1986; and (D) that the defendant is not charged with a class
517 A, class B or class C felony, or an unclassified felony carrying a term of
518 imprisonment of more than ten years, or unless good cause is shown, a
519 class D felony, an unclassified offense carrying a term of imprisonment
520 of more than five years or an offense that involved the infliction of
521 serious physical injury, as defined in section 53a-3. Participation by
522 any person in the accelerated pretrial rehabilitation program under
523 section 54-56e prior to October 1, 1986, shall not prohibit eligibility of
524 such person for the pretrial family violence education program under

525 this section. Upon application by any such person for participation in
526 the program, the court shall, but only as to the public, order the court
527 file sealed. The court may require that the defendant answer such
528 questions under oath, in open court or before any person designated
529 by the clerk and duly authorized to administer oaths, under the
530 penalties of perjury as will assist the court in making these findings.

531 (2) The court, on such motion, may refer the defendant to the family
532 violence intervention unit, and may continue the defendant's case
533 pending the submission of the report of the unit to the court. The court
534 shall also give notice to the victim or victims that the defendant has
535 requested assignment to the family violence education program, and,
536 where possible, give the victim or victims opportunity to be heard.
537 Any defendant who accepts placement in the family violence
538 education program shall agree to the tolling of any statute of
539 limitations with respect to the crime or crimes with which the
540 defendant is charged, and to a waiver of the defendant's right to a
541 speedy trial. Any such defendant shall appear in court and shall be
542 released to the custody of the family violence intervention unit for
543 such period, not exceeding two years, and under such conditions as
544 the court shall order. If the defendant refuses to accept, or, having
545 accepted, violates such conditions, the defendant's case shall be
546 brought to trial. If the defendant satisfactorily completes the family
547 violence education program and complies with the conditions imposed
548 for the period set by the court, the defendant may apply for dismissal
549 of the charges against the defendant and the court, on finding
550 satisfactory compliance, shall dismiss such charges.

551 (3) Upon dismissal of charges under this subsection, all records of
552 such charges shall be erased pursuant to section 54-142a.

553 (i) A nonrefundable application fee of one hundred dollars shall be
554 paid to the court by any person who files a motion pursuant to
555 subdivision (1) of subsection (h) of this section to participate in the
556 pretrial family violence education program, and a fee of three hundred
557 dollars shall be paid to the court by any person who enters the family

558 violence education program, except that: [no] (1) No person shall be
559 excluded from such program for inability to pay any such fee,
560 provided [(1)] (A) the person files with the court an affidavit of
561 indigency or inability to pay, and [(2)] (B) the court enters a finding
562 thereof, [All such fees shall be credited to the General Fund] and (2)
563 the court shall waive all application and program fees for any person
564 who has been determined indigent and eligible for representation by a
565 public defender, appointed pursuant to section 51-296. All such fees
566 paid to the court shall be credited to the General Fund.

567 Sec. 8. Section 17a-694 of the general statutes is repealed and the
568 following is substituted in lieu thereof (*Effective from passage*):

569 (a) The Commissioner of Mental Health and Addiction Services or
570 his designee shall appoint one or more clinical examiners to conduct
571 examinations for alcohol or drug dependency ordered pursuant to the
572 provisions of section 17a-693. Each examiner shall be authorized by the
573 department to conduct independent evaluations.

574 (b) The examiner shall determine whether the person being
575 examined was an alcohol-dependent or drug-dependent person at the
576 time of the crime. If such person is determined to have been dependent
577 on alcohol or drugs, the examiner shall further determine (1) the
578 history and pattern of the dependency, and (2) whether the person
579 presently needs and is likely to benefit from treatment for the
580 dependency. If the examiner determines that the person presently
581 needs and is likely to benefit from treatment, he shall recommend
582 treatment and state the date when space will be available in an
583 appropriate treatment program, provided such date shall not be more
584 than forty-five days from the date of the examination report. A
585 recommendation for treatment shall include provisions for appropriate
586 placement and the type and length of treatment and may include
587 provisions for outpatient treatment.

588 (c) The examiner shall prepare and sign, without notarization, a
589 written examination report and deliver it to the court, the Court
590 Support Services Division, the state's attorney and defense counsel no

591 later than thirty days after the examination was ordered. An
592 examination report ordered pursuant to this section and section 17a-
593 693 shall otherwise be confidential and not open to public inspection
594 or subject to disclosure.

595 (d) No statement made by the person in the course of an
596 examination under the provisions of this section may be admitted in
597 evidence on the issue of guilt in a criminal proceeding concerning the
598 person.

599 (e) The Commissioner of Mental Health and Addiction Services
600 shall waive any examination fee for any person who has been
601 determined indigent and eligible for representation by a public
602 defender, appointed pursuant to section 51-296.

603 Sec. 9. Subsection (b) of section 17a-696 of the general statutes is
604 repealed and the following is substituted in lieu thereof (*Effective from*
605 *passage*):

606 (b) The court may order suspension of prosecution and order
607 treatment for alcohol or drug dependency as provided in this section
608 and sections 17a-697 and 17a-698 if it, after considering information
609 before it concerning the alcohol or drug dependency of the person,
610 including the examination report made pursuant to the provisions of
611 section 17a-694, as amended by this act, finds that (1) the accused
612 person was an alcohol-dependent or drug-dependent person at the
613 time of the crime, (2) the person presently needs and is likely to benefit
614 from treatment for the dependency, and (3) suspension of prosecution
615 will advance the interests of justice. Treatment may begin no earlier
616 than the date the clinical examiner reports under the provisions of
617 section 17a-694, as amended by this act, that space is available in a
618 treatment program. Upon application by any such person for
619 participation in a treatment program, the court shall, but only as to the
620 public, order the court file sealed. The court shall waive all application
621 and program fees for any person who enters a treatment program and
622 has been determined indigent and eligible for representation by a
623 public defender, appointed pursuant to section 51-296.

624 Sec. 10. (NEW) (*Effective from passage*) If a person has been
 625 determined indigent and eligible for representation by a public
 626 defender, appointed pursuant to section 51-296 of the general statutes,
 627 the court may not, as a condition of waiving fees pursuant to section
 628 52-259b of the general statutes, require that such person complete a
 629 program of community service.

630 Sec. 11. Subsection (a) of section 54-56l of the general statutes is
 631 repealed and the following is substituted in lieu thereof (*Effective from*
 632 *passage*):

633 (a) There shall be a supervised diversionary program for persons
 634 with a psychiatric [disabilities,] disability or a developmental disability
 635 or persons who are veterans, who are accused of a crime or crimes or a
 636 motor vehicle violation or violations for which a sentence to a term of
 637 imprisonment may be imposed, which crimes or violations are not of a
 638 serious nature. For the purposes of this section, (1) "psychiatric
 639 disability" means a mental or emotional condition, other than solely
 640 substance abuse, that (A) has substantial adverse effects on the
 641 defendant's ability to function, and (B) requires care and treatment,
 642 [and] (2) "developmental disability" means a developmental disability,
 643 as defined in 42 USC 15002(8), that (A) has a substantial adverse effect
 644 on the defendant's ability to function, and (B) requires care and
 645 treatment, and (3) "veteran" means a person who is found, pursuant to
 646 subsection (d) of this section, to have a mental health condition that is
 647 amenable to treatment, and is (A) a veteran, as defined in subsection
 648 (a) of section 27-103, or (B) eligible to receive services from the United
 649 States Department of Veterans Affairs pursuant to Title 38 of the
 650 United States Code.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	53a-39c
Sec. 3	<i>from passage</i>	54-56e
Sec. 4	<i>from passage</i>	54-56g

Sec. 5	<i>from passage</i>	54-56i(g)
Sec. 6	<i>from passage</i>	54-56j
Sec. 7	<i>from passage</i>	46b-38c(h) and (i)
Sec. 8	<i>from passage</i>	17a-694
Sec. 9	<i>from passage</i>	17a-696(b)
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	54-56l(a)

Statement of Legislative Commissioners:

In section 2(a), the new language was restructured for consistency with the existing statutory language. In section 7(i), the sentence "All such fees paid to the court shall be credited to the General Fund.", was moved to the end of the subsection for clarity.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Judicial Dept.	GF - Cost	910,000	937,000
State Comptroller - Fringe Benefits ¹	GF - Cost	196,000	206,000
Resources of the General Fund	GF - Revenue Loss	At least 200,000	At least 200,000
Mental Health & Addiction Serv., Dept.	SF - Potential Cost	See Below	See Below
Mental Health & Addiction Serv., Dept.	SF - Revenue Impact	See Below	See Below
Judicial Dept.	CICF - Revenue Impact	See Below	See Below
Department of Motor Vehicles	TF - Revenue Loss	See Below	See Below

Municipal Impact: None

Explanation

The bill is anticipated to result in a revenue loss of at least \$264,000 associated with waiving application, program, and examination fees for certain participants of diversionary programs.

Based on FY 13 data, approximately \$200,000 in family violence and accelerated rehabilitation fees would be forfeited from the General Fund.

Based on FY 13 data, approximately \$30,000 in alcohol education application fees would be forfeited from the Criminal Injuries Compensation Fund, administered by the Judicial Department, by

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

individuals with a Public Defender.

Based on FY 13 data, approximately \$34,000 in other related fees would be forfeited from the Pretrial Account, administered by the Department of Mental Health and Addiction Services (DMHAS), by individuals with a Public Defender. This does not include fees for the 10 and 15 session alcohol education program, which would result in an additional revenue loss of \$350 for each participant in the 10 session program and \$500 for each participant in the 15 session program.

The bill also allows an individual with a commercial driver's license or instruction permit (CDL) to participate in a pretrial alcohol education program. This could result in a revenue gain to the pretrial account associated with the \$100 evaluation fee, \$350 fee for the 10 session program, and the \$500 fee for each participant in the 15 session program. To the extent that these individuals are considered indigent under the bill, the cost of the program (\$278.58 for the 10 session program and \$337.69 for the 15 session program) would be paid by DMHAS. This expansion could also result in a revenue gain to the Criminal Injuries Compensation Fund associated with the \$100 application fee.

Allowing an individual with a CDL to participate in the program could also result in a loss of Federal Highway funding due to noncompliance with federal regulations.

There is no fiscal impact associated with expanding the eligibility for the pretrial accelerated rehabilitation program. As these offenders are already receiving services of comparable cost under regular probation, there are no additional costs to the Judicial Department associated with shifting them to accelerated rehabilitation.

The bill expands the supervised diversionary program to include people with a developmental disability which results in a cost of approximately \$25,000 for contracted assessments and \$350,000 for services received by the approximately 240 clients who would meet program requirements. In addition, the Judicial Department would

need to hire 7 probation officers to supervise the population with a cost of \$535,000 in FY 15 and \$562,000 in FY 16, along with \$196,000 in FY 15 and \$206,000 in FY 16 for fringe benefits.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5594

AN ACT CONCERNING DIVERSIONARY PROGRAMS.

SUMMARY:

This bill makes a number of changes regarding eligibility for diversion programs (which allow a defendant to avoid prosecution by successfully completing a program); waiving fees for probation, programs, and other court fees; and limiting access to files in certain diversion programs.

Regarding eligibility for diversion programs, the bill:

1. allows someone to participate in accelerated rehabilitation (AR) or the school violence prevention program a second or additional time under certain circumstances,
2. expands eligibility for AR and the pretrial alcohol education program, and
3. expands the supervised diversionary program for people with psychiatric disabilities or veterans to include people with a developmental disability.

Regarding waiver of fees, the bill:

1. requires the court to waive probation fees, including program fees, for an adult, juvenile, or youthful offender sentenced to probation who the court determines is indigent and is eligible for a public defender;
2. prohibits the court from requiring community service as a condition of waiving a fee in a civil or criminal matter, if the person is indigent and eligible for a public defender; and

3. requires the court to waive all application and program fees for various diversion programs when the defendant is indigent and eligible for a public defender.

Finally, the bill requires the court to seal a person's file as to the public when he or she applies for participation in AR, the community service labor program, the pretrial family violence education program, or alcohol or drug dependency treatment.

EFFECTIVE DATE: Upon passage

ACCELERATED REHABILITATION (AR)

Under current law, a person is eligible for AR if he or she is charged with certain crimes, does not have a prior conviction of a crime or certain motor vehicle violations, and has not been in AR before or twice before if he or she is a veteran.

The bill allows someone to participate in AR additional times if he or she is otherwise eligible and it is at least 10 years since the court dismissed the charges that were the subject of the person's prior AR participation.

By law, a person is ineligible for AR if he or she is charged with any of a number of crimes, including any class A felony, most class B felonies, and class C felonies unless good cause is shown. Current law allows someone charged with the class B felony of 1st degree larceny to participate. The bill prohibits participation if a person is charged with the portion of 1st degree larceny involving defrauding a public community of more than \$2,000.

By law, the court has discretion to determine whether to allow an eligible defendant to participate and may allow it only if it believes the defendant will probably not offend in the future.

SCHOOL VIOLENCE PREVENTION PROGRAM

The bill allows someone to participate in this program an additional time if he or she is otherwise eligible and it is at least two years since

the court dismissed the charges that were the subject of the person's prior participation in this program. If a person participates for a second or subsequent time, the bill allows the court to order the person to perform up to 25 hours of community service.

By law, this program is for public or private secondary school students charged with crimes involving the use or threatened use of physical violence in school, on elementary or secondary school property, or at a school-sponsored activity. To be eligible, the student and his or her parent or guardian, must certify that they do not possess any firearms, dangerous weapons, drugs, or other property or materials that are illegal for them to possess.

PRETRIAL ALCOHOL EDUCATION PROGRAM

The bill allows a person charged with driving under the influence (DUI) who has a commercial drivers' license (CDL) or instruction permit to participate in this program if he or she was driving a vehicle that can be driven without a CDL at the time he or she allegedly drove under the influence. Such a person must meet the other existing eligibility requirements. He or she must be charged with DUI or crimes related to driving or boating under the influence and must not:

1. have used the program (a) in the past 10 years for a DUI violation if he or she is currently charged with DUI or (b) anytime for a DUI violation if he or she is currently charged with DUI while under age 21;
2. have a prior conviction of DUI or crimes involving driving under the influence such as 2nd degree manslaughter; or
3. be charged with DUI while operating a commercial vehicle.

The court places program participants in an alcohol intervention or state-licensed substance abuse treatment program after an evaluation.

SUPERVISED DIVERSIONARY PROGRAM FOR PEOPLE WITH PSYCHIATRIC DISABILITIES OR VETERANS

The bill expands this program to include people with a

developmental disability. Currently, this program is for criminal defendants with psychiatric disabilities and veterans with mental health conditions amendable to treatment who have been charged with relatively minor crimes and motor vehicle offenses.

The bill defines developmental disability as a severe, chronic disability that (1) is attributable to a mental or physical impairment or combination of the two, (2) is manifested before age 22, (3) is likely to continue indefinitely, (4) results in substantial functional limitations in certain areas of the person's life, and (5) requires lifelong or long-duration services or assistance that are individually planned and coordinated. It must also (1) have a substantial adverse affect on the person's ability to function and (2) require care and treatment.

By law, a defendant is eligible for the program if he or she (1) meets the eligibility requirements for AR and (2) has not participated in this program twice before.

WAIVER OF PROGRAM FEES

The law prohibits the court from excluding someone from participating in the following programs due to an inability to pay:

1. community service labor program,
2. hate crimes diversion program component of AR,
3. pretrial family violence education program,
4. school violence prevention program (for this program, the prohibition is based on the parent's or guardian's inability to pay),
5. pretrial alcohol education program, and
6. pretrial drug education and community service program.

Current law generally requires the person to submit an affidavit and the court to confirm the person's indigency. Alternatively, the bill

requires the court to waive all application and program fees for an indigent who is eligible for a public defender.

For alcohol and drug dependency treatment, the bill requires the Department of Mental Health and Addiction Services to waive fees for a court-ordered examination if the person is indigent and eligible for a public defender. The bill also requires the court to waive all application and program fees for such a person entering treatment. By law, a person must pay the costs of this treatment.

For the pretrial alcohol education program, the law prohibits the court from waiving reinstatement fees except for good cause. It is unclear how the bill's requirement to waive fees applies to these fees.

BACKGROUND

Eligibility for Public Defender Services

By law, a person is indigent and eligible for a public defender's services if he or she is charged with a crime punishable by imprisonment and does not have the financial ability to secure competent legal representation and provide for its necessary expenses.

The law allows a public defender to investigate a person's financial status, require the person to complete a written financial statement under oath, and require written authorization to obtain otherwise confidential records that are relevant to determining indigency (CGS § 51-297).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 7 (04/02/2014)