



General Assembly

January Session, 2023

Raised Bill No. 1233

LCO No. 6099



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

**AN ACT ESTABLISHING COMMUNITY-BASED SENTENCING
ALTERNATIVES FOR PRIMARY CARETAKERS OF DEPENDENT
CHILDREN AND OTHER ELIGIBLE CARETAKERS.**

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

1 Section 1. Section 54-123a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 The Judicial Department shall:

4 (1) Oversee and coordinate the implementation of alternative
5 sanctions for both the regular criminal docket and the docket for
6 juvenile matters of the Superior Court;

7 (2) Evaluate the effectiveness of alternative sanctions and their impact
8 on juvenile and adult offenders, prison and jail overcrowding, court
9 backlogs, families and caretakers and community safety;

10 (3) Plan and establish new alternative sanctions, including for a
11 person who is a primary caretaker of a child pursuant to section 2 of this
12 act or another caretaker eligible for alternative sanctions pursuant to
13 section 3 of this act;

14 (4) Develop criteria for determining the types of offenders
15 appropriate to receive alternative sanctions and for determining the
16 effectiveness of those sanctions for specific offender populations;

17 (5) Contract with nonprofit organizations providing alternative
18 incarceration programs, halfway houses and other similar services;

19 (6) Contract for independent evaluations with respect to the use of
20 alternative sanctions;

21 (7) Apply for, receive, allocate, disburse and account for grants of
22 funds made available by the United States, the state, foundations,
23 corporations and other businesses, agencies or individuals;

24 (8) Enter into agreements with the United States which may be
25 required to obtain federal funds, and do all things necessary to apply or
26 qualify for, accept and distribute any state and federal funds allotted
27 under any federal or state law for alternative incarceration programs;

28 (9) Enter into contracts and cooperate with local government units
29 and any combination of such units to carry out the duties imposed by
30 this section;

31 (10) Enter into agreements necessary, convenient or desirable for
32 carrying out the purposes of this section with foundations, agencies,
33 corporations and other businesses or individuals; and

34 (11) Accept gifts or donations of funds, services, materials or property
35 from any source and use such gifts or donations as is appropriate to
36 implement the provisions of this section.

37 Sec. 2. (NEW) (*Effective October 1, 2023*) (a) As used in this section: (1)
38 "Child" has the same meaning as provided in section 46b-121 of the
39 general statutes; and (2) "primary caretaker" means any person who has
40 consistently assumed responsibility for the housing, health and safety
41 of a child prior to such person's incarceration or proposed incarceration,
42 or a person who has given birth to a child after or while awaiting such
43 person's sentencing hearing and who expresses a willingness to assume

44 responsibility of the housing, health and safety of such child.

45 (b) Notwithstanding any provision of the general statutes, whenever
46 a defendant is convicted of one or more crimes, other than an offense for
47 which there is a mandatory minimum sentence that may not be
48 suspended or reduced by the court, after a trial or by a plea of guilty
49 without a trial, and a term of imprisonment is part of a state plea
50 agreement or the statutory penalty provides for a term of imprisonment,
51 the court shall determine if the defendant is a primary caretaker of a
52 child. If the court determines that the defendant is a primary caretaker
53 of a child, the court shall impose an individually assessed sentence,
54 without imprisonment, based on community rehabilitation, with a focus
55 on parent-child unity and support. A parent who, in the best interest of
56 a child, arranged for temporary care of the child in the home of a relative
57 or other responsible adult shall not, for that sole reason, be excluded
58 from a determination that such parent is the child's primary caretaker.

59 (c) In imposing an individually assessed sentence pursuant to
60 subsection (b) of this section, the court may require the defendant to
61 meet certain conditions that the court considers appropriate.

62 Sec. 3. (NEW) (*Effective October 1, 2023*) (a) As used in this section: (1)
63 "Child" has the same meaning as provided in section 46b-121 of the
64 general statutes; and (2) "caretaker" means any person who is (A) a
65 caregiver of a child, (B) pregnant, (C) a caregiver for a relative with
66 disabilities, (D) a caregiver for an elderly relative, (E) the spouse of a
67 person who is a caregiver of a minor child, or (F) the spouse of a
68 pregnant person.

69 (b) Notwithstanding any provision of the general statutes, whenever
70 a defendant is convicted of one or more crimes, other than an offense for
71 which there is a mandatory minimum sentence that may not be
72 suspended or reduced by the court, after a trial or by a plea of guilty
73 without a trial, and a term of imprisonment is part of a state plea
74 agreement or the statutory penalty provides for a term of imprisonment,
75 the court shall, pursuant to subsection (c) of this section, determine if

76 the defendant is a caretaker eligible to be diverted into community
77 sentencing alternatives instead of a term of imprisonment or probation.
78 If the court determines that the defendant is eligible for diversion, the
79 court shall impose an individually assessed sentence, without
80 imprisonment, based on community rehabilitation, with a focus on
81 parent-child unity and support.

82 (c) (1) In determining whether a defendant is a caretaker eligible to
83 be diverted into community sentencing alternatives instead of a term of
84 imprisonment or probation, the court shall consider:

85 (A) Whether the defendant has significant parental or caregiving
86 responsibilities for a child;

87 (B) Whether the defendant expresses willingness to assume
88 significant parental or caregiving responsibilities in the case of the
89 defendant's pregnancy, or a spouse's pregnancy, as applicable;

90 (C) Whether the defendant has significant caregiving responsibilities
91 for a relative with disabilities;

92 (D) Whether the defendant has significant caregiving responsibilities
93 for an elderly relative;

94 (E) Whether the defendant faces charges for a nonviolent or a violent
95 offense;

96 (F) Whether the defendant poses no apparent risk of harm to
97 identified dependents;

98 (G) Any previous criminal history of the defendant;

99 (H) The possibility of the defendant's rehabilitation in relation to the
100 defendant's offense;

101 (I) A family impact statement, if available;

102 (J) The defendant's ties to the community; and

103 (K) Whether society would be best served by the defendant's
104 diversion from incarceration.

105 (2) The court need not determine that each consideration under
106 subdivision (1) of this subsection weighs in favor of the defendant in
107 order to find the defendant is a caretaker eligible to be diverted into
108 community sentencing alternatives instead of a term of imprisonment
109 or probation.

110 (d) If the court determines that the defendant is ineligible to be
111 diverted into community sentencing alternatives instead of a term of
112 imprisonment or probation, the court shall openly state on the record its
113 determination and the criteria used to support such determination.

114 (e) The court may incorporate any of the following into the
115 defendant's community sentencing alternative that the court determines
116 would be beneficial to address any immediate trauma or problem
117 affecting the defendant and any need for educational, health and long-
118 term services:

119 (1) Drug and alcohol treatment, which may include evidence-based
120 substance use disorder treatment, including medication-assisted
121 treatment and harm-reduction services;

122 (2) Domestic violence education and prevention;

123 (3) Physical and sexual abuse counseling;

124 (4) Anger management;

125 (5) Parenting classes to prevent child abuse and neglect, including in-
126 home parenting and skill-based programs;

127 (6) Family and individual therapy or counseling;

128 (7) Family case management services;

129 (8) Educational programs, including general education development
130 programs and postsecondary education programs, including

- 131 community college;
- 132 (9) Employment counseling and job placement programs;
- 133 (10) Financial literacy programs;
- 134 (11) Two-generation model programs that address needs of both the
135 parent and the child;
- 136 (12) Health care services, including assistance with enrollment in
137 health insurance;
- 138 (13) Affordable and safe housing assistance;
- 139 (14) Services to aid the individual to enroll in the following programs:
- 140 (A) The Special Supplemental Nutrition Program for Women,
141 Infants, and Children;
- 142 (B) The supplemental nutrition assistance program;
- 143 (C) The temporary assistance for needy families program;
- 144 (D) Disability insurance benefits, or other benefits payable on the
145 basis of a disability; and
- 146 (E) Supplemental security income benefits; and
- 147 (15) Any other service or program that the court determines
148 necessary to meet the basic needs of the defendant and the defendant's
149 family.
- 150 (f) The court may not impose upon a defendant any fees or other costs
151 associated with any of the services or programs integrated into a
152 defendant's community sentencing alternative pursuant to subsection
153 (e) of this section, unless the court determines the defendant is capable
154 of paying such fees or other costs. The court shall take all necessary
155 measures to ensure the success of the defendant in completing the
156 sentence is not hindered by financial obstacles.

157 Sec. 4. (NEW) (*Effective October 1, 2023*) The court may require a
158 defendant serving an individually assessed sentence pursuant to section
159 2 or 3 of this act to appear in court at any time during the defendant's
160 sentence to evaluate the defendant's progress in treatment or
161 rehabilitation, or to determine if the defendant has violated any
162 condition of the sentence. Upon an appearance in court, the court may
163 (1) continue the conditions of a sentence imposed pursuant to section 2
164 or 3 of this act, (2) modify the conditions of a sentence imposed pursuant
165 to section 2 or 3 of this act, including decreasing the duration of a
166 sentence based on the defendant's progress; (3) sanction the defendant
167 for any detected violation of any condition of a sentence imposed
168 pursuant to section 2 or 3 of this act, including, but not limited to,
169 requiring the defendant to serve a term of confinement within the range
170 of the sentence for the offense for which the defendant was originally
171 convicted.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	54-123a
Sec. 2	<i>October 1, 2023</i>	New section
Sec. 3	<i>October 1, 2023</i>	New section
Sec. 4	<i>October 1, 2023</i>	New section

Statement of Purpose:

To establish community-based sentencing alternatives to incarceration for caretakers in order to help families stay intact and to protect the health and safety of dependents.

[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.]