

Senate, April 7, 1998. The Committee on Judiciary reported through SEN. WILLIAMS, 29th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ELIGIBILITY FOR THE PRETRIAL ACCELERATED REHABILITATION PROGRAM.

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

1 Section 54-56e of the general statutes, as
2 amended by section 10 of public act 97-248, is
3 repealed and the following is substituted in lieu
4 thereof:

5 (a) There shall be a pretrial program for
6 accelerated rehabilitation of persons accused of a
7 crime or crimes or a motor vehicle violation or
8 violations for which a sentence to a term of
9 imprisonment may be imposed, which crimes or
10 violations are not of a serious nature.

11 (b) The court may, in its discretion, invoke
12 such program on motion of the defendant or on
13 motion of a state's attorney or prosecuting
14 attorney with respect to an accused (1) who, the
15 court believes, will probably not offend in the
16 future, (2) who has no previous record of
17 conviction of a crime or of a violation of section
18 14-196, subsection (c) of section 14-215, section
19 14-222a, subsection (a) of section 14-224 or
20 section 14-227a, (3) who has not previously been
21 adjudged a youthful offender under the provisions
22 of sections 54-76b to 54-76n, inclusive, and (4)

23 who states under oath, in open court or before any
24 person designated by the clerk and duly authorized
25 to administer oaths, under the penalties of
26 perjury that he has never had such program invoked
27 in his behalf, provided the defendant shall agree
28 thereto and provided notice has been given by the
29 accused, on a form approved by rule of court, to
30 the victim or victims of such crime or motor
31 vehicle violation, if any, by registered or
32 certified mail and such victim or victims have an
33 opportunity to be heard thereon. Any defendant who
34 makes application for participation in such
35 program shall pay to the court an application fee
36 of thirty-five dollars.

37 (c) This section shall not be applicable:
38 [to] (1) TO any person charged with a class A or
39 class B felony or a violation of section 14-227a,
40 subdivision (2) of section 53-21, section 53a-56b,
41 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a
42 or 53a-72b, [or] (2) TO ANY PERSON CHARGED WITH A
43 CRIME OR MOTOR VEHICLE VIOLATION WHO, AS A RESULT
44 OF THE COMMISSION OF SUCH CRIME OR MOTOR VEHICLE
45 VIOLATION, CAUSES THE DEATH OF ANOTHER PERSON, (3)
46 to any person accused of a family violence crime
47 as defined in section 46b-38a who [(1)] (A) is
48 eligible for the pretrial family violence
49 education program established under section
50 46b-38c, or [(2)] (B) has previously had the
51 pretrial family violence education program invoked
52 in his behalf, [. Unless] OR (4) UNLESS good cause
53 is shown, [this section shall not be applicable]
54 to any person charged with a class C felony.

55 (d) Any defendant who enters such program
56 shall pay to the court a participation fee of one
57 hundred dollars. Any defendant who enters such
58 program shall agree to the tolling of any statute
59 of limitations with respect to such crime and to a
60 waiver of his right to a speedy trial. Any such
61 defendant shall appear in court and shall, under
62 such conditions as the court shall order, be
63 released to the custody of the Office of Adult
64 Probation, except that, if a criminal docket for
65 drug-dependent persons has been established
66 pursuant to section 51-181b, as amended by [this
67 act] PUBLIC ACT 97-248, in the judicial district,
68 such defendant may be transferred, under such
69 conditions as the court shall order, to the court
70 handling such docket for supervision by such

71 court. If the defendant refuses to accept, or,
72 having accepted, violates such conditions, his
73 case shall be brought to trial. The period of such
74 probation or supervision, or both, shall not
75 exceed two years. If the defendant has reached the
76 age of sixteen years but has not reached the age
77 of eighteen years, the court may order that as a
78 condition of such probation the defendant be
79 referred for services to a youth service bureau
80 established pursuant to section 17a-39, provided
81 the court finds, through an assessment by a youth
82 service bureau or its designee, that the defendant
83 is in need of and likely to benefit from such
84 services.

85 (e) If a defendant released to the custody of
86 the Office of Adult Probation satisfactorily
87 completes his period of probation, he may apply
88 for dismissal of the charges against him and the
89 court, on finding such satisfactory completion,
90 shall dismiss such charges. If the defendant does
91 not apply for dismissal of the charges against him
92 after satisfactorily completing his period of
93 probation, the court, upon receipt of a report
94 submitted by the Office of Adult Probation that
95 the defendant satisfactorily completed his period
96 of probation, may on its own motion make a finding
97 of such satisfactory completion and dismiss such
98 charges. If a defendant transferred to the court
99 handling the criminal docket for drug-dependent
100 persons satisfactorily completes his period of
101 supervision, the court shall release the defendant
102 to the custody of the Office of Adult Probation
103 under such conditions as the court shall order or
104 shall dismiss such charges. Upon dismissal, all
105 records of such charges shall be erased pursuant
106 to section 54-142a. An order of the court denying
107 a motion to dismiss the charges against a
108 defendant who has completed his period of
109 probation or supervision or terminating the
110 participation of a defendant in such program shall
111 be a final judgment for purposes of appeal.

112 JUD COMMITTEE VOTE: YEA 34 NAY 1 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 490

STATE IMPACT Potential Cost, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Criminal Justice Agencies

EXPLANATION OF ESTIMATES:

The bill would result in enhanced criminal penalties thereby increasing pressures on the criminal justice system. Over the long term, these pressures would lead to a need for increased criminal justice resources, especially for incarceration and community supervision. It should be noted that SHB 5021 (the revised Appropriations Act for FY 1998-99 as favorably reported by Appropriations) includes \$5.4 million to address overcrowding in the state's prisons and jails. In addition, the Public Defender Services Commission is currently under suit by the American Civil Liberties Union relating to the adequacy of funding for public defenders. Increases in criminal penalties will at some point require additional funds for criminal justice agencies in order to maintain adequate enforcement of other criminal laws.

Accelerated rehabilitation (AR) cases are among the least costly of probation supervision programs. About one-third of the cases that are granted AR are felonies. The number of AR cases that involve the crimes prohibited by the bill is not known. The successful completion rate is about the same for felonies as it is for misdemeanors.

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OLR BILL ANALYSIS

sSB 490

AN ACT CONCERNING ELIGIBILITY FOR THE PRETRIAL ACCELERATED REHABILITATION PROGRAM

SUMMARY: This bill makes people charged with a crime or motor vehicle violation who, as a result of committing the crime or violation, cause the death of another person ineligible for the accelerated rehabilitation (AR) program. Because people charged with a class A or B felony or manslaughter in the second degree with a motor vehicle are already ineligible for AR, the bill makes those charged with the following offenses ineligible: manslaughter in the second degree, manslaughter in the second degree with a firearm, misconduct with a motor vehicle, criminally negligent homicide, and negligent homicide with a motor vehicle.

EFFECTIVE DATE: October 1, 1998

BACKGROUND**Accelerated Rehabilitation**

The AR program is a pretrial diversion program for people accused of most crimes or motor vehicle violations. People accused of class A or B felonies, driving under the influence, and certain other serious offenses are not eligible. Those accused of a class C felony are eligible only for "good cause." The program is unavailable for people who previously have been convicted of a crime or certain motor vehicle violations or were previously given youthful offender status. A person can only be in the AR program once. Another condition of granting AR is that the court believes the defendant will probably not offend in the future. Otherwise the court has complete discretion as to whether or not to place someone on AR.

The AR program participants waive their right to a speedy trial. The court places them under the supervision of the Office of Adult Probation (OAP) for up to two years under whatever conditions it orders. If the defendant successfully completes the program,

the charges against him are dismissed by the court and his records are erased. If he violates a condition of the program, he is brought to trial on the original charges.

Manslaughter in the Second Degree

A person commits this offense when he (1) recklessly causes the death of another person or (2) intentionally causes or aids another person to commit suicide other than by force, duress, or deception. It is a class C felony punishable by up to 10 years in prison, a fine of up to \$10,000, or both. A person acts recklessly when he is aware of and consciously disregards a substantial and unjustifiable risk that a death could occur. The risk must be such that disregarding it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation (CGS Sec. 53a-56).

Manslaughter in the Second Degree with a Firearm

A person is guilty of this offense when he commits manslaughter in the second degree and used, or is armed with and threatens the use of, or displays or represents by his words or conduct that he possess a pistol, revolver, shotgun, rifle, machine gun, or other firearm. It is a class C felony with a mandatory minimum of one year in prison (CGS Sec. 53a-56a).

Misconduct with a Motor Vehicle

A person commits this offense when he causes someone's death by criminally negligent operation of a motor vehicle. It is a class D felony punishable by up to five years in prison, or to a \$5,000 fine, or both. Criminal negligence is failing to perceive a substantial and unjustifiable risk that a death could occur (CGS Sec. 53a-57).

Criminally Negligent Homicide

A person commits this offense when, with criminal negligence, he causes a death other than by a motor vehicle. It is a class A misdemeanor punishable by up to one year in prison, up to a \$2,000 fine, or both (CGS Sec. 53a-58).

Negligent Homicide with a Motor Vehicle

A person commits this offense when he causes someone's death by negligently operating a motor vehicle. The penalty is up to a \$1,000 fine, imprisonment of up to six months, or both (CGS Sec. 14-222a).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 34 Nay 1