



General Assembly

January Session, 2015

Raised Bill No. 7049

LCO No. 5752



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.

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

1 Section 1. Subsection (c) of section 54-56e of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2015*):

4 (c) This section shall not be applicable: (1) To any person charged
5 with a class A felony, a class B felony, except (A) a violation of
6 subdivision (1), (2) or (3) of subsection (a) of section 53a-122 that does
7 not involve the use, attempted use or threatened use of physical force
8 against another person, or (B) a violation of subdivision (4) of
9 subsection (a) of section 53a-122 that does not involve the use,
10 attempted use or threatened use of physical force against another
11 person and does not involve a violation by a person who is a public
12 official, as defined in section 1-110, or (C) a state or municipal
13 employee, as defined in section 1-110, or a violation of section 14-227a,
14 subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-
15 60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision
16 (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f,

17 (2) to any person charged with a crime or motor vehicle violation who,
18 as a result of the commission of such crime or motor vehicle violation,
19 causes the death of another person, (3) to any person accused of a
20 family violence crime as defined in section 46b-38a who (A) is eligible
21 for the pretrial family violence education program established under
22 section 46b-38c, or (B) has previously had the pretrial family violence
23 education program invoked in such person's behalf, (4) to any person
24 charged with a violation of section 21a-267 or 21a-279 who (A) is
25 eligible for the pretrial drug education and community service
26 program established under section 54-56i, as amended by this act, or
27 (B) has previously had the pretrial drug education program or the
28 pretrial drug education and community service program invoked on
29 such person's behalf, (5) unless good cause is shown, to (A) any person
30 charged with a class C felony, or (B) any person charged with
31 committing a violation of subdivision (1) of subsection (a) of section
32 53a-71 while such person was less than four years older than the other
33 person, (6) to any person charged with a violation of section 9-359 or 9-
34 359a, (7) to any person charged with a motor vehicle violation (A)
35 while operating a commercial motor vehicle, as defined in section 14-1,
36 or (B) who holds a commercial driver's license or commercial driver's
37 instruction permit at the time of the violation, [or] (8) any person
38 charged with a violation of subdivision (6) of subsection (a) of section
39 53a-60, or (9) a health care provider or vendor participating in the
40 state's Medicaid program charged with a violation of section 53a-122
41 or subdivision (4) of subsection (a) of section 53a-123.

42 Sec. 2. Subsections (a) and (b) of section 54-56g of the general
43 statutes are repealed and the following is substituted in lieu thereof
44 (*Effective October 1, 2015*):

45 (a) (1) There shall be a pretrial alcohol education program for
46 persons charged with a violation of section 14-227a, 14-227g, [15-132a,]
47 15-133, [15-140] or 15-140n. Upon application by any such person for
48 participation in such program and payment to the court of an
49 application fee of one hundred dollars and a nonrefundable evaluation

50 fee of one hundred dollars, the court shall, but only as to the public,
51 order the court file sealed, provided such person states under oath, in
52 open court or before any person designated by the clerk and duly
53 authorized to administer oaths, under penalties of perjury that: (A) If
54 such person is charged with a violation of section 14-227a, 14-227g,
55 subsection (d) of section 15-133 or section 15-140n, such person has not
56 had such program invoked in such person's behalf within the
57 preceding ten years for a violation of section 14-227a, 14-227g,
58 subsection (d) of section 15-133 or section 15-140n, (B) [if such person is
59 charged with a violation of section 14-227g, such person has never had
60 such program invoked in such person's behalf for a violation of section
61 14-227a or 14-227g, (C)] such person has not been convicted of a
62 violation of section 53a-56b or 53a-60d, a violation of subsection (a) of
63 section 14-227a before, on or after October 1, 1981, [or] a violation of
64 subdivision (1) or (2) of subsection (a) of section 14-227a on or after
65 October 1, 1985, or a violation of section 14-227g, (C) such person has
66 not been convicted of a violation of section 15-132a, subsection (d) of
67 section 15-133, section 15-140l or section 15-140n, (D) such person has
68 not been convicted in any other state at any time of an offense the
69 essential elements of which are substantially the same as section 53a-
70 56b, [or] 53a-60d, 15-132a, 15-140l or 15-140n or subdivision (1) or (2) of
71 subsection (a) of section 14-227a or subsection (d) of section 15-133,
72 and (E) notice has been given by such person, by registered or certified
73 mail on a form approved by rule of court, to each victim who sustained
74 a serious physical injury, as defined in section 53a-3, which was caused
75 by such person's alleged violation, that such person has applied to
76 participate in the pretrial alcohol education program and that such
77 victim has an opportunity to be heard by the court on the application.

78 (2) The court shall provide each such victim who sustained a serious
79 physical injury an opportunity to be heard prior to granting an
80 application under this section. Unless good cause is shown, a person
81 shall be ineligible for participation in such pretrial alcohol education
82 program if such person's alleged violation of section 14-227a or 14-227g

83 or subsection (d) of section 15-133 caused the serious physical injury,
84 as defined in section 53a-3, of another person.

85 (3) The application fee imposed under this subsection shall be
86 credited to the Criminal Injuries Compensation Fund established
87 under section 54-215. The evaluation fee imposed under this
88 subsection shall be credited to the pretrial account established under
89 section 54-56k.

90 (b) The court, after consideration of the recommendation of the
91 state's attorney, assistant state's attorney or deputy assistant state's
92 attorney in charge of the case, may, in its discretion, grant such
93 application. If the court grants such application, the court shall refer
94 such person to the Court Support Services Division for assessment and
95 confirmation of the eligibility of the applicant and to the Department
96 of Mental Health and Addiction Services for evaluation. The Court
97 Support Services Division, in making its assessment and confirmation,
98 may rely on the representations made by the applicant under oath in
99 open court with respect to convictions in other states of offenses
100 specified in subsection (a) of this section. Upon confirmation of
101 eligibility and receipt of the evaluation report, the defendant shall be
102 referred to the Department of Mental Health and Addiction Services
103 by the Court Support Services Division for placement in an
104 appropriate alcohol intervention program for one year, or be placed in
105 a state-licensed substance abuse treatment program. The alcohol
106 intervention program shall include a ten-session intervention program
107 and a fifteen-session intervention program. Any person who enters the
108 pretrial alcohol education program shall agree: (1) To the tolling of the
109 statute of limitations with respect to such crime, (2) to a waiver of such
110 person's right to a speedy trial, (3) to complete ten or fifteen counseling
111 sessions in an alcohol intervention program or successfully complete a
112 substance abuse treatment program of not less than twelve sessions
113 pursuant to this section dependent upon the evaluation report and the
114 court order, (4) to commence participation in an alcohol intervention
115 program or substance abuse treatment program not later than ninety

116 days after the date of entry of the court order unless granted a delayed
117 entry into a program by the court, (5) upon completion of participation
118 in the alcohol intervention program, to accept placement in a substance
119 abuse treatment program upon the recommendation of a provider
120 under contract with the Department of Mental Health and Addiction
121 Services pursuant to subsection (f) of this section or placement in a
122 state-licensed substance abuse treatment program which meets
123 standards established by the Department of Mental Health and
124 Addiction Services, if the Court Support Services Division deems it
125 appropriate, and (6) if ordered by the court, to participate in at least
126 one victim impact panel. The suspension of the motor vehicle
127 operator's license of any such person pursuant to section 14-227b shall
128 be effective during the period such person is participating in the
129 pretrial alcohol education program, provided such person shall have
130 the option of not commencing the participation in such program until
131 the period of such suspension is completed. If the Court Support
132 Services Division informs the court that the defendant is ineligible for
133 such program and the court makes a determination of ineligibility or if
134 the program provider certifies to the court that the defendant did not
135 successfully complete the assigned program or is no longer amenable
136 to treatment and such person does not request, or the court denies,
137 program reinstatement under subsection (e) of this section, the court
138 shall order the court file to be unsealed, enter a plea of not guilty for
139 such defendant and immediately place the case on the trial list. If such
140 defendant satisfactorily completes the assigned program, such
141 defendant may apply for dismissal of the charges against such
142 defendant and the court, on reviewing the record of the defendant's
143 participation in such program submitted by the Court Support
144 Services Division and on finding such satisfactory completion, shall
145 dismiss the charges. If the defendant does not apply for dismissal of
146 the charges against such defendant after satisfactorily completing the
147 assigned program the court, upon receipt of the record of the
148 defendant's participation in such program submitted by the Court
149 Support Services Division, may on its own motion make a finding of

150 such satisfactory completion and dismiss the charges. Upon motion of
151 the defendant and a showing of good cause, the court may extend the
152 one-year placement period for a reasonable period for the defendant to
153 complete the assigned program. A record of participation in such
154 program shall be retained by the Court Support Services Division for a
155 period of ten years from the date the court grants the application for
156 participation in such program. The Court Support Services Division
157 shall transmit to the Department of Motor Vehicles a record of
158 participation in such program for each person who satisfactorily
159 completes such program. The Department of Motor Vehicles shall
160 maintain for a period of ten years the record of a person's participation
161 in such program as part of such person's driving record. The Court
162 Support Services Division shall transmit to the Department of Energy
163 and Environmental Protection the record of participation of any person
164 who satisfactorily completes such program who has been charged with
165 a violation of the provisions of [section 15-132a, 15-133, 15-140l or]
166 subsection (d) of section 15-133 or section 15-140n. The Department of
167 Energy and Environmental Protection shall maintain for a period of
168 ten years the record of a person's participation in such program as a
169 part of such person's boater certification record.

170 Sec. 3. Section 54-56i of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective October 1, 2015*):

172 (a) There is established a pretrial drug education and community
173 service program for persons charged with a violation of section
174 21a-267, 21a-279 or 21a-279a. The pretrial drug education and
175 community service program shall include a [fifteen-week] fifteen-
176 session drug education program and a substance abuse treatment
177 program of not less than fifteen sessions, and the performance of
178 community service.

179 (b) Upon application by any such person for participation in such
180 program and payment to the court of an application fee of one
181 hundred dollars and a nonrefundable evaluation fee of one hundred

182 fifty dollars, the court shall, but only as to the public, order the court
183 file sealed. A person shall be ineligible for participation in such pretrial
184 drug education and community service program if such person has
185 twice previously participated in (1) the pretrial drug education
186 program established under the provisions of this section in effect prior
187 to October 1, 2013, (2) the community service labor program
188 established under section 53a-39c, (3) the pretrial drug education and
189 community service program established under this section, or (4) any
190 of such programs, except that the court may allow a person who has
191 twice previously participated in such programs to participate in the
192 pretrial drug education and community service program one
193 additional time, for good cause shown. The evaluation and application
194 fee imposed under this subsection shall be credited to the pretrial
195 account established under section 54-56k.

196 (c) The court, after consideration of the recommendation of the
197 state's attorney, assistant state's attorney or deputy assistant state's
198 attorney in charge of the case, may, in its discretion, grant such
199 application. If the court grants such application, the court shall refer
200 such person (1) to the Court Support Services Division for
201 confirmation of the eligibility of the applicant, (2) to the Department of
202 Mental Health and Addiction Services for evaluation and
203 determination of an appropriate drug education or substance abuse
204 treatment program for the first or second time such application is
205 granted, and (3) to a state-licensed substance abuse treatment program
206 for evaluation and determination of an appropriate substance abuse
207 treatment program for the third time such application is granted,
208 except that, if such person is a veteran, the court may refer such person
209 to the Department of Veterans' Affairs or the United States Department
210 of Veterans Affairs, as applicable, for any such evaluation and
211 determination. For the purposes of this subsection and subsection (d)
212 of this section, "veteran" means any person who was discharged or
213 released under conditions other than dishonorable from active service
214 in the armed forces as defined in section 27-103.

215 (d) (1) (A) Upon confirmation of eligibility and receipt of the
216 evaluation and determination required under subsection (c) of this
217 section, such person shall be placed in the pretrial drug education and
218 community service program and referred by the Court Support
219 Services Division for the purpose of receiving appropriate drug
220 education services or substance abuse treatment program services, as
221 recommended by the evaluation conducted pursuant to subsection (c)
222 of this section and ordered by the court, to the Department of Mental
223 Health and Addiction Services or to a state-licensed substance abuse
224 treatment program for placement in the appropriate drug education or
225 substance abuse treatment program, except that, if such person is a
226 veteran, the division may refer such person to the Department of
227 Veterans' Affairs or the United States Department of Veterans Affairs,
228 subject to the provisions of subdivision (2) of this subsection.

229 (B) Persons who have been granted entry into the pretrial drug
230 education and community service program for the first time shall
231 participate in either a [fifteen-week] fifteen-session drug education
232 program or a substance abuse treatment program of not less than
233 fifteen sessions, as ordered by the court on the basis of the evaluation
234 and determination required under subsection (c) of this section.
235 Persons who have been granted entry into the pretrial drug education
236 and community service program for the second time shall participate
237 in either a [fifteen-week] fifteen-session drug education program or a
238 substance abuse treatment program of not less than fifteen sessions, as
239 ordered by the court based on the evaluation and determination
240 required under subsection (c) of this section. Persons who have been
241 granted entry into the pretrial drug education and community service
242 program for a third time shall be referred to a state-licensed substance
243 abuse program for evaluation and participation in a course of
244 treatment as ordered by the court based on the evaluation and
245 determination required under subsection (c) of this section.

246 (C) Persons who have been granted entry into the pretrial drug
247 education and community service program shall also participate in a

248 community service program administered by the Court Support
249 Services Division pursuant to section 53a-39c. Persons who have been
250 granted entry into the pretrial drug education and community service
251 program for the first time shall participate in the community service
252 program for a period of five days. Persons who have been granted
253 entry into the pretrial drug education and community service program
254 for the second time shall participate in the community service program
255 for a period of fifteen days. Persons who have been granted entry into
256 the pretrial drug education and community service program for a third
257 or additional time shall participate in the community service program
258 for a period of thirty days.

259 (D) Placement in the pretrial drug education and community service
260 program pursuant to this section shall not exceed one year. Persons
261 receiving substance abuse treatment program services in accordance
262 with the provisions of this section shall only receive such services at
263 state-licensed substance abuse treatment program facilities that are in
264 compliance with all state standards governing the operation of such
265 facilities, except that, if such person is a veteran, such person may
266 receive services from facilities under the supervision of the
267 Department of Veterans' Affairs or the United States Department of
268 Veterans Affairs, subject to the provisions of subdivision (2) of this
269 subsection.

270 (E) Any person who enters the pretrial drug education and
271 community service program shall agree: (i) To the tolling of the statute
272 of limitations with respect to such crime; (ii) to a waiver of such
273 person's right to a speedy trial; (iii) to complete participation in the
274 pretrial drug education and community service program, as ordered
275 by the court; (iv) to commence participation in the pretrial drug
276 education and community service program not later than ninety days
277 after the date of entry of the court order unless granted a delayed entry
278 into the program by the court; and (v) upon completion of
279 participation in the pretrial drug education and community service
280 program, to accept (I) placement in a treatment program upon the

281 recommendation of a provider under contract with the Department of
282 Mental Health and Addiction Services or a provider under the
283 supervision of the Department of Veterans' Affairs or the United States
284 Department of Veterans Affairs, or (II) placement in a treatment
285 program that has standards substantially similar to, or higher than, a
286 program of a provider under contract with the Department of Mental
287 Health and Addiction Services, if the Court Support Services Division
288 deems it appropriate.

289 (2) The Court Support Services Division may only refer a veteran to
290 the Department of Veterans' Affairs or the United States Department of
291 Veterans Affairs for the receipt of services under the program if (A) the
292 division determines that such services will be provided in a timely
293 manner under standards substantially similar to, or higher than,
294 standards for services provided by the Department of Mental Health
295 and Addiction Services under the program, and (B) the applicable
296 department agrees to submit timely program participation and
297 completion reports to the division in the manner required by the
298 division.

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

307 (f) If such person satisfactorily completes the assigned program,
308 such person may apply for dismissal of the charges against such
309 person and the court, on reviewing the record of such person's
310 participation in such program submitted by the Court Support
311 Services Division and on finding such satisfactory completion, shall
312 dismiss the charges. If such person does not apply for dismissal of the

313 charges against such person after satisfactorily completing the
314 assigned program, the court, upon receipt of the record of such
315 person's participation in such program submitted by the Court
316 Support Services Division, may on its own motion make a finding of
317 such satisfactory completion and dismiss the charges. Upon motion of
318 such person and a showing of good cause, the court may extend the
319 placement period for a reasonable period of time to allow such person
320 to complete the assigned program. A record of participation in such
321 program shall be retained by the Court Support Services Division for a
322 period of ten years from the date the court grants the application for
323 participation in the program.

324 (g) At the time the court grants the application for participation in
325 the pretrial drug education and community service program, any
326 person ordered to participate in [the] such drug education program
327 shall pay to the court a nonrefundable program fee of six hundred
328 dollars. If the court orders participation in a substance abuse treatment
329 program, such person shall pay to the court a nonrefundable program
330 fee of one hundred dollars and shall be responsible for the costs
331 associated with such program. No person may be excluded from any
332 such program for inability to pay such fee or cost, provided (1) such
333 person files with the court an affidavit of indigency or inability to pay,
334 (2) such indigency or inability to pay is confirmed by the Court
335 Support Services Division, and (3) the court enters a finding thereof.
336 The court may waive all or any portion of such fee depending on such
337 person's ability to pay. If the court finds that a person is indigent or
338 unable to pay for a substance abuse treatment program, the costs of
339 such program shall be paid from the pretrial account established under
340 section 54-56k. If the court denies the application, such person shall not
341 be required to pay the program fee. If the court grants the application,
342 and such person is later determined to be ineligible for participation in
343 such pretrial drug education and community service program or fails
344 to complete the assigned program, the program fee shall not be
345 refunded. All program fees shall be credited to the pretrial account

346 established under section 54-56k.

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

355 (i) When a person subsequently requests reinstatement into a drug
356 education program or a substance abuse treatment program and the
357 Court Support Services Division verifies that such person is eligible for
358 reinstatement into such program and thereafter the court favorably
359 acts on such request, any person reinstated into [the] such drug
360 education program shall pay a nonrefundable program fee of two
361 hundred fifty dollars, and any person reinstated into a substance abuse
362 treatment program shall be responsible for the costs, if any, associated
363 with being reinstated into the treatment program. Unless good cause is
364 shown, such program fee shall not be waived. All program fees
365 collected in connection with a reinstatement to a drug education
366 program shall be credited to the pretrial account established under
367 section 54-56k. No person shall be permitted more than two program
368 reinstatements pursuant to this subsection.

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

375 (k) Any person whose employment or residence or schooling makes
376 it unreasonable to attend a drug education program or substance

377 abuse treatment program in this state may attend a program in another
378 state that has standards similar to, or higher than, those of this state,
379 subject to the approval of the court and payment of the program fee or
380 costs as provided in this section.

381 Sec. 4. Subsection (b) of section 54-56l of the general statutes is
382 repealed and the following is substituted in lieu thereof (*Effective*
383 *October 1, 2015*):

384 (b) A person shall be ineligible to participate in such supervised
385 diversionary program if such person (1) is ineligible to participate in
386 the pretrial program for accelerated rehabilitation under subsection (c)
387 of section 54-56e, as amended by this act, except if a person's
388 ineligibility is based on the person's being eligible for the pretrial
389 family violence education program established under section 46b-38c,
390 the court may permit such person to participate in the supervised
391 diversionary program if it finds that the supervised diversionary
392 program is the more appropriate program under the circumstances of
393 the case, or (2) has twice previously participated in such supervised
394 diversionary program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	54-56e(c)
Sec. 2	<i>October 1, 2015</i>	54-56g(a) and (b)
Sec. 3	<i>October 1, 2015</i>	54-56i
Sec. 4	<i>October 1, 2015</i>	54-56l(b)

Statement of Purpose:

To provide for more appropriate utilization of certain supervised pretrial diversionary programs.

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