

PROPOSED MENTAL HEALTH ACCELERATED REHABILITATION

(1) "Eligible defendant" means a person found by the court to have a significant psychiatric disability or a history of treatment for a significant psychiatric disability and who currently is in need of and would benefit from appropriate and available treatment programs; (2) "Psychiatric disability" means a mental or emotional condition that has substantial adverse effects on the defendant's ability to function and requires the defendant to receive care and treatment, but does not include an abnormality manifested primarily by repeated criminal or other antisocial conduct.

(b) There shall be a pretrial program for alternative placement of eligible defendant accused of a crime or crimes of a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature. Services pursuant to such program may be provided by the Commissioner of Mental Health and Addiction Services, by the Commissioner of Children and Families or through a private provider approved by the Commissioner of Mental Health and Addiction Services or the Commissioner of Children and Families.

(c) Except as provided in subsection (d) of this section, the court may, in its discretion, invoke such program on motion of the defendant or on motion of a state's attorney or prosecuting attorney with respect to an eligible defendant (1) who agrees to disclose to the court the existence of any records of any prior cases and any pending cases concerning the eligible defendant that came before the courts of probate regarding such eligible defendant's mental health and disposition of such cases, and (2) who can demonstrate to the satisfaction of the court the benefits to be gained by invoking such program, provided (A) the eligible defendant shall agree to comply with the conditions of such program and (B) notice has been given by eligible defendant, on a form approved by the office of the Chief court Administrator, to the victim or victims of such crime or motor vehicle violation, if any, by registered or certified mail, and such victim or victims have an opportunity to be heard thereon. In determining whether to invoke such program with respect to an eligible defendant who has been adjudged a youthful offender under the provision of section 54-76b to 54-76n inclusive, of the general statutes more than five years prior to the date of such motion, and notwithstanding the provisions of section 54-76l of the general statutes, the court shall have access to the youthful offender records of such eligible defendant and may consider the nature and circumstances of the crime with which the eligible defendant was charged as a youth.

(d) This section shall not apply: (1) To any person charged with a class A felony, a class B felony, except a violation of section 53a-122 of the general statutes that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of section 14-227a, subdivision (2) of subsection (a) of section 53-21 or section 53-56b, 53a-60d, 53a-70, 53a-70a,

53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f(2) of the general statutes; (2) to any person charged with a crime or motor vehicle violation who, as a result of the commission of such crime or motor vehicle violation who, , causes the death of another person; or unless good cause is shown, to any person charged with a class C felony.

(e) (1) Any eligible defendant who enters the program for alternative placement pursuant to this section shall agree to the tolling of any statute of limitations with respect to the crime or violation and to a waiver of the right to a speedy trial. Such eligible defendant shall appear in court and shall, under such conditions as the court shall order, be released to the custody of the Court Support Services Division. If the eligible defendant refuses to accept or, having accepted, violates such conditions, the eligible defendant's case shall be brought to trial. The period of such probation shall not exceed two years.

(2) The court shall order that, as a condition of probation pursuant to subdivision (1) of the subsection, the eligible defendant participate in a treatment plan. The provider of treatment services under the treatment plan shall report not less than once every thirty days the court Support Services Division regarding the progress of the eligible defendant under such plan, except, in the event of substantial noncompliance with the treatment plan by the eligible defendant, such report shall be made as soon as reasonably possible after such noncompliance. Any eligible defendant who participates in the program for alternative placement pursuant to this section shall provide a written consent for such reports for the duration of the participation.

(3) The court may order that, as a condition of probation pursuant to subdivision (1) of this subsection, the defendant participate in the zero tolerance drug supervision program established pursuant to section 53a-39d of the general statutes.

(4) If the eligible defendant has reached the age of sixteen years but not reached the age of eighteen years, the court may order that, as a condition of probation pursuant to subdivision (1) of this subsection, the eligible defendant be referred for services to a youth service bureau established pursuant to section 1-19m of the general statutes, provided the court finds, through an assessment by a youth service bureau or its designee, that the eligible defendant is in need of and likely to benefit from such services.

(5) When determining the conditions of probation pursuant to subdivision (1) of this subsection to order for an eligible defendant who was charged with a misdemeanor that did not involve the use, attempted use or threatened use of physical force against another person with a motor vehicle violation, the court shall consider ordering the eligible defendant to perform community service in the community in which the crime or violation occurred. If the court determined that community service is appropriate, such community service may be implemented

by a community court designated in violation occurred. If the court determines that community service is appropriate, such community service may be implanted by community court designated in accordance with section 51-181c of the general statutes if the crime or violation occurred within the jurisdiction of the community court.

(6) If the eligible defendant is charged with a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l of the general statutes, the court may order that, as a condition of probation pursuant to subdivision (1) of this subsection, the eligible defendant participate in a hate crimes diversion program as provided in subsection (f) of this section.

(f) If the court orders the eligible defendant to participate in a hate crimes diversion program pursuant to subdivision (6) of subsection (e) of this section, the eligible defendant shall pay to the court a participation fee of four hundred twenty-five dollars. No eligible defendant shall be excluded from such program for inability to pay such fee, provided (1) such eligible defendant files with the court an affidavit of indigency or inability to pay, (2) such indigency or inability to pay is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. The Judicial Department shall contract with service providers, develop standards and oversee appropriate hate crimes diversion programs to meet the requirements of this section. Any eligible defendant whose employment or residence makes it unreasonable to attend a hate crimes diversion program in this state may attend a program in another state which has standards substantially similar, or higher than, those of this state, subject to the approval of the court and payment of the participation fee as provided in this subsection. The hate crimes diversion program shall consist of an educational program and supervised community service.

(g) If an eligible defendant released to the custody of the Court Support Services Division pursuant to subdivision (1) of subsection (e) of this section satisfactorily completes such eligible defendant's period of probation, the eligible defendant may apply for dismissal of all charges against the eligible defendant and the court, on finding such satisfactory completion, shall dismiss such charges. If such eligible defendant does not apply for dismissal of the charges against the eligible defendant after satisfactorily completing the eligible defendant's period of probation, the court, upon receipt of a report submitted by the Court Support Services Division that the eligible defendant satisfactorily complete the eligible defendant's period of probation, may on its own motion make a finding of such satisfactory completion and dismiss such charges. Upon dismissal, all records of such charges shall be erased pursuant to section 54-142a of the general statutes. An order of the court denying a motion to dismiss the charges against an eligible defendant who has completed such eligible defendant's period of probation or terminating the participation of an eligible defendant in the program for alternative placement pursuant to this section shall be a final judgment for purposes of appeal.

BENEFITS TO THE CLIENT AND THE SYSTEM FROM A PROGRAM OF ACCELERATED REHABILITATION WHICH DOES NOT EXCLUDE PRIOR OFFENDERS

1. Mentally ill individuals currently compose a significant percentage of the incarcerated individuals in Connecticut's criminal justice system.
2. Many of these individuals are repeat offenders who have not been afforded pretrial diversion programs in the past or did not successfully complete pretrial diversion programs.
3. Many of these individuals would benefit from access to structured treatment programs which would act both as a 'stick' to keep individuals in treatment, as well as reflect the reality that relapse is an ordinary and natural component of recovery, something which is not accounted for in the philosophy/structure of the current system where every 'violation' consumes an inordinate amount of court, DOC, and probation resources.
4. Access to pretrial diversion for this population would free up DOC jail space for more compelling cases, thereby reducing the increasing burden on DOC of acting as a de facto treatment facility, and in some cases free up scarce hospital beds at CVH in the case of competency restoration of defendants charged with minor crimes.
5. Access to pretrial diversion for this population on the front end would significantly reduce the current court dockets.
6. Access to pretrial diversion for this population would have the eventual effect of shortening the rap sheet for many individuals, thereby easing their ultimate re-integration into the community.