
OLR Bill Analysis

HB 5418

AN ACT CONCERNING ELIGIBILITY FOR PARTICIPATION IN A PRETRIAL FAMILY VIOLENCE EDUCATION PROGRAM.

SUMMARY

This bill expands eligibility to participate in the judicial branch's pretrial family violence education program to people charged with family violence crimes (see BACKGROUND).

By law, the court, on the defendant's motion, may invoke the program if, among other things, the defendant is not charged with certain types of crimes. Under current law, a defendant charged with a class C felony is ineligible for the program. However, the bill allows for a defendant to participate in the program if (1) he or she is charged with certain class C violations of risk of injury to, or impairing the morals of, a child and (2) good cause is shown for allowing participation.

The bill's exception specifically applies to someone charged with (1) willfully or unlawfully causing or allowing a child under age 16 to be placed in a situation where the child's life or body is in danger, health is likely to be injured, or morals are likely to be impaired or (2) doing any act likely to impair the child's health or morals.

By law, a defendant who successfully completes the pretrial family violence education program and complies with the court's conditions can have their charges dismissed and their records erased. If the defendant violates the program or the conditions, he or she will be brought to trial.

EFFECTIVE DATE: October 1, 2024

PRETRIAL FAMILY VIOLENCE EDUCATION PROGRAM

Program Eligibility

Existing law, unchanged by the bill, makes the program available to defendants who:

1. did not previously participate in it;
2. were not convicted of, or accepted accelerated rehabilitation for, a family violence crime committed after October 1, 1986; and
3. are charged with a misdemeanor family violence crime, or if there is good cause, a class D felony, unclassified offense punishable by more than five years' imprisonment, and an offense that involves the infliction of serious physical injury.

Under current law, a defendant is ineligible for the program if he or she is charged with (1) a class A, B, or C felony; (2) an unclassified felony punishable by more than 10 years in prison; or (3) unless good cause is shown, a class D felony, an unclassified crime punishable by more than five years in prison, or an offense involving serious physical injury. The bill expands program eligibility by allowing participation, if good cause is shown to the court, by defendants charged with the class C felony violations of risk of injury to, or impairing the morals of, a child.

By law, defendants can ask the court before trial to place them in the program. The court must notify the defendants' victims of the request and, if possible, give them an opportunity to be heard. Defendants placed in the program are released to the custody of a family violence intervention unit for up to two years under conditions the court orders. Defendants must, if they are able, pay the court a \$100 fee to apply and a \$300 fee to participate (CGS § 46b-38c(i)).

BACKGROUND

Family Violence

"Family violence" is an incident resulting in physical harm, bodily injury, or assault, or an act of threatened violence that creates fear of imminent physical harm, bodily injury, or assault, including stalking or a pattern of threatening, between family or household members. Verbal abuse or argument is not family violence unless there is present danger and the likelihood that physical violence will occur (CGS § 46b-38a(1)).

A “family violence crime” is a crime, but not a delinquent act, which, in addition to its other elements, contains as an element an act of family violence to a family or household member, including (1) 1st and 2nd degree violation of conditions of release and (2) criminal violation of a protective order, a standing criminal protective order, or a restraining order. It does not include acts by parents or guardians disciplining minor children unless they constitute abuse (CGS § 46b-38a(3)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (03/26/2024)