



House of Representatives

General Assembly

File No. 786

January Session, 2019

House Bill No. 7349

House of Representatives, April 25, 2019

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING IDENTITY THEFT VICTIM ACCESS TO RECORDS.

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

1 Section 1. Section 54-56e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) There shall be a pretrial program for accelerated rehabilitation of
4 persons accused of a crime or crimes or a motor vehicle violation or
5 violations for which a sentence to a term of imprisonment may be
6 imposed, which crimes or violations are not of a serious nature. Upon
7 application by any such person for participation in the program, the
8 court shall, but only as to the public, order the court file sealed, except
9 as provided in subsection (g) of this section.

10 (b) The court may, in its discretion, invoke such program on motion
11 of the defendant or on motion of a state's attorney or prosecuting
12 attorney with respect to a defendant (1) who, the court believes, will
13 probably not offend in the future, (2) who has no previous record of

14 conviction of a crime or of a violation of section 14-196, subsection (c)
15 of section 14-215, section 14-222a, subsection (a) or subdivision (1) of
16 subsection (b) of section 14-224, section 14-227a or 14-227m or
17 subdivision (1) or (2) of subsection (a) of section 14-227n, and (3) who
18 states under oath, in open court or before any person designated by the
19 clerk and duly authorized to administer oaths, under the penalties of
20 perjury, (A) that the defendant has never had such program invoked
21 on the defendant's behalf or that the defendant was charged with a
22 misdemeanor or a motor vehicle violation for which a term of
23 imprisonment of one year or less may be imposed and ten or more
24 years have passed since the date that any charge or charges for which
25 the program was invoked on the defendant's behalf were dismissed by
26 the court, or (B) with respect to a defendant who is a veteran, that the
27 defendant has not had such program invoked in the defendant's behalf
28 more than once previously, provided the defendant shall agree thereto
29 and provided notice has been given by the defendant, on a form
30 prescribed by the Office of the Chief Court Administrator, to the victim
31 or victims of such crime or motor vehicle violation, if any, by
32 registered or certified mail and such victim or victims have an
33 opportunity to be heard thereon. Any defendant who makes
34 application for participation in such program shall pay to the court an
35 application fee of thirty-five dollars. No defendant shall be allowed to
36 participate in the pretrial program for accelerated rehabilitation more
37 than two times. For the purposes of this section, "veteran" means any
38 person who was discharged or released under conditions other than
39 dishonorable from active service in the armed forces as defined in
40 section 27-103.

41 (c) This section shall not be applicable: (1) To any person charged
42 with (A) a class A felony, (B) a class B felony, except a violation of
43 subdivision (1), (2) or (3) of subsection (a) of section 53a-122 that does
44 not involve the use, attempted use or threatened use of physical force
45 against another person, or a violation of subdivision (4) of subsection
46 (a) of section 53a-122 that does not involve the use, attempted use or
47 threatened use of physical force against another person and does not
48 involve a violation by a person who is a public official, as defined in

49 section 1-110, or a state or municipal employee, as defined in section 1-
50 110, or (C) a violation of section 14-227a or 14-227m, subdivision (1) or
51 (2) of subsection (a) of section 14-227n, subdivision (2) of subsection (a)
52 of section 53-21 or section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b,
53 53a-71, except as provided in subdivision (5) of this subsection, 53a-
54 72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged
55 with a crime or motor vehicle violation who, as a result of the
56 commission of such crime or motor vehicle violation, causes the death
57 of another person, (3) to any person accused of a family violence crime
58 as defined in section 46b-38a who (A) is eligible for the pretrial family
59 violence education program established under section 46b-38c, or (B)
60 has previously had the pretrial family violence education program
61 invoked in such person's behalf, (4) to any person charged with a
62 violation of section 21a-267 or 21a-279 who (A) is eligible for the
63 pretrial drug education and community service program established
64 under section 54-56i, or (B) has previously had the pretrial drug
65 education program or the pretrial drug education and community
66 service program invoked on such person's behalf, (5) unless good
67 cause is shown, to (A) any person charged with a class C felony, or (B)
68 any person charged with committing a violation of subdivision (1) of
69 subsection (a) of section 53a-71 while such person was less than four
70 years older than the other person, (6) to any person charged with a
71 violation of section 9-359 or 9-359a, (7) to any person charged with a
72 motor vehicle violation (A) while operating a commercial motor
73 vehicle, as defined in section 14-1, or (B) who holds a commercial
74 driver's license or commercial driver's instruction permit at the time of
75 the violation, (8) to any person charged with a violation of subdivision
76 (6) of subsection (a) of section 53a-60, or (9) to a health care provider or
77 vendor participating in the state's Medicaid program charged with a
78 violation of section 53a-122 or subdivision (4) of subsection (a) of
79 section 53a-123.

80 (d) Except as provided in subsection (e) of this section, any
81 defendant who enters such program shall pay to the court a
82 participation fee of one hundred dollars. Any defendant who enters
83 such program shall agree to the tolling of any statute of limitations

84 with respect to such crime and to a waiver of the right to a speedy trial.
85 Any such defendant shall appear in court and shall, under such
86 conditions as the court shall order, be released to the custody of the
87 Court Support Services Division, except that, if a criminal docket for
88 drug-dependent persons has been established pursuant to section 51-
89 181b in the judicial district, such defendant may be transferred, under
90 such conditions as the court shall order, to the court handling such
91 docket for supervision by such court. If the defendant refuses to
92 accept, or, having accepted, violates such conditions, the defendant's
93 case shall be brought to trial. The period of such probation or
94 supervision, or both, shall not exceed two years. If the defendant has
95 reached the age of sixteen years but has not reached the age of eighteen
96 years, the court may order that as a condition of such probation the
97 defendant be referred for services to a youth service bureau
98 established pursuant to section 10-19m, provided the court finds,
99 through an assessment by a youth service bureau or its designee, that
100 the defendant is in need of and likely to benefit from such services.
101 When determining any conditions of probation to order for a person
102 entering such program who was charged with a misdemeanor that did
103 not involve the use, attempted use or threatened use of physical force
104 against another person or a motor vehicle violation, the court shall
105 consider ordering the person to perform community service in the
106 community in which the offense or violation occurred. If the court
107 determines that community service is appropriate, such community
108 service may be implemented by a community court established in
109 accordance with section 51-181c if the offense or violation occurred
110 within the jurisdiction of a community court established by said
111 section. If the defendant is charged with a violation of section 46a-58,
112 53-37a, 53a-181j, 53a-181k or 53a-181l, the court may order that as a
113 condition of such probation the defendant participate in a hate crimes
114 diversion program as provided in subsection (e) of this section. If a
115 defendant is charged with a violation of section 53-247, the court may
116 order that as a condition of such probation the defendant undergo
117 psychiatric or psychological counseling or participate in an animal
118 cruelty prevention and education program provided such a program

119 exists and is available to the defendant.

120 (e) If the court orders the defendant to participate in a hate crimes
121 diversion program as a condition of probation, the defendant shall pay
122 to the court a participation fee of four hundred twenty-five dollars. No
123 person may be excluded from such program for inability to pay such
124 fee, provided (1) such person files with the court an affidavit of
125 indigency or inability to pay, (2) such indigency or inability to pay is
126 confirmed by the Court Support Services Division, and (3) the court
127 enters a finding thereof. The Judicial Department shall contract with
128 service providers, develop standards and oversee appropriate hate
129 crimes diversion programs to meet the requirements of this section.
130 Any defendant whose employment or residence makes it unreasonable
131 to attend a hate crimes diversion program in this state may attend a
132 program in another state which has standards substantially similar to,
133 or higher than, those of this state, subject to the approval of the court
134 and payment of the application and program fees as provided in this
135 section. The hate crimes diversion program shall consist of an
136 educational program and supervised community service.

137 (f) If a defendant released to the custody of the Court Support
138 Services Division satisfactorily completes such defendant's period of
139 probation, such defendant may apply for dismissal of the charges
140 against such defendant and the court, on finding such satisfactory
141 completion, shall dismiss such charges. If the defendant does not apply
142 for dismissal of the charges against such defendant after satisfactorily
143 completing such defendant's period of probation, the court, upon
144 receipt of a report submitted by the Court Support Services Division
145 that the defendant satisfactorily completed such defendant's period of
146 probation, may on its own motion make a finding of such satisfactory
147 completion and dismiss such charges. If a defendant transferred to the
148 court handling the criminal docket for drug-dependent persons
149 satisfactorily completes such defendant's period of supervision, the
150 court shall release the defendant to the custody of the Court Support
151 Services Division under such conditions as the court shall order or
152 shall dismiss such charges. Upon dismissal, all records of such charges

153 shall be erased pursuant to section 54-142a, except as provided in
 154 subsection (g) of this section. An order of the court denying a motion
 155 to dismiss the charges against a defendant who has completed such
 156 defendant's period of probation or supervision or terminating the
 157 participation of a defendant in such program shall be a final judgment
 158 for purposes of appeal.

159 (g) In the case of a defendant who is charged with a violation of
 160 section 53a-129c or 53a-129d and participates in the program, the
 161 victim of such offense shall be able to access the victim's complaint
 162 against the defendant and any report by a law enforcement agency
 163 concerning such offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	54-56e

JUD *Joint Favorable*

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:** None**Municipal Impact:** None**Explanation**

The bill allow victims of identity theft to access records that would not be available after a defendant completes accelerated rehabilitation and does not result in a fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**HB 7349*****AN ACT CONCERNING IDENTITY THEFT VICTIM ACCESS TO RECORDS.*****SUMMARY**

Under current law, when a criminal defendant applies for pretrial accelerated rehabilitation (AR), the court orders the file sealed to the public. Generally, if the defendant successfully completes the program, the court dismisses the charges and upon dismissal, the related police, court, and prosecution records are erased.

This bill creates an exception for certain records related to AR participants charged with 2nd or 3rd degree identify theft. It allows the victim to access his or her complaint and any law enforcement agency reports about the offense.

EFFECTIVE DATE: October 1, 2019

BACKGROUND***Accelerated Rehabilitation and Identity Theft***

By law, AR is a pretrial diversionary program for people accused of certain crimes and motor vehicle violations who meet specified eligibility criteria. The court has discretion, within statutory eligibility requirements, to allow a defendant to use the program. The court generally places AR participants under the Court Support Services Division's supervision for up to two years. If the defendant violates a condition of the program, he or she is brought to trial on the original charges (CGS § 54-56e).

By law, 2nd degree identify theft is a class C felony and defendants charged with class C felonies are ineligible for AR unless good cause is shown. Defendants charged with most class B felonies, including 1st

degree identity theft, are ineligible for AR.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (04/10/2019)