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2019 Legislative Proposals

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2019 Legislative Proposals

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January 3, 2019

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2019 Legislative Proposal #1

AN ACT CONCERNING JUVENILES

Purpose: To protect all children under the age of 18, regardless of the court's jurisdiction, from undue influence by adults in authority in the absence of a parent or guardian and ensure fair and equitable sentencing and treatment of children adjudicated delinquent and sentenced to commitment or who are prosecuted as adults.

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

SECTION 1. *Section 46b-137 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a) Any admission, confession or statement, written or oral, made by a child under the age of [sixteen] eighteen to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the [~~alleged delinquency of the~~] child making such admission, confession or statement unless made by such child in the presence of the child's parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements, and (3) that any statements the child makes may be introduced into evidence against the child.

~~[(b) Any admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer or Juvenile Court official, except an admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer in connection with a case transferred to the Juvenile Court from the youthful offender docket, regular criminal docket of the Superior Court or any docket for the presentment of defendants in motor vehicle matters, shall be inadmissible in any proceeding concerning the alleged delinquency~~

~~of the child making such admission, confession or statement, unless (1) the police or Juvenile Court official has made reasonable efforts to contact a parent or guardian of the child, and (2) such child has been advised that (A) the child has the right to contact a parent or guardian and to have a parent or guardian present during any interview, (B) the child has the right to retain counsel or, if unable to afford counsel, to have counsel appointed on behalf of the child, (C) the child has the right to refuse to make any statement, and (D) any statement the child makes may be introduced into evidence against the child.]~~

~~[(c) The admissibility of any admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer or Juvenile Court official, except an admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer in connection with a case transferred to the Juvenile Court from the youthful offender docket, regular criminal docket of the Superior Court or any docket for the presentment of defendants in motor vehicle matters, shall be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement. When determining the admissibility of such admission, confession or statement, the court shall consider (1) the age, experience, education, background and intelligence of the child, (2) the capacity of the child to understand the advice concerning rights and warnings required under subdivision (2) of subsection (b) of this section, the nature of the privilege against self-incrimination under the United States and Connecticut Constitutions, and the consequences of waiving such rights and privilege, (3) the opportunity the child had to speak with a parent, guardian or some other suitable individual prior to or while making such admission, confession or statement, and (4) the circumstances surrounding the making of the admission, confession or statement, including, but not limited to, (A) when and where the admission, confession or statement was made, (B) the reasonableness of proceeding, or the need to proceed, without a parent or guardian present, and (C) the reasonableness of efforts by the police or Juvenile Court official to attempt to contact a parent or guardian.]~~

~~[(d)] (b) Any confession, admission or statement, written or oral, made by the parent or parents or guardian of the child or youth after the filing of a petition alleging such child or youth to be neglected, uncared for or abused shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of the person's right to retain counsel, and that if the person is unable to afford counsel, counsel will be appointed to represent the person, that the person has a right to refuse to make any statement and that any statements the person makes may be introduced in evidence against the person, except that any statement made by the mother of any child or youth, upon inquiry by the court and under oath if necessary, as to the identity of any person who might be the father of the child or youth shall not be inadmissible if the mother was not so advised.~~

SECTION 2. (NEW) *(Effective from passage):*

Notwithstanding the general statutes, the court shall have the discretion to depart from imposing the mandatory minimum sentence, for good cause shown, when sentencing any juvenile who is prosecuted as an adult.

SECTION 3. *Subsection (b) of section 46b-140 of the general statutes is repealed and the following is substituted herewith. (Effective from passage):*

(b) Upon adjudication of a child as delinquent, the court: (1) May (A) discharge the child from the court's jurisdiction with or without a warning; (B) place the child on probation supervision for a period not to exceed eighteen months, which may be extended in accordance with section 46b-140a by not more than twelve months, for a total supervision period not to exceed thirty months; or (C) place the child on probation supervision with residential placement, for a period not to exceed eighteen months, which may be extended in accordance with section 46b-140a by not more than twelve months, for a total supervision period not to exceed thirty months. **Any period of probation supervision or probation supervision with residential placement shall begin on the date the child is adjudicated as delinquent, subject to any reduction of such child's period of probation supervision or probation supervision with residential placement pursuant to section 46b-141d.**

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2019 Legislative Proposal #2

AN ACT CONCERNING FAIRNESS IN PROCEEDINGS

Purpose: To provide a process for the retention juror race and ethnicity statistics, permit disclosure of certain records to counsel for an acquittee, provide for consistency in the sentencing of persistent larceny offenders and fairness in the imposition of conditions of release.

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

SECTION 1. NEW (Effective October 1, 2019):

(a) There is established a task force to ensure that the juror array is fully representative of the community at large. The task force shall consist of the following members: (1) the Chief Court Administrator, or the Chief Court Administrator's designee; (2) the Chief State's Attorney, or the Chief State's Attorney's designee; (3) the Chief Public Defender, or the Chief Public Defender's designee; (4) the Attorney General, or the Attorney General's designee; (5) the Jury Administrator, or the Jury Administrator's designee; (6) the president of the Connecticut Bar Association, or the president's designee; (7) the president of the South Asian Bar Association of Connecticut or the president's designee, (8) the president of the George W. Crawford Black Bar Association, or the president's designee; (9) the president of the Connecticut Hispanic Bar Association, or the president's designee; (10) [and] the deans, or designees, of the University of Connecticut School of Law, the Quinnipiac University School of Law, and the Yale School of Law; (11) the president of the Portuguese Bar Association of Connecticut, or the president's designee; (12) the president of the Connecticut Italian-American Bar Association, or the president's designee. The Task Force shall be chaired by the Chief Court Administrator, or the Chief Court Administrator's designee.

(b) The Task Force shall study jury selection in Connecticut to determine whether processes currently in place result in a fair cross section of the community being summoned, and whether a fair cross section of the community appear for jury service. As part of its review, the task force may collect statistics and conduct data analysis of jurors appearing for jury service, review practices and procedures utilized in other jurisdictions, and conduct any other research consistent with its charge. It may also make recommendations for any statutory revisions that would enhance the representativeness of the array.

(c) Not later than July 1, 2020, the task force shall submit a report on its findings to the Chief Court Administrator. The task force shall terminate on the date that it submits such report or July 1, 2020, whichever is later.

SECTION 2. (NEW) *(Effective from passage):*

(a) Notwithstanding any provisions of the general statutes concerning the confidentiality of records, information and media pertaining to the Department of Mental Health and Addiction Services, Connecticut Valley Hospital or the Psychiatric Security Review Board, any and all records and any media recorded within or on the property of any such facility in regard to an acquittee or in which an acquittee is present and recorded, shall be disclosable to counsel for the acquittee with the acquittee's consent.

(b) Records and media include but are not limited to still or electronically stored photographs, security cameras or video, CDs, DVDs, flash drive recordings, cellphones, tablets or any other electronic media and or storage regardless of whether stored locally or remotely.

SECTION 3. *Section 53a-40 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a) A persistent dangerous felony offender is a person who:

(1) (A) Stands convicted of manslaughter, arson, kidnapping, robbery in the first or second degree, assault in the first degree, home invasion, burglary in the first degree or burglary in the second degree with a firearm, and (B) has been, prior to the commission of the present crime, convicted of and imprisoned under a sentence to a term of imprisonment of more than one year or of death, in this state or in any other state or in a federal correctional institution, for any of the following crimes: (i) The crimes enumerated in subparagraph (A) of this subdivision or an attempt to commit any of said crimes; or (ii) murder, sexual assault in the first or third degree, aggravated sexual assault in the first degree or sexual assault in the third degree with a firearm, or an attempt to commit any of said crimes; or (iii) prior to October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or prior to October 1, 1971, in this state, assault with intent to kill

under section 54-117, or any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes, revision of 1958, revised to 1968, or any predecessor statutes in this state, or an attempt to commit any of said crimes; or (iv) in any other state, any crimes the essential elements of which are substantially the same as any of the crimes enumerated in subparagraph (A) of this subdivision or this subparagraph; or

(2) (A) Stands convicted of sexual assault in the first or third degree, aggravated sexual assault in the first degree or sexual assault in the third degree with a firearm, and (B) has been, prior to the commission of the present crime, convicted of and imprisoned under a sentence to a term of imprisonment of more than one year or of death, in this state or in any other state or in a federal correctional institution, for any of the following crimes: (i) Murder, manslaughter, arson, kidnapping, robbery in the first or second degree, assault in the first degree, home invasion, burglary in the first degree or burglary in the second degree with a firearm, or an attempt to commit any of said crimes; or (ii) prior to October 1, 1971, in this state, assault with intent to kill under section 54-117, or any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83 and 53-86 of the general statutes, revision of 1958, revised to 1968, or any predecessor statutes in this state, or an attempt to commit any of said crimes; or (iii) in any other state, any crimes the essential elements of which are substantially the same as any of the crimes enumerated in subparagraph (A) of this subdivision or this subparagraph.

(b) A persistent dangerous sexual offender is a person who (1) stands convicted of sexual assault in the first or third degree, aggravated sexual assault in the first degree or sexual assault in the third degree with a firearm, and (2) has been, prior to the commission of the present crime, convicted of and imprisoned under a sentence to a term of imprisonment of more than one year, in this state or in any other state or in a federal correctional institution, for (A) any of the crimes enumerated in subdivision (1) of this subsection, or (B) prior to October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or prior to October 1, 1971, in this state, any of the crimes enumerated in section 53-238 or 53-239 of the general statutes, revision of 1958, revised to 1968, or any predecessor statutes in this state, or an attempt to commit any of said crimes, or (C) in any other state, any crimes the essential elements of which are substantially the same as any of the crimes enumerated in subdivision (1) of this subsection or this subdivision.

(c) A persistent serious felony offender is a person who (1) stands convicted of a felony, and (2) has been, prior to the commission of the present felony, convicted of and imprisoned under an imposed term of more than one year or of death, in this state or in any other state or in a federal correctional institution, for a crime. This subsection shall not apply where the present conviction is for a crime enumerated in subdivision (1) of subsection (a) of this section and the prior conviction was for a crime other than those enumerated in subsection (a) of this section.

(d) A persistent serious sexual offender is a person, other than a person who qualifies as a persistent dangerous sexual offender under subsection (b) of this section, who qualifies as a persistent serious felony offender under subsection (c) of this section and the felony of which such person presently stands convicted is a violation of subdivision (2) of subsection (a) of section 53-21, or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b and the prior conviction is for a violation of section 53-21 of the general statutes, revised to January 1, 1995, involving sexual contact, committed prior to October 1, 1995, a violation of subdivision (2) of section 53-21 of the general statutes, committed on or after October 1, 1995, and prior to October 1, 2000, a violation of subdivision (2) of subsection (a) of section 53-21 or a violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b.

(e) **(1)** A persistent larceny offender is a person who ~~[(1)]~~ **(a)** stands convicted of larceny in the third degree in violation of the provisions of section 53a-124 in effect prior to October 1, 1982, or larceny in the fourth, fifth or sixth degree, and **(b)** ~~[(2)]~~ has been, at separate times, **both within ten years** prior to the commission of the present larceny, twice convicted of the crime of larceny.

(f) A persistent offender for possession of a controlled substance is a person who (1) stands convicted of possession of a controlled substance in violation of the provisions of section 21a-279, and (2) has been, at separate times prior to the commission of the present possession of a controlled substance, twice convicted of the crime of possession of a controlled substance.

(g) A persistent felony offender is a person who (1) stands convicted of a felony other than a class D felony, and (2) has been, at separate times prior to the commission of the present felony, twice convicted of a felony other than a class D felony.

(h) It shall be an affirmative defense to the charge of being a persistent offender under this section that (1) as to any prior conviction on which the state is relying the defendant was pardoned on the ground of innocence, and (2) without such conviction, the defendant was not two or more times convicted and imprisoned as required by this section.

(i) When any person has been found to be a persistent dangerous felony offender, the court, in lieu of imposing the sentence of imprisonment authorized by the general statutes for the crime of which such person presently stands convicted, shall (1) sentence such person to a term of imprisonment that is not (A) less than twice the minimum term of imprisonment authorized for such crime or (B) more than twice the maximum term of imprisonment authorized for such crime or forty years, whichever is greater, provided, if a mandatory minimum term of imprisonment is authorized for such crime, such sentence shall include a mandatory minimum term of imprisonment that is twice such authorized mandatory minimum term of imprisonment, and (2) if such person has, at separate times prior to the commission of the present crime, been

twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section, sentence such person to a term of imprisonment that is not less than three times the minimum term of imprisonment authorized for such crime or more than life, provided, if a mandatory minimum term of imprisonment is authorized for such crime, such sentence shall include a mandatory minimum term of imprisonment that is three times such authorized mandatory minimum term of imprisonment.

(j) When any person has been found to be a persistent dangerous sexual offender, the court, in lieu of imposing the sentence of imprisonment authorized by section 53a-35a for the crime of which such person presently stands convicted, shall sentence such person to a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of imprisonment for life, as defined in section 53a-35b.

(k) When any person has been found to be a persistent serious felony offender, the court in lieu of imposing the sentence of imprisonment authorized by section 53a-35 for the crime of which such person presently stands convicted, or authorized by section 53a-35a if the crime of which such person presently stands convicted was committed on or after July 1, 1981, may impose the sentence of imprisonment authorized by said section for the next more serious degree of felony.

(l) When any person has been found to be a persistent serious sexual offender, the court, in lieu of imposing the sentence of imprisonment authorized by section 53a-35a for the crime of which such person presently stands convicted, may impose a sentence of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute the maximum sentence specified by section 53a-35a for the next more serious degree of felony.

(m) On or after October 1, 2019, [W]when any person has been found to be a persistent larceny offender, the court, in lieu of imposing the sentence authorized by section 53a-36 for the crime of which such person presently stands convicted, may impose ~~[the sentence of imprisonment for a class D felony authorized by section 53a-35]~~ the sentence of imprisonment authorized by said section for the next more serious degree of offense as authorized by 53a-36, [if the crime of which such person presently stands convicted was committed prior to July 1, 1981, or authorized by section 53a-35a, if the crime of which such person presently stands convicted was committed on or after July 1, 1981.]

(n) When any person has been found to be a persistent offender for possession of a controlled substance, the court, in lieu of imposing the sentence authorized by section 53a-36 for the crime of which such person presently stands convicted, may impose the sentence of imprisonment for a class E felony authorized by section 53a-35a.

(o) When any person has been found to be a persistent felony offender, the court, in lieu of imposing the sentence authorized by section 53a-35a for the crime of which such person presently stands convicted, may impose the sentence of imprisonment

authorized by said section for the next more serious degree of felony; provided the sentence imposed may not be less than three years, and provided further three years of the sentence so imposed may not be suspended or reduced by the court.

(p) (1) Whenever a person is arrested for any of the crimes enumerated in subsection (a) of this section, the prosecuting authority shall investigate and ascertain whether such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in said subsection (a) and would be eligible to be sentenced under subsection (i) of this section if convicted of such crime.

(2) If the prosecuting authority ascertains that such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section and such person has been presented to a geographical area courthouse, the prosecuting authority shall cause such person to be transferred to a judicial district courthouse. **This section shall not be applicable for any person charged with Larceny in the third, fourth, fifth or sixth degrees.**

(3) No court shall accept a plea of guilty, not guilty or nolo contendere from a person arrested for any of the crimes enumerated in subsection (a) of this section unless it finds that the prosecuting authority has complied with the requirements of subdivision (1) of this subsection.

(4) If the prosecuting authority ascertains that such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section but decides not to initiate proceedings to seek the sentence enhancement provided by subsection (i) of this section, the prosecuting authority shall state for the record the specific reason or reasons for not initiating such proceedings.

(5) If the prosecuting authority ascertains that such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section and initiates proceedings to seek the sentence enhancement provided by subsection (i) of this section, but subsequently decides to terminate such proceedings, the prosecuting authority shall state for the record the specific reason or reasons for terminating such proceedings.

SECTION 4. *Section 54-64a of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a)(1) Except as provided in subdivision (2) of this subsection and subsection (b) of this section, when any arrested person is presented before the Superior Court, said court shall, in bailable offenses, promptly order the release of such person upon the first of the following conditions of release found sufficient to reasonably ensure the appearance of

the arrested person in court: (A) Upon execution of a written promise to appear without special conditions, (B) upon execution of a written promise to appear with nonfinancial conditions, (C) upon execution of a bond without surety in no greater amount than necessary, (D) upon execution of a bond with surety in no greater amount than necessary, but in no event shall a judge prohibit a bond from being posted by surety. In addition to or in conjunction with any of the conditions enumerated in subparagraphs (A) to (D), inclusive, of this subdivision the court may, when it has reason to believe that the person is drug-dependent and where necessary, reasonable and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such person.

(2) If the arrested person is charged with no offense other than a misdemeanor, the court shall not impose financial conditions of release on the person unless (A) the person is charged with a family violence crime, as defined in section 46b-38a, or (B) the person requests such financial conditions, or (C) the court makes a finding on the record that there is a likely risk that (i) the arrested person will fail to appear in court, as required, or (ii) the arrested person will obstruct or attempt to obstruct justice, or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, or (iii) the arrested person will engage in conduct that threatens the safety of himself or herself or another person. In making a finding described in this subsection, the court may consider past criminal history, including any prior record of failing to appear as required in court that resulted in any conviction for a violation of section 53a-172 or any conviction during the previous ten years for a violation of section 53a-173 and any other pending criminal cases of the person charged with a misdemeanor.

(3) The court may, in determining what conditions of release will reasonably ensure the appearance of the arrested person in court, consider the following factors: (A) The nature and circumstances of the offense, (B) such person's record of previous convictions, (C) such person's past record of appearance in court, (D) such person's family ties, (E) such person's employment record, (F) such person's financial resources, character and mental condition, and (G) such person's community ties.

(b) (1) When any arrested person charged with the commission of a class A felony, a class B felony, except a violation of section 53a-86 or 53a-122, a class C felony, except a violation of section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, section 53a-72a, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or a family violence crime, as defined in section 46b-38a, is presented before the Superior Court, said court shall, in bailable offenses, promptly order the release of such person upon the first of the following conditions of release found sufficient to reasonably ensure the appearance of the arrested person in court and that the safety of any other person will not be endangered: (A) Upon such person's execution of a written promise to appear without special conditions, (B) upon such person's execution of a

written promise to appear with nonfinancial conditions, (C) upon such person's execution of a bond without surety in no greater amount than necessary, (D) upon such person's execution of a bond with surety in no greater amount than necessary, but in no event shall a judge prohibit a bond from being posted by surety. In addition to or in conjunction with any of the conditions enumerated in subparagraphs (A) to (D), inclusive, of this subdivision, the court may, when it has reason to believe that the person is drug-dependent and where necessary, reasonable and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such person.

(2) The court may, in determining what conditions of release will reasonably ensure the appearance of the arrested person in court and that the safety of any other person will not be endangered, consider the following factors: (A) The nature and circumstances of the offense, (B) such person's record of previous convictions, (C) such person's past record of appearance in court after being admitted to bail, (D) such person's family ties, (E) such person's employment record, (F) such person's financial resources, character and mental condition, (G) such person's community ties, (H) the number and seriousness of charges pending against the arrested person, (I) the weight of the evidence against the arrested person, (J) the arrested person's history of violence, (K) whether the arrested person has previously been convicted of similar offenses while released on bond, and (L) the likelihood based upon the expressed intention of the arrested person that such person will commit another crime while released.

(3) When imposing conditions of release under this subsection, the court shall state for the record any factors under subdivision (2) of this subsection that it considered and the findings that it made as to the danger, if any, that the arrested person might pose to the safety of any other person upon the arrested person's release that caused the court to impose the specific conditions of release that it imposed.

(c) If the court determines that a nonfinancial condition of release should be imposed pursuant to subparagraph (B) of subdivision (1) of subsection (a) or (b) of this section, the court shall order the pretrial release of the person subject to the least restrictive condition or combination of conditions that the court determines will reasonably ensure the appearance of the arrested person in court and, with respect to the release of the person pursuant to subsection (b) of this section, that the safety of any other person will not be endangered, which conditions may include an order that the arrested person do one or more of the following: (1) Remain under the supervision of a designated person or organization; (2) comply with specified restrictions on such person's travel, association or place of abode; (3) not engage in specified activities, including the use or possession of a dangerous weapon, ~~[an intoxicant or a controlled substance]~~; (4) provide sureties of the peace pursuant to section 54-56f under supervision of a designated bail commissioner or intake, assessment and referral specialist employed by the Judicial Branch; (5) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense; (6)

maintain employment or, if unemployed, actively seek employment; (7) maintain or commence an educational program; (8) be subject to electronic monitoring; or (9) satisfy any other condition that is reasonably necessary to ensure the appearance of the person in court and that the safety of any other person will not be endangered. The court shall state on the record its reasons for imposing any such nonfinancial condition.

(d) If the arrested person is not released, the court shall order him committed to the custody of the Commissioner of Correction until he is released or discharged in due course of law.

(e) The court may require that the person subject to electronic monitoring pursuant to subsection (c) of this section pay directly to the electronic monitoring service provider a fee for the cost of such electronic monitoring services. If the court finds that the person subject to electronic monitoring is indigent and unable to pay the costs of electronic monitoring services, the court shall waive such costs. Any contract entered into by the Judicial Branch and the electronic monitoring service provider shall include a provision stating that the total cost for electronic monitoring services shall not exceed five dollars per day. Such amount shall be indexed annually to reflect the rate of inflation.

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2019 Legislative Proposal #3

AN ACT CONCERNING MOTOR VEHICLE OFFENSES

Purpose: To provide a lookback period for certain motor vehicle violations and provide a maximum period for certain license suspensions.

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

SECTION 1. Section 14-215 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(a) No person to whom an operator's license has been refused, or, except as provided in section 14-215a, whose operator's license or right to operate a motor vehicle in this state has been suspended or revoked, shall operate any motor vehicle during the period of such refusal, suspension or revocation. No person shall operate or cause to be operated any motor vehicle, the registration of which has been refused, suspended or revoked, or any motor vehicle, the right to operate which has been suspended or revoked.

(b) (1) Except as provided in subsection (c) of this section, any person who violates any provision of subsection (a) of this section shall, for a first offense, be fined not less than one hundred fifty dollars or more than two hundred dollars or imprisoned not more than three months, or be both fined and imprisoned, and, for any subsequent offense **committed within a ten year period of the person's first offense**, be fined not less than two hundred dollars or more than six hundred dollars or imprisoned not more than one year, or be both fined and imprisoned.

(2) Except as provided in subsection (c) of this section, in addition to the penalty prescribed under subdivision (1) of this subsection, any person who violates any provision of subsection (a) of this section who (A) has, **within a ten year period** prior to

the commission of the present violation, committed a violation of subsection (a) of this section or section 14-36 shall be fined not more than five hundred dollars or sentenced to perform not more than one hundred hours of community service, or (B) has, within a ten year period prior to the commission of the present violation, committed two or more violations of subsection (a) of this section or section 14-36, or any combination thereof, shall be sentenced to a term of imprisonment of one year, ninety days of which may not be suspended or reduced in any manner.

(c) (1) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation, within a ten year period prior to the commission of the present violation, on account of a violation of section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or section 53a-56b or 53a-60d or pursuant to section 14-227b, or in violation of a restriction or limitation placed on such person's operator's license or right to operate a motor vehicle in this state by the Commissioner of Motor Vehicles pursuant to subsection (i) of section 14-227a or pursuant to an order of the court under subsection (b) of section 14-227j, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than one year, and, in the absence of any mitigating circumstances as determined by the court, thirty consecutive days of the sentence imposed may not be suspended or reduced in any manner.

(2) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation, within a ten year period prior to the commission of the present violation, on account of a second violation of section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or section 53a-56b or 53a-60d or for the second time pursuant to section 14-227b, or in violation of a restriction or limitation placed for the second time on such person's operator's license or right to operate a motor vehicle in this state by the Commissioner of Motor Vehicles pursuant to subsection (i) of section 14-227a or pursuant to an order of the court under subsection (b) of section 14-227j, shall be fined not less than five hundred dollars or more than one thousand dollars and imprisoned not more than two years, and, in the absence of any mitigating circumstances as determined by the court, one hundred twenty consecutive days of the sentence imposed may not be suspended or reduced in any manner.

(3) Any person who operates any motor vehicle during the period such person's operator's license or right to operate a motor vehicle in this state is under suspension or revocation, within a ten year period prior to the commission of the present violation, on account of a third or subsequent violation of section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or section 53a-56b or 53a-60d or for the third or subsequent time pursuant to section 14-227b, or in violation of a restriction placed for the third or subsequent time on such person's operator's license or right to operate a motor vehicle in this state by the Commissioner of Motor Vehicles pursuant to subsection (i) of section 14-227a or pursuant to an order of the court under subsection (b) of section 14-227j, shall be fined not less than five hundred dollars or more than one

thousand dollars and imprisoned not more than three years, and, in the absence of any mitigating circumstances as determined by the court, one year of the sentence imposed may not be suspended or reduced in any manner.

(4) The court shall specifically state in writing for the record the mitigating circumstances, or the absence thereof.

(5) Notwithstanding any section of the Connecticut General Statutes enacted prior to or after July 1, 2015, a violation of subdivision (1), (2) or (3) of subsection (c) of 14-215 cannot be predicated on any alcohol related suspension or revocation imposed prior to July 1, 2015 for which the operator was eligible for restoration on a specific or non-indeterminate date.

SECTION 2. *Section 54-56e of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a) There shall be a pretrial program for accelerated rehabilitation of persons accused of a crime or crimes or 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. Upon application by any such person for participation in the program, the court shall, but only as to the public, order the court file sealed.

(b) 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 a defendant (1) who, the court believes, will probably not offend in the future, (2) who has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) or subdivision (1) of subsection (b) of section 14-224, section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n, and (3) who states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury, (A) that the defendant has never had such program invoked on the defendant's behalf or that the defendant was charged with a misdemeanor or a motor vehicle violation, **including C.G.S. §14-215(c)**, for which a term of imprisonment of one year or less **or a mandatory minimum sentence** may be imposed and ten or more years have passed since the date that any charge or charges for which the program was invoked on the defendant's behalf were dismissed by the court, or (B) with respect to a defendant who is a veteran, that the defendant has not had such program invoked in the defendant's behalf more than once previously, provided the defendant shall agree thereto and provided notice has been given by the defendant, on a form prescribed 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. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars. No defendant shall be allowed to participate in the pretrial program for accelerated rehabilitation more than two times. For the purposes of this section,

"veteran" means any person who was discharged or released under conditions other than dishonorable from active service in the armed forces as defined in section 27-103.

(c) This section shall not be applicable: (1) To any person charged with (A) a class A felony, (B) a class B felony, except a violation of subdivision (1), (2) or (3) of subsection (a) of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of subdivision (4) of subsection (a) of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person and does not involve a violation by a person who is a public official, as defined in section 1-110, or a state or municipal employee, as defined in section 1-110, or (C) a violation of section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subdivision (2) of subsection (a) of section 53-21 or section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (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, causes the death of another person, (3) to any person accused of a family violence crime as defined in section 46b-38a who (A) is eligible for the pretrial family violence education program established under section 46b-38c, or (B) has previously had the pretrial family violence education program invoked in such person's behalf, (4) to any person charged with a violation of section 21a-267 or 21a-279 who (A) is eligible for the pretrial drug education and community service program established under section 54-56i, or (B) has previously had the pretrial drug education program or the pretrial drug education and community service program invoked on such person's behalf, (5) unless good cause is shown, to (A) any person charged with a class C felony, or (B) any person charged with committing a violation of subdivision (1) of subsection (a) of section 53a-71 while such person was less than four years older than the other person, (6) to any person charged with a violation of section 9-359 or 9-359a, (7) to any person charged with a motor vehicle violation (A) while operating a commercial motor vehicle, as defined in section 14-1, ~~or (B) who holds a commercial driver's license or commercial driver's instruction permit at the time of the violation,~~ (8) to any person charged with a violation of subdivision (6) of subsection (a) of section 53a-60, or (9) to a health care provider or vendor participating in the state's Medicaid program charged with a violation of section 53a-122 or subdivision (4) of subsection (a) of section 53a-123.

(d) Except as provided in subsection (e) of this section, any defendant who enters such program shall pay to the court a participation fee of one hundred dollars. Any defendant who enters such program shall agree to the tolling of any statute of limitations with respect to such crime and to a waiver of the right to a speedy trial. Any such 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, except that, if a criminal docket for drug-dependent persons has been established pursuant to section 51-181b in the judicial district, such defendant may be transferred, under such conditions as the court shall order, to the court handling such docket for supervision by such court. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. The period of such probation

or supervision, or both, shall not exceed two years. If the defendant has reached the age of sixteen years but has not reached the age of eighteen years, the court may order that as a condition of such probation the defendant be referred for services to a youth service bureau established pursuant to section 10-19m, provided the court finds, through an assessment by a youth service bureau or its designee, that the defendant is in need of and likely to benefit from such services. When determining any conditions of probation to order for a person entering such program who was charged with a misdemeanor that did not involve the use, attempted use or threatened use of physical force against another person or a motor vehicle violation, the court shall consider ordering the person to perform community service in the community in which the offense or violation occurred. If the court determines that community service is appropriate, such community service may be implemented by a community court established in accordance with section 51-181c if the offense or violation occurred within the jurisdiction of a community court established by said section. If the defendant is charged with a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, the court may order that as a condition of such probation the defendant participate in a hate crimes diversion program as provided in subsection (e) of this section. If a defendant is charged with a violation of section 53-247, the court may order that as a condition of such probation the defendant undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant.

(e) If the court orders the defendant to participate in a hate crimes diversion program as a condition of probation, the defendant shall pay to the court a participation fee of four hundred twenty-five dollars. No person may be excluded from such program for inability to pay such fee, provided (1) such person 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 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 to, or higher than, those of this state, subject to the approval of the court and payment of the application and program fees as provided in this section. The hate crimes diversion program shall consist of an educational program and supervised community service.

(f) If a defendant released to the custody of the Court Support Services Division satisfactorily completes such defendant's period of probation, such defendant may apply for dismissal of the charges against such defendant and the court, on finding such satisfactory completion, shall dismiss such charges. If the defendant does not apply for dismissal of the charges against such defendant after satisfactorily completing such defendant's period of probation, the court, upon receipt of a report submitted by the Court Support Services Division that the defendant satisfactorily completed such defendant's period of probation, may on its own motion make a finding of such satisfactory completion and dismiss such charges. If a defendant transferred to the court

handling the criminal docket for drug-dependent persons satisfactorily completes such defendant's period of supervision, the court shall release the defendant to the custody of the Court Support Services Division under such conditions as the court shall order or shall dismiss such charges. Upon dismissal, all records of such charges shall be erased pursuant to section 54-142a. An order of the court denying a motion to dismiss the charges against a defendant who has completed such defendant's period of probation or supervision or terminating the participation of a defendant in such program shall be a final judgment for purposes of appeal.

SECTION 2. *Section 14-227a of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

a) Operation while under the influence or while having an elevated blood alcohol content. No person shall operate a motor vehicle while under the influence of intoxicating liquor or any drug or both. A person commits the offense of operating a motor vehicle while under the influence of intoxicating liquor or any drug or both if such person operates a motor vehicle (1) while under the influence of intoxicating liquor or any drug or both, or (2) while such person has an elevated blood alcohol content. For the purposes of this section, "elevated blood alcohol content" means a ratio of alcohol in the blood of such person that is eight-hundredths of one per cent or more of alcohol, by weight, except that if such person is operating a commercial motor vehicle, "elevated blood alcohol content" means a ratio of alcohol in the blood of such person that is four-hundredths of one per cent or more of alcohol, by weight, and "motor vehicle" includes a snowmobile and all-terrain vehicle, as those terms are defined in section 14-379.

(b) Admissibility of chemical analysis. Except as provided in subsection (c) of this section, in any criminal prosecution for violation of subsection (a) of this section, evidence respecting the amount of alcohol or drug in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's breath, blood or urine shall be admissible and competent provided: (1) The defendant was afforded a reasonable opportunity to telephone an attorney prior to the performance of the test and consented to the taking of the test upon which such analysis is made; (2) a true copy of the report of the test result was mailed to or personally delivered to the defendant within twenty-four hours or by the end of the next regular business day, after such result was known, whichever is later; (3) the test was performed by or at the direction of a police officer according to methods and with equipment approved by the Department of Emergency Services and Public Protection and was performed in accordance with the regulations adopted under subsection (d) of this section; (4) the device used for such test was checked for accuracy in accordance with the regulations adopted under subsection (d) of this section; (5) an additional chemical test of the same type was performed at least ten minutes after the initial test was performed or, if requested by the police officer for reasonable cause, an additional chemical test of a different type was performed to detect the presence of a drug or drugs other than or in addition to alcohol, provided the results of the initial test shall not be inadmissible under this subsection if reasonable efforts were made to have such

additional test performed in accordance with the conditions set forth in this subsection and such additional test was not performed or was not performed within a reasonable time, or the results of such additional test are not admissible for failure to meet a condition set forth in this subsection; and (6) evidence is presented that the test was commenced within two hours of operation. In any prosecution under this section it shall be a rebuttable presumption that the results of such chemical analysis establish the ratio of alcohol in the blood of the defendant at the time of the alleged offense, except that if the results of the additional test indicate that the ratio of alcohol in the blood of such defendant is ten-hundredths of one per cent or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and the analysis thereof accurately indicate the blood alcohol content at the time of the alleged offense.

(c) Evidence of blood alcohol content. In any prosecution for a violation of subdivision (1) of subsection (a) of this section, reliable evidence respecting the amount of alcohol in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's blood, breath or urine, otherwise admissible under subsection (b) of this section, shall be admissible only at the request of the defendant.

(d) Testing and analysis of blood, breath and urine. The Commissioner of Emergency Services and Public Protection shall ascertain the reliability of each method and type of device offered for chemical testing and analysis purposes of blood, of breath and of urine and certify those methods and types which said commissioner finds suitable for use in testing and analysis of blood, breath and urine, respectively, in this state. The Commissioner of Emergency Services and Public Protection shall adopt regulations, in accordance with chapter 54, governing the conduct of chemical tests, the operation and use of chemical test devices, the training and certification of operators of such devices and the drawing or obtaining of blood, breath or urine samples as said commissioner finds necessary to protect the health and safety of persons who submit to chemical tests and to insure reasonable accuracy in testing results. Such regulations shall not require recertification of a police officer solely because such officer terminates such officer's employment with the law enforcement agency for which certification was originally issued and commences employment with another such agency.

(e) Evidence of refusal to submit to test. In any criminal prosecution for a violation of subsection (a) of this section, evidence that the defendant refused to submit to a blood, breath or urine test requested in accordance with section 14-227b shall be admissible provided the requirements of subsection (b) of said section have been satisfied. If a case involving a violation of subsection (a) of this section is tried to a jury, the court shall instruct the jury as to any inference that may or may not be drawn from the defendant's refusal to submit to a blood, breath or urine test.

(f) Reduction, nolle or dismissal prohibited. If a person is charged with a violation of the provisions of subsection (a) of this section, the charge may not be reduced, nolle

or dismissed unless the prosecuting authority states in open court such prosecutor's reasons for the reduction, nolle or dismissal.

(g) Penalties for operation while under the influence. Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars or more than one thousand dollars, and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner, or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the one-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j[;] **Notwithstanding this subsection (1), if any person is unable to install an ignition interlock device on a motor vehicle because he/she does not own or have a motor vehicle available to operate, the restoration of his/her license shall not be conditioned upon such installation and he/she shall be able to have his/her motor vehicle operator's license or nonresident operating privilege restored after a period of two years has passed from the date of a conviction for a first violation;** (2) for conviction of a second violation within ten years after a prior conviction for the same offense, (A) be fined not less than one thousand dollars or more than four thousand dollars, (B) be imprisoned not more than two years, one hundred twenty consecutive days of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person: (i) Perform one hundred hours of community service, as defined in section 14-227e, (ii) submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, and (iii) undergo a treatment program if so ordered, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the three-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, except that for the first year of such three-year period, such person's operation of a motor vehicle shall be limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer[;]. **Notwithstanding this subsection (2), if any person is unable to install an ignition interlock device on a motor vehicle because he/she does not own or have a motor vehicle available to operate, the restoration of his/her license shall not be conditioned upon such installation and he/she shall be able to have his/her motor vehicle operator's license or nonresident operating privilege restored**

after period of four years has passed from the date of a conviction for a second violation; and (3) for conviction of a third and subsequent violation within ten years after a prior conviction for the same offense, (A) be fined not less than two thousand dollars or more than eight thousand dollars, (B) be imprisoned not more than three years, one year of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person: (i) Perform one hundred hours of community service, as defined in section 14-227e, (ii) submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, and (iii) undergo a treatment program if so ordered, and (C) have such person's motor vehicle operator's license or nonresident operating privilege permanently revoked upon such third offense, except that if such person's revocation is reversed or reduced pursuant to subsection (i) of section 14-111, such person shall be prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, for the time period prescribed in subdivision (2) of subsection (i) of section 14-111. For purposes of the imposition of penalties for a second or third and subsequent offense pursuant to this subsection, a conviction under the provisions of subsection (a) of this section in effect on October 1, 1981, or as amended thereafter, a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section, a conviction under the provisions of section 14-227m, a conviction under the provisions of subdivision (1) or (2) of subsection (a) of section 14-227n, a conviction under the provisions of section 53a-56b or 53a-60d or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section, section 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense.

(h) Suspension of operator's license or nonresident operating privilege. (1) Each court shall report each conviction under subsection (a) of this section to the Commissioner of Motor Vehicles, in accordance with the provisions of section 14-141. The commissioner shall suspend the motor vehicle operator's license or nonresident operating privilege of the person reported as convicted for the period of time required by subsection (g) of this section. The commissioner shall determine the period of time required by subsection (g) of this section based on the number of convictions such person has had within the specified time period according to such person's driving history record, notwithstanding the sentence imposed by the court for such conviction. (2) The motor vehicle operator's license or nonresident operating privilege of a person found guilty under subsection (a) of this section who, at the time of the offense, was operating a motor vehicle in accordance with a special operator's permit issued pursuant to section 14-37a shall be suspended by the commissioner for twice the period of time set forth in subsection (g) of this section. (3) If an appeal of any conviction under subsection (a) of this section is taken, the suspension of the motor vehicle operator's license or nonresident operating privilege by the commissioner, in accordance with this subsection, shall be stayed during the pendency of such appeal.

(i) Ignition interlock device. (1) The Commissioner of Motor Vehicles shall permit a person whose license has been suspended in accordance with the provisions of subparagraph (C) of subdivision (1) or subparagraph (C) of subdivision (2) of subsection (g) of this section to operate a motor vehicle if (A) such person has served either the suspension required under said subparagraph (C) or the suspension required under subsection (i) of section 14-227b, and (B) such person has installed an approved ignition interlock device in each motor vehicle owned or to be operated by such person, and verifies to the commissioner, in such manner as the commissioner prescribes, that such device has been installed. For a period of one year after the installation of an ignition interlock device by a person who is subject to subparagraph (C) of subdivision (2) of subsection (g) of this section, such person's operation of a motor vehicle shall be limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer. Except as provided in sections 53a-56b and 53a-60d, no person whose license is suspended by the commissioner for any other reason shall be eligible to operate a motor vehicle equipped with an approved ignition interlock device.

(2) All costs of installing and maintaining an ignition interlock device shall be borne by the person required to install such device. No court sentencing a person convicted of a violation of subsection (a) of this section may waive any fees or costs associated with the installation and maintenance of an ignition interlock device.

(3) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this subsection. The regulations shall establish procedures for the approval of ignition interlock devices, for the proper calibration and maintenance of such devices and for the installation of such devices by any firm approved and authorized by the commissioner and shall specify acts by persons required to install and use such devices that constitute a failure to comply with the requirements for the installation and use of such devices, the conditions under which such noncompliance will result in an extension of the period during which such persons are restricted to the operation of motor vehicles equipped with such devices and the duration of any such extension. The commissioner shall ensure that such firm provide notice to both the commissioner and the Court Support Services Division of the Judicial Branch whenever a person required to install such device commits a violation with respect to the installation, maintenance or use of such device.

(4) The provisions of this subsection shall not be construed to authorize the continued operation of a motor vehicle equipped with an ignition interlock device by any person whose operator's license or nonresident operating privilege is withdrawn, suspended or revoked for any other reason.

(5) The provisions of this subsection shall apply to any person whose license has been suspended in accordance with the provisions of subparagraph (C) of subdivision (1) or subparagraph (C) of subdivision (2) of subsection (g) of this section on or after January 1, 2012.

(6) Whenever a person is permitted by the commissioner under this subsection to operate a motor vehicle if such person has installed an approved ignition interlock device in each motor vehicle owned or to be operated by such person, the commissioner shall indicate in the electronic record maintained by the commissioner pertaining to such person's operator's license or driving history that such person is restricted to operating a motor vehicle that is equipped with an ignition interlock device and, if applicable, that such person's operation of a motor vehicle is limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer, and the duration of such restriction or limitation, and shall ensure that such electronic record is accessible by law enforcement officers. Any such person shall pay the commissioner a fee of one hundred dollars prior to the installation of such device.

(7) There is established the ignition interlock administration account which shall be a separate, nonlapsing account in the General Fund. The commissioner shall deposit all fees paid pursuant to subdivision (6) of this subsection in the account. Funds in the account may be used by the commissioner for the administration of this subsection.

(8) Notwithstanding any provision of the general statutes to the contrary, upon request of any person convicted of a violation of subsection (a) of this section whose operator's license is under suspension on January 1, 2012, the Commissioner of Motor Vehicles may reduce the term of suspension prescribed in subsection (g) of this section and place a restriction on the operator's license of such person that restricts the holder of such license to the operation of a motor vehicle that is equipped with an approved ignition interlock device, as defined in section 14-227j, for the remainder of such prescribed period of suspension.

(9) Any person required to install an ignition interlock device under this section shall be supervised by personnel of the Court Support Services Division of the Judicial Branch while such person is subject to probation supervision, or by personnel of the Department of Motor Vehicles if such person is not subject to probation supervision, and such person shall be subject to any other terms and conditions as the commissioner may prescribe and any provision of the general statutes or the regulations adopted pursuant to subdivision (3) of this subsection not inconsistent herewith.

(10) Notwithstanding the periods prescribed in subsection (g) of this section and subdivision (2) of subsection (i) of section 14-111 during which a person is prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, such periods may be extended in accordance with the regulations adopted pursuant to subdivision (3) of this subsection.

(j) Participation in alcohol education and treatment program. In addition to any fine or sentence imposed pursuant to the provisions of subsection (g) of this section, the court may order such person to participate in an alcohol education and treatment program.

(k) Seizure and admissibility of medical records of injured operator.

Notwithstanding the provisions of subsection (b) of this section, evidence respecting the amount of alcohol or drug in the blood or urine of an operator of a motor vehicle involved in an accident who has suffered or allegedly suffered physical injury in such accident, which evidence is derived from a chemical analysis of a blood sample taken from or a urine sample provided by such person after such accident at the scene of the accident, while en route to a hospital or at a hospital, shall be competent evidence to establish probable cause for the arrest by warrant of such person for a violation of subsection (a) of this section and shall be admissible and competent in any subsequent prosecution thereof if: (1) The blood sample was taken or the urine sample was provided for the diagnosis and treatment of such injury; (2) if a blood sample was taken, the blood sample was taken in accordance with the regulations adopted under subsection (d) of this section; (3) a police officer has demonstrated to the satisfaction of a judge of the Superior Court that such officer has reason to believe that such person was operating a motor vehicle while under the influence of intoxicating liquor or drug or both and that the chemical analysis of such blood or urine sample constitutes evidence of the commission of the offense of operating a motor vehicle while under the influence of intoxicating liquor or drug or both in violation of subsection (a) of this section; and (4) such judge has issued a search warrant in accordance with section 54-33a authorizing the seizure of the chemical analysis of such blood or urine sample. Such search warrant may also authorize the seizure of the medical records prepared by the hospital in connection with the diagnosis or treatment of such injury.

(l) Participation in victim impact panel program. If the court sentences a person convicted of a violation of subsection (a) of this section to a period of probation, the court may require as a condition of such probation that such person participate in a victim impact panel program approved by the Court Support Services Division of the Judicial Branch. Such victim impact panel program shall provide a nonconfrontational forum for the victims of alcohol-related or drug-related offenses and offenders to share experiences on the impact of alcohol-related or drug-related incidents in their lives. Such victim impact panel program shall be conducted by a nonprofit organization that advocates on behalf of victims of accidents caused by persons who operated a motor vehicle while under the influence of intoxicating liquor or any drug, or both. Such organization may assess a participation fee of not more than seventy-five dollars on any person required by the court to participate in such program.

SECTION 3. *Sec. 54-56g of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a)(1) There shall be a pretrial alcohol education program for persons charged with a violation of section 14-227a, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or section 15-133 or 15-140n. Upon application by any such person for participation in such program and payment to the court of an application fee of one hundred dollars and a nonrefundable evaluation fee of one hundred dollars, the court shall, but only as to the public, order the court file sealed, provided such person states under oath, in open court or before any person designated by the clerk and duly

authorized to administer oaths, under penalties of perjury that: (A) If such person is charged with a violation of section 14-227a, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subsection (d) of section 15-133 or section 15-140n, such person has not had such program invoked in such person's behalf within the preceding ten years for a violation of section 14-227a, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subsection (d) of section 15-133 or section 15-140n, (B) such person has not been convicted of a violation of section 53a-56b or 53a-60d, a violation of subsection (a) of section 14-227a before, on or after October 1, 1981, a violation of subsection (1) or (2) of subsection (a) of section 14-227a on or after October 1, 1985, a violation of section 14-227g, a violation of section 14-227m or a violation of subdivision (1) or (2) of subsection (a) of section 14-227n, (C) such person has not been convicted of a violation of section 15-132a, subsection (d) of section 15-133, section 15-140l or section 15-140n, (D) such person has not been convicted in any other state at any time of an offense the essential elements of which are substantially the same as section 53a-56b, 53a-60d, 15-132a, 15-140l or 15-140n, subdivision (1) or (2) of subsection (a) of section 14-227a, section 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or subsection (d) of section 15-133, and (E) notice has been given by such person, by registered or certified mail on a form prescribed by the Office of the Chief Court Administrator, to each victim who sustained a serious physical injury, as defined in section 53a-3, which was caused by such person's alleged violation, that such person has applied to participate in the pretrial alcohol education program and that such victim has an opportunity to be heard by the court on the application.

(2) The court shall provide each such victim who sustained a serious physical injury an opportunity to be heard prior to granting an application under this section. Unless good cause is shown, a person shall be ineligible for participation in such pretrial alcohol education program if such person's alleged violation of section 14-227a, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n or subsection (d) of section 15-133 caused the serious physical injury, as defined in section 53a-3, of another person.

(3) The application fee imposed under this subsection shall be credited to the Criminal Injuries Compensation Fund established under section 54-215. The evaluation fee imposed under this subsection shall be credited to the pretrial account established under section 54-56k.

(b) The court, after consideration of the recommendation of the state's attorney, assistant state's attorney or deputy assistant state's attorney in charge of the case, may, in its discretion, grant such application. If the court grants such application, the court shall refer such person to the Court Support Services Division for assessment and confirmation of the eligibility of the applicant and to the Department of Mental Health and Addiction Services for evaluation. The Court Support Services Division, in making its assessment and confirmation, may rely on the representations made by the applicant under oath in open court with respect to convictions in other states of offenses specified in subsection (a) of this section. Upon confirmation of eligibility and receipt of the

evaluation report, the defendant shall be referred to the Department of Mental Health and Addiction Services by the Court Support Services Division for placement in an appropriate alcohol intervention program for one year, or be placed in a state-licensed substance abuse treatment program. The alcohol intervention program shall include a ten-session intervention program and a fifteen-session intervention program. Any person who enters the pretrial alcohol education program shall agree: (1) To the tolling of the statute of limitations with respect to such crime, (2) to a waiver of such person's right to a speedy trial, (3) to complete ten or fifteen counseling sessions in an alcohol intervention program or successfully complete a substance abuse treatment program of not less than twelve sessions pursuant to this section dependent upon the evaluation report and the court order, (4) to commence participation in an alcohol intervention program or substance abuse treatment program not later than ninety days after the date of entry of the court order unless granted a delayed entry into a program by the court, (5) upon completion of participation in the alcohol intervention program, to accept placement in a substance abuse treatment program upon the recommendation of a provider under contract with the Department of Mental Health and Addiction Services pursuant to subsection (f) of this section or placement in a state-licensed substance abuse treatment program which meets standards established by the Department of Mental Health and Addiction Services, if the Court Support Services Division deems it appropriate, and (6) if ordered by the court, to participate in at least one victim impact panel. The suspension of the motor vehicle operator's license of any such person pursuant to section 14-227b shall be effective during the period such person is participating in the pretrial alcohol education program, provided such person shall have the option of not commencing the participation in such program until the period of such suspension is completed. If the Court Support Services Division informs the court that the defendant is ineligible for such program and the court makes a determination of ineligibility or if the program provider certifies to the court that the defendant did not successfully complete the assigned program or is no longer amenable to treatment and such person does not request, or the court denies, program reinstatement under subsection (e) of this section, the court shall order the court file to be unsealed, enter a plea of not guilty for such defendant and immediately place the case on the trial list. If such defendant satisfactorily completes the assigned program, such defendant may apply for dismissal of the charges against such defendant and the court, on reviewing the record of the defendant's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If the defendant does not apply for dismissal of the charges against such defendant after satisfactorily completing the assigned program the court, upon receipt of the record of the defendant's participation in such program submitted by the Court Support Services Division, may on its own motion make a finding of such satisfactory completion and dismiss the charges. Upon motion of the defendant and a showing of good cause, the court may extend the one-year placement period for a reasonable period for the defendant to complete the assigned program. A record of participation in such program shall be retained by the Court Support Services Division for a period of ten years from the date the court grants the application for participation in such program. The Court Support Services Division shall transmit to

the Department of Motor Vehicles a record of participation in such program for each person who satisfactorily completes such program. The Department of Motor Vehicles shall maintain for a period of ten years the record of a person's participation in such program as part of such person's driving record. The Court Support Services Division shall transmit to the Department of Energy and Environmental Protection the record of participation of any person who satisfactorily completes such program who has been charged with a violation of the provisions of subsection (d) of section 15-133 or section 15-140n. The Department of Energy and Environmental Protection shall maintain for a period of ten years the record of a person's participation in such program as a part of such person's boater certification record.

(c) At the time the court grants the application for participation in the pretrial alcohol education program, such person shall also pay to the court a nonrefundable program fee of three hundred fifty dollars if such person is ordered to participate in the ten-session intervention program and a nonrefundable program fee of five hundred dollars if such person is ordered to participate in the fifteen-session intervention program. If the court grants the application for participation in the pretrial alcohol education program and such person is ordered to participate in a substance abuse treatment program, such person shall be responsible for the costs associated with participation in such program. No person may be excluded from either program for inability to pay such fee or cost, provided (1) such person 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. If the court finds that a person is indigent or unable to pay for a treatment program, the costs of such program shall be paid from the pretrial account established under section 54-56k. If the court finds that a person is indigent or unable to pay for an intervention program, the court may waive all or any portion of the fee for such intervention program. If the court denies the application, such person shall not be required to pay the program fee. If the court grants the application and such person is later determined to be ineligible for participation in such pretrial alcohol education program or fails to complete the assigned program, the program fee shall not be refunded. All program fees shall be credited to the pretrial account established under section 54-56k.

(d) If a person returns to court with certification from a program provider that such person did not successfully complete the assigned program or is no longer amenable to treatment, the provider, to the extent practicable, shall include a recommendation to the court as to whether a ten-session intervention program, a fifteen-session intervention program or placement in a state-licensed substance abuse treatment program would best serve such person's needs. The provider shall also indicate whether the current program referral was an initial referral or a reinstatement to the program.

(e) When a person subsequently requests reinstatement into an alcohol intervention program or a substance abuse treatment program and the Court Support

Services Division verifies that such person is eligible for reinstatement into such program and thereafter the court favorably acts on such request, such person shall pay a nonrefundable program fee of one hundred seventy-five dollars if ordered to complete a ten-session intervention program or two hundred fifty dollars if ordered to complete a fifteen-session intervention program, as the case may be. Unless good cause is shown, such fees shall not be waived. If the court grants a person's request to be reinstated into a treatment program, such person shall be responsible for the costs, if any, associated with being reinstated into the treatment program. All program fees collected in connection with a reinstatement to an intervention program shall be credited to the pretrial account established under section 54-56k. No person shall be permitted more than two program reinstatements pursuant to this subsection.

(f) The Department of Mental Health and Addiction Services shall contract with service providers, develop standards and oversee appropriate alcohol programs to meet the requirements of this section. Said department shall adopt regulations, in accordance with chapter 54, to establish standards for such alcohol programs. Any person ordered to participate in a treatment program shall do so at a state-licensed treatment program which meets the standards established by said department. Any defendant whose employment or residence makes it unreasonable to attend an alcohol intervention program or a substance abuse treatment program in this state may attend a program in another state which has standards substantially similar to, or higher than, those of this state, subject to the approval of the court and payment of the application, evaluation and program fees and treatment costs, as appropriate, as provided in this section.

(g) The court may, as a condition of granting such application, require that such person participate in a victim impact panel program approved by the Court Support Services Division of the Judicial Department. Such victim impact panel program shall provide a nonconfrontational forum for the victims of alcohol-related or drug-related offenses and offenders to share experiences on the impact of alcohol-related or drug-related incidents in their lives. Such victim impact panel program shall be conducted by a nonprofit organization that advocates on behalf of victims of accidents caused by persons who operated a motor vehicle while under the influence of intoxicating liquor or any drug, or both. Such organization may assess a participation fee of not more than seventy-five dollars on any person required by the court to participate in such program, provided such organization shall offer a hardship waiver when it has determined that the imposition of a fee would pose an economic hardship for such person.

(h) The provisions of this section shall not be applicable in the case of any person charged with a violation of section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n (1) while operating a commercial motor vehicle, as defined in section 14-1~~, or (2) who holds a commercial driver's license or commercial driver's instruction permit at the time of the violation~~].

SECTION 3. *Sec. 54-56e of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a) There shall be a pretrial program for accelerated rehabilitation of persons accused of a crime or crimes or 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. Upon application by any such person for participation in the program, the court shall, but only as to the public, order the court file sealed.

(b) 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 a defendant (1) who, the court believes, will probably not offend in the future, (2) who has no previous record of conviction of a crime or of a violation of section 14-196, subsection (c) of section 14-215, section 14-222a, subsection (a) or subdivision (1) of subsection (b) of section 14-224, section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n, and (3) who states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury, (A) that the defendant has never had such program invoked on the defendant's behalf or that the defendant was charged with a misdemeanor or a motor vehicle violation for which a term of imprisonment of one year or less may be imposed and ten or more years have passed since the date that any charge or charges for which the program was invoked on the defendant's behalf were dismissed by the court, or (B) with respect to a defendant who is a veteran, that the defendant has not had such program invoked in the defendant's behalf more than once previously, provided the defendant shall agree thereto and provided notice has been given by the defendant, on a form prescribed 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. Any defendant who makes application for participation in such program shall pay to the court an application fee of thirty-five dollars. No defendant shall be allowed to participate in the pretrial program for accelerated rehabilitation more than two times. For the purposes of this section, "veteran" means any person who was discharged or released under conditions other than dishonorable from active service in the armed forces as defined in section 27-103.

(c) This section shall not be applicable: (1) To any person charged with (A) a class A felony, (B) a class B felony, except a violation of subdivision (1), (2) or (3) of subsection (a) of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of subdivision (4) of subsection (a) of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person and does not involve a violation by a person who is a public official, as defined in section 1-110, or a state or municipal employee, as defined in section 1-110, or (C) a violation of section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subdivision (2) of subsection (a) of section 53-21 or section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (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, causes the death of another

person, (3) to any person accused of a family violence crime as defined in section 46b-38a who (A) is eligible for the pretrial family violence education program established under section 46b-38c, or (B) has previously had the pretrial family violence education program invoked in such person's behalf, (4) to any person charged with a violation of section 21a-267 or 21a-279 who (A) is eligible for the pretrial drug education and community service program established under section 54-56i, or (B) has previously had the pretrial drug education program or the pretrial drug education and community service program invoked on such person's behalf, (5) unless good cause is shown, to (A) any person charged with a class C felony, or (B) any person charged with committing a violation of subdivision (1) of subsection (a) of section 53a-71 while such person was less than four years older than the other person, (6) to any person charged with a violation of section 9-359 or 9-359a, (7) to any person charged with a motor vehicle violation (A) while operating a commercial motor vehicle, as defined in section 14-1, ~~or (B) who holds a commercial driver's license or commercial driver's instruction permit at the time of the violation,~~ (8) to any person charged with a violation of subdivision (6) of subsection (a) of section 53a-60, or (9) to a health care provider or vendor participating in the state's Medicaid program charged with a violation of section 53a-122 or subdivision (4) of subsection (a) of section 53a-123.

(d) Except as provided in subsection (e) of this section, any defendant who enters such program shall pay to the court a participation fee of one hundred dollars. Any defendant who enters such program shall agree to the tolling of any statute of limitations with respect to such crime and to a waiver of the right to a speedy trial. Any such 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, except that, if a criminal docket for drug-dependent persons has been established pursuant to section 51-181b in the judicial district, such defendant may be transferred, under such conditions as the court shall order, to the court handling such docket for supervision by such court. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. The period of such probation or supervision, or both, shall not exceed two years. If the defendant has reached the age of sixteen years but has not reached the age of eighteen years, the court may order that as a condition of such probation the defendant be referred for services to a youth service bureau established pursuant to section 10-19m, provided the court finds, through an assessment by a youth service bureau or its designee, that the defendant is in need of and likely to benefit from such services. When determining any conditions of probation to order for a person entering such program who was charged with a misdemeanor that did not involve the use, attempted use or threatened use of physical force against another person or a motor vehicle violation, the court shall consider ordering the person to perform community service in the community in which the offense or violation occurred. If the court determines that community service is appropriate, such community service may be implemented by a community court established in accordance with section 51-181c if the offense or violation occurred within the jurisdiction of a community court established by said section. If the defendant is charged with a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, the

court may order that as a condition of such probation the defendant participate in a hate crimes diversion program as provided in subsection (e) of this section. If a defendant is charged with a violation of section 53-247, the court may order that as a condition of such probation the defendant undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant.

(e) If the court orders the defendant to participate in a hate crimes diversion program as a condition of probation, the defendant shall pay to the court a participation fee of four hundred twenty-five dollars. No person may be excluded from such program for inability to pay such fee, provided (1) such person 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 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 to, or higher than, those of this state, subject to the approval of the court and payment of the application and program fees as provided in this section. The hate crimes diversion program shall consist of an educational program and supervised community service.

(f) If a defendant released to the custody of the Court Support Services Division satisfactorily completes such defendant's period of probation, such defendant may apply for dismissal of the charges against such defendant and the court, on finding such satisfactory completion, shall dismiss such charges. If the defendant does not apply for dismissal of the charges against such defendant after satisfactorily completing such defendant's period of probation, the court, upon receipt of a report submitted by the Court Support Services Division that the defendant satisfactorily completed such defendant's period of probation, may on its own motion make a finding of such satisfactory completion and dismiss such charges. If a defendant transferred to the court handling the criminal docket for drug-dependent persons satisfactorily completes such defendant's period of supervision, the court shall release the defendant to the custody of the Court Support Services Division under such conditions as the court shall order or shall dismiss such charges. Upon dismissal, all records of such charges shall be erased pursuant to section 54-142a. An order of the court denying a motion to dismiss the charges against a defendant who has completed such defendant's period of probation or supervision or terminating the participation of a defendant in such program shall be a final judgment for purposes of appeal.

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2019 Legislative Proposal - #4

**AN ACT CONCERNING THE EXPENDITURES OF THE
DIVISION OF PUBLIC DEFENDER SERVICES AND
DIVERSIONARY PROGRAMS**

Purpose: To protect funding for the constitutional right to counsel for indigent persons and to provide confidentiality upon application to a diversionary program and a waiver of fees for indigent persons.

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

SECTION 1. *Sec. 4-85 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) Before an appropriation becomes available for expenditure, each budgeted agency shall submit to the Governor through the Secretary of the Office of Policy and Management, not less than twenty days before the beginning of the fiscal year for which such appropriation was made, a requisition for the allotment of the amount estimated to be necessary to carry out the purposes of such appropriation during each quarter of such fiscal year. Commencing with the fiscal year ending June 30, 2011, the initial allotment requisition for each line item appropriated to the legislative branch and to the judicial branch for any fiscal year shall be based upon the amount appropriated to such line item for such fiscal year minus any amount of budgeted reductions to be achieved by such branch for such fiscal year pursuant to subsection (c) of section 2-35. Appropriations for capital outlays may be allotted in any manner the Governor deems advisable. Such requisition shall contain any further information required by the Secretary of the Office of Policy and Management. The Governor shall approve such requisitions, subject to the provisions of subsection (b) of this section.

(b) Any allotment requisition and any allotment in force shall be subject to the following: (1) If the Governor determines that due to a change in circumstances since the budget was adopted certain reductions should be made in allotment requisitions or allotments in force or that estimated budget resources during the fiscal year will be insufficient to finance all appropriations in full, the Governor may modify such allotment requisitions or allotments in force to the extent the Governor deems necessary. Before such modifications are effected the Governor shall file a report with the joint standing committee having cognizance of matters relating to appropriations and the budgets of state agencies and the joint standing committee having cognizance of matters relating to state finance, revenue and bonding describing the change in circumstances which makes it necessary that certain reductions should be made or the basis for his determination that estimated budget resources will be insufficient to finance all appropriations in full. (2) If the cumulative monthly financial statement issued by the Comptroller pursuant to section 3-115 includes a projected General Fund deficit greater than one per cent of the total of General Fund appropriations, the Governor, within thirty days following the issuance of such statement, shall file a report with such joint standing committees, including a plan which he shall implement to modify such allotments to the extent necessary to prevent a deficit. No modification of an allotment requisition or an allotment in force made by the Governor pursuant to this subsection shall result in a reduction of more than three per cent of the total appropriation from any fund or more than five per cent of any appropriation, except such limitations shall not apply in time of war, invasion or emergency caused by natural disaster.

(c) If a plan submitted in accordance with subsection (b) of this section indicates that a reduction of more than three per cent of the total appropriation from any fund or more than five per cent of any appropriation is required to prevent a deficit, the Governor may request that the Finance Advisory Committee approve any such reduction, provided any modification which would result in a reduction of more than five per cent of total appropriations shall require the approval of the General Assembly.

(d) The secretary shall submit copies of allotment requisitions thus approved or modified or allotments in force thus modified, with the reasons for any modifications, to the administrative heads of the budgeted agencies concerned, to the Comptroller and to the joint standing committee of the General Assembly having cognizance of appropriations and matters relating to the budgets of state agencies, through the Office of Fiscal Analysis. The Comptroller shall set up such allotments on the Comptroller's books and be governed thereby in the control of expenditures of budgeted agencies.

(e) The provisions of this section shall not be construed to authorize the Governor to reduce allotment requisitions or allotments in force concerning (1) aid to municipalities; or (2) any budgeted agency of the legislative or judicial branch, except that the Governor may propose an aggregate allotment reduction of a specified amount in accordance with this section for the legislative or judicial branch. If the Governor proposes to reduce allotment requisitions or allotments in force for any budgeted agency of the legislative or judicial branch, the Secretary of the Office of Policy and Management shall, at least five days before the effective date of such proposed reductions, notify the president pro

tempore of the Senate and the speaker of the House of Representatives of any such proposal affecting the legislative branch and the Chief Justice of any such proposal affecting the judicial branch and the Chief Public Defender of any such proposal affecting the Division of Public Defender Services. Such notification shall include the amounts, effective dates and reasons necessitating the proposed reductions. Not later than three days after receipt of such notification, the president pro tempore or the speaker, or both, or the Chief Justice and the Chief Public Defender of the Division of Public Defender Services, as appropriate, may notify the Secretary of the Office of Policy and Management and the chairpersons and ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, in writing, of any objection to the proposed reductions. The committee may hold a public hearing on such proposed reductions. Such proposed reductions shall become effective unless they are rejected by a two-thirds vote of the members of the committee not later than fifteen days after receipt of the notification of objection to the proposed reductions. If the committee rejects such proposed reductions, the Secretary of the Office of Policy and Management shall present an alternative plan to achieve such reductions to the president pro tempore and the speaker for any such proposal affecting the legislative branch or to the Chief Justice and the Chief Public Defender of the Division of Public Defender Services for any such proposal affecting the judicial branch. If proposed reductions in allotment requisitions or allotments in force for any budgeted agency of the legislative or judicial branch are not rejected, such reductions shall be achieved as determined by the Joint Committee on Legislative Management or the Chief Justice and the Chief Public Defender of the Division of Public Defender Services, as appropriate. The Joint Committee on Legislative Management or the Chief Justice and the Chief Public Defender of the Division of Public Defender Services, as appropriate, shall submit such reductions to the Governor through the Secretary of the Office of Policy and Management not later than ten days after the proposed reductions become effective.

SECTION 2. (NEW) (Effective from passage):

(A) Upon application by any such person for participation in any diversionary program as listed in this section, the court shall, but only as to the public, order the court file sealed. The court shall also waive all application, program, administration and/or participation fees pertaining to the following diversionary programs for any person for whom the court has appointed counsel pursuant to section 51-296 of the general statutes:

(1) The community service labor program established pursuant to section 53a-39c of the general statutes;

(2) The pretrial program for accelerated rehabilitation established pursuant to section 54-56e of the general statutes;

(3) The pretrial alcohol education program established pursuant to section 54-56g of the general statutes;

(4) The pretrial drug education and community service program established pursuant to section 54-56i of the general statutes;

(5) The school violence prevention program established pursuant to section 54-56j of the general statutes;

(6) The pretrial family violence education program established pursuant to section 46b-38c of the general statutes;

(7) An examination for alcohol or drug dependency conducted pursuant to section 17a-694 of the general statutes;

(8) Upon the granting of a motion for suspension of prosecution and order of treatment for alcohol or drug dependency pursuant to section 17b-696 of the general statutes; and

(9) A sentence of probation including any and all program fees for any person sentenced to a period of probation, including juvenile and youthful offender probation sentences.

SECTION 3. (New) (Effective from passage):

The court shall not, as a condition of waiving fees required pursuant to any of the programs and probation as articulated in Section 1, require that a person determined indigent and eligible for representation pursuant to section 51-296 and who has been appointed counsel, perform community service in lieu of such fees.