

File No. 678

(Reprint of File No. 550)

Substitute House Bill No. 5501
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 3, 1998

AN ACT ESTABLISHING ZERO-TOLERANCE DRUG
SUPERVISION PROGRAM.

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

1 Section 1. (NEW) (a) Not later than October
2 1, 1998, the chairman of the Board of Parole,
3 shall establish a pilot zero-tolerance drug
4 supervision program. Eligibility for participation
5 in the program shall be limited to individuals who
6 are eligible for release on parole in accordance
7 with section 54-125b of the general statutes and
8 shall be based upon criteria, including a limit on
9 the maximum number of eligible participants,
10 established by the chairman of the Board of
11 Parole.

12 (b) Any person entering such program shall,
13 as a condition of participating in such program,
14 agree to: (1) Submit to periodic urinalysis drug
15 tests, (2) detention in a halfway house facility
16 for a period of two days each time such test
17 produces a positive result, and (3) comply with
18 all rules established by the halfway house if
19 detained in such facility.

20 (c) Participants in the zero-tolerance drug
21 supervision program shall submit to periodic

22 urinalysis drug tests. If the test produces a
23 positive result, the participant may be detained
24 in a halfway house facility for a period of two
25 days.

26 (d) Any person who has submitted to a
27 urinalysis drug test pursuant to subsection (c) of
28 this section that produced a positive result may
29 request that a second urinalysis drug test be
30 administered, at such person's expense, to confirm
31 the results of the first test, except that if the
32 participant is determined to be indigent, based
33 upon financial affidavits, the Board of Parole
34 shall pay the cost of the test. The second drug
35 test shall be a urinalysis drug test, separate and
36 independent of the initial test. The participant
37 may be detained in a halfway house pending the
38 results of the second test. If such second test
39 does not produce a positive result, the
40 participant, if detained in a halfway house, shall
41 be released and the fee, if paid by the
42 participant, shall be refunded to the participant.

43 (e) If at any time during participation in the
44 zero-tolerance drug supervision program, the
45 chairman of the Board of Parole determines that
46 the public safety will be served by the
47 incarceration of a participant, such participant
48 may be returned to a correctional facility.

49 Sec. 2. (NEW) (a) Not later than October 1,
50 1998, the Commissioner of Correction shall
51 establish a pilot zero-tolerance drug supervision
52 program. Eligibility for participation in the
53 program shall be limited to individuals who are
54 eligible for participation in a community release
55 program pursuant to section 18-100c of the general
56 statutes and shall be based upon criteria,
57 including a limit on the maximum number of
58 eligible participants, established by the
59 Commissioner of Correction.

60 (b) Any person entering such program shall,
61 as a condition of participating in such program,
62 agree to: (1) Submit to periodic urinalysis drug
63 tests, (2) detention in a halfway house facility
64 for a period of two days each time such test
65 produces a positive result, and (3) comply with
66 all rules established by the halfway house if
67 detained in such facility.

68 (c) Participants in the zero-tolerance drug
69 supervision program shall submit to periodic

70 urinalysis drug tests. If the test produces a
71 positive result, the participant may be detained
72 in a halfway house facility for a period of two
73 days.

74 (d) Any person who has submitted to a
75 urinalysis drug test pursuant to subsection (c) of
76 this section that produced a positive result may
77 request that a second urinalysis drug test be
78 administered, at such person's expense, to confirm
79 the results of the first test, except that if the
80 participant is determined to be indigent, based
81 upon financial affidavits, the Department of
82 Correction shall pay the cost of the test. The
83 second drug test shall be a urinalysis drug test,
84 separate and independent of the initial test. The
85 participant may be detained in a halfway house
86 pending the results of the second test. If such
87 second test does not produce a positive result,
88 the participant, if detained in a halfway house,
89 shall be released from such halfway house and the
90 fee, if paid by the participant, shall be refunded
91 participant.

92 (e) If at any time during participation in the
93 zero-tolerance drug supervision program, the
94 Commissioner of Correction determines that the
95 conduct of the participant is unsuitable for
96 continuation in such program, such participant may
97 be returned to a correctional facility.

98 Sec. 3. (NEW) (a) Not later than October 1,
99 1998, the Chief Court Administrator shall
100 establish a pilot zero-tolerance drug supervision
101 program. Eligibility for participation in the
102 program shall be limited to individuals who are
103 eligible to be sentenced by the court to a period
104 of probation, pursuant to section 53a-29 of the
105 general statutes, and have been ordered by the
106 court, as a condition of such probation, to
107 participate in the program and shall be based upon
108 criteria, including a limit on the maximum number
109 of eligible participants, established by the Chief
110 Court Administrator.

111 (b) Any person entering such program shall, as
112 a condition of participating in such program,
113 agree to: (1) Submit to periodic urinalysis drug
114 tests, (2) detention in a halfway house facility
115 for a period of two days each time such test
116 produces a positive result, (3) comply with all
117 rules established by the halfway house if detained

118 in such facility, and (4) waive the right to a
119 hearing.

120 (c) Participants in the zero-tolerance drug
121 supervision program shall submit to periodic
122 urinalysis drug tests. If the test produces a
123 positive result, the participant shall be detained
124 in a halfway house facility for a period of two
125 days.

126 (d) Any person who has submitted to a
127 urinalysis drug test pursuant to subsection (c) of
128 this section that produced a positive result may
129 request that a second urinalysis drug test be
130 administered, at such person's expense, to confirm
131 the results of the first test, except that if the
132 participant is determined to be indigent, based
133 upon financial affidavits, the Judicial Department
134 shall pay the cost of the test. The second drug
135 test shall be a urinalysis drug test, separate and
136 independent of the initial test. The participant
137 shall be detained in a halfway house pending the
138 results of the second test. If such second test
139 does not produce a positive result, the
140 participant, if detained in a halfway house, shall
141 be released and the fee, if paid by the
142 participant, shall be refunded to the participant.

143 (e) A participant enrolled in the
144 zero-tolerance drug supervision program may be
145 charged with a violation of probation, if the
146 participant's probation officer determines that
147 the participant has violated the conditions of
148 probation or the conditions of the program.

149 Sec. 4. (NEW) Not later than January 1, 2000,
150 the chairman of the Board of Parole, the
151 Commissioner of Correction and the Chief Court
152 Administrator shall submit a report on the pilot
153 zero-tolerance drug supervision program to the
154 joint standing committee of the General Assembly
155 having cognizance of matters relating to criminal
156 justice.

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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 SHB 5501

STATE IMPACT Implements a Provision in the Budget, see below

MUNICIPAL IMPACT None

STATE AGENCY(S) Judicial Department, Board of Parole, Department of Correction, Department of Mental Health and Addiction Services

| | Current FY | 1998-99 | 1999-2000 |
|-----------------------|------------|-----------|-----------|
| State Cost (savings) | : | : 420,000 | : |
| St Revenue (loss) | : | : | : |
| Net St Cost (savings) | : | : | : |
| Municipal Impact | : | : | : |

EXPLANATION OF ESTIMATES:

Funds, in the amount of \$420,000, have been included within SHB 5021 (the Revised FY 1998-99 Appropriations Act as favorably reported by the Appropriations Committee) for a pilot drug probation and parole program. The program involves an estimated 250 participants (150 through the Office of Adult Probation and 100 through the Department of Correction (DOC) and Board of Parole (BOP)).

Under sHB 5021, the Judicial Department would receive \$175,000 for three probation officers, expenses and drug testing, DOC would receive \$45,000 for drug testing expenses and the Department of Mental Health and Addiction Services would receive \$200,000 for outpatient drug counseling services. DOC and BOP would absorb the cost of offender supervision and OPM would provide federal funding of about \$250,000 for 20-25 halfway house beds.

House "A" added certain provisions concerning half-way house confinement and standards on returning an offender to prison. This did not affect the fiscal impact of the pilot program.

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OLR AMENDED BILL ANALYSIS

sHB 5501 (as amended by House "A")*

AN ACT ESTABLISHING ZERO-TOLERANCE DRUG SUPERVISION PROGRAM

SUMMARY: This bill requires the Board of Parole chairman, the Department of Correction (DOC) commissioner, and the chief court administrator to each establish a pilot zero-tolerance drug supervision program by October 1, 1998 for individuals who are eligible for administrative parole, DOC's community release program, and probation, respectively. Participants must also meet other program eligibility criteria. The chairman, commissioner, and administrator may establish any criteria, including setting a limit on the number of eligible participants. Probationers can participate in the program only if they are ordered to do so as a condition of probation.

By January 1, 2000, the chairman, commissioner, and administrator must each submit a report on the pilot program to the Judiciary Committee.

*House Amendment "A" adds provisions on (1) half-way house confinement pending a second test and (2) the standards the DOC commissioner must use to return an offender to prison.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION**Program Conditions**

As condition of participating in the programs, eligible participants must agree to:

1. submit to periodic urinalysis drug tests,
2. detention in a halfway house for up to two days each time they test positive, and
3. comply with all halfway house rules when detained.

Probationers who participate must also agree to waive their rights to a hearing. The waiver would allow probationers who are charged with violating their probations because of a program violation to be sentenced without a hearing.

Program Participation

Program participants must submit to periodic urinalysis drug tests. Participants who test positive may request a second urinalysis test to confirm the first. The second test must be separate and independent of the first. The participant must pay for the second test unless he is indigent, in which case the agency conducting the program must pay. The participant may be detained in a half-way house pending the second test results, except that probationers must be so detained. If the second test does not produce a positive result, the participant must be released if he has been confined and any costs he paid must be refunded.

If a test produces a positive result, the participant may be detained in a halfway house for up to two days. (The bill does not specify a timeframe for requesting or administering a second test).

The Board of Parole chairman can return parolees to a correctional facility when the public safety will be served by incarceration. The DOC commissioner can return a participant to prison if he deems the participant's conduct unsuitable for continuation in the program. Probationers may be charged with a probation violation if their probation officer

determines that they violated probation or program conditions.

BACKGROUND

Administrative Parole

Inmates are eligible for administrative parole if they were sentenced to between two and four years in prison and have served one-half of that time and any mandatory minimum. The board may release them without a hearing if a parole board employee reviews the case and recommends release. The recommendation must be approved by at least two panel board members. But if a victim objects, a hearing must be held. Inmates are not eligible for administrative parole if they were convicted of any one of a list of felonies covering various degrees of manslaughter, assault, sexual assault, and kidnapping.

Community Release Program

A person is eligible to participate in a community release program if he was sentenced to between two and four years in prison and has served at least one-half of that sentence.

Probation

A court may sentence a person to probation who is convicted of any crime, other than a class A felony, if it determines (1) incarceration is not necessary for public protection; (2) the defendant needs guidance, training, or assistance that can be effectively administered through supervised probation; and (3) probation is not inconsistent with the ends of justice.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute Change of Reference
Yea 36 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 50 Nay 0