



General Assembly

February Session, 2020

Raised Bill No. 5494

LCO No. 2740



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING CRIME VICTIMS' RIGHTS.

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

1 Section 1. Section 53a-32 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 (a) At any time during the period of probation or conditional
4 discharge, the court or any judge thereof may issue a warrant for the
5 arrest of a defendant for violation of any of the conditions of probation
6 or conditional discharge, or may issue a notice to appear to answer to a
7 charge of such violation, which notice shall be personally served upon
8 the defendant. Any such warrant shall authorize all officers named
9 therein to return the defendant to the custody of the court or to any
10 suitable detention facility designated by the court. Whenever a
11 probation officer has probable cause to believe that a person has violated
12 a condition of such person's probation, such probation officer may
13 notify any police officer that such person has, in such officer's judgment,
14 violated the conditions of such person's probation and such notice shall
15 be sufficient warrant for the police officer to arrest such person and
16 return such person to the custody of the court or to any suitable

17 detention facility designated by the court. Whenever a probation officer
18 so notifies a police officer, the probation officer shall notify the victim of
19 the offense for which such person is on probation, and any victim
20 advocate assigned to assist the victim, provided the probation officer
21 has been provided with the name and contact information for such
22 victim or victim advocate. Any probation officer may arrest any
23 defendant on probation without a warrant or may deputize any other
24 officer with power to arrest to do so by giving such other officer a
25 written statement setting forth that the defendant has, in the judgment
26 of the probation officer, violated the conditions of the defendant's
27 probation. Such written statement, delivered with the defendant by the
28 arresting officer to the official in charge of any correctional center or
29 other place of detention, shall be sufficient warrant for the detention of
30 the defendant. After making such an arrest, such probation officer shall
31 present to the detaining authorities a similar statement of the
32 circumstances of violation. Provisions regarding release on bail of
33 persons charged with a crime shall be applicable to any defendant
34 arrested under the provisions of this section. Upon such arrest and
35 detention, the probation officer shall immediately so notify the court or
36 any judge thereof.

37 (b) When the defendant is presented for arraignment on the charge
38 of violation of any of the conditions of probation or conditional
39 discharge, the court shall review any conditions previously imposed on
40 the defendant and may order, as a condition of the pretrial release of the
41 defendant, that the defendant comply with any or all of such conditions
42 in addition to any conditions imposed pursuant to section 54-64a.
43 Unless the court, pursuant to subsection (c) of section 54-64a, orders that
44 the defendant remain under the supervision of a probation officer or
45 other designated person or organization, the defendant shall be
46 supervised by the Court Support Services Division of the Judicial
47 Branch in accordance with subsection (a) of section 54-63b.

48 (c) Upon notification by the probation officer of the arrest of the
49 defendant or upon an arrest by warrant as [herein] provided in this
50 section, the court shall cause the defendant to be brought before it

51 without unnecessary delay for a hearing on the violation charges. The
52 Court Support Services Division shall establish within its policies and
53 procedures a requirement that any victim of the offense for which the
54 defendant is on probation be notified of such arrest for a violation of any
55 of the conditions of probation. The Court Support Services Division
56 shall also provide the victim with notice of the first hearing date after
57 arraignment on the violation of probation charges, as well as
58 information on registering for the state-wide automated victim
59 information and notification system.

60 (d) The court shall permit such victim to appear before the court for
61 the purpose of making a statement for the record concerning the
62 defendant's alleged violation of probation or conditional discharge. In
63 lieu of such appearance, the victim may submit a written statement to
64 the court and the court shall make such statement a part of the record.
65 At such hearing the defendant shall be informed of the manner in which
66 such defendant is alleged to have violated the conditions of such
67 defendant's probation or conditional discharge, shall be advised by the
68 court that such defendant has the right to retain counsel and, if indigent,
69 shall be entitled to the services of the public defender, and shall have
70 the right to cross-examine witnesses and to present evidence in such
71 defendant's own behalf. Prior to making a determination as to whether
72 the defendant has violated the conditions of probation or conditional
73 discharge, the court shall consider any statement made or submitted by
74 such victim. Unless good cause is shown, a charge of violation of any of
75 the conditions of probation or conditional discharge shall be disposed
76 of or scheduled for a hearing not later than one hundred twenty days
77 after the defendant is arraigned on such charge.

78 [(d)] (e) If such violation is established, the court may: (1) Continue
79 the sentence of probation or conditional discharge; (2) modify or enlarge
80 the conditions of probation or conditional discharge; (3) extend the
81 period of probation or conditional discharge, provided the original
82 period with any extensions shall not exceed the periods authorized by
83 section 53a-29; or (4) revoke the sentence of probation or conditional
84 discharge. If such sentence is revoked, the court shall require the

85 defendant to serve the sentence imposed or impose any lesser sentence.
86 Any such lesser sentence may include a term of imprisonment, all or a
87 portion of which may be suspended entirely or after a period set by the
88 court, followed by a period of probation with such conditions as the
89 court may establish. No such revocation shall be ordered, except upon
90 consideration of the whole record and unless such violation is
91 established by the introduction of reliable and probative evidence and
92 by a preponderance of the evidence.

93 Sec. 2. Section 54-56e of the 2020 supplement to the general statutes
94 is repealed and the following is substituted in lieu thereof (*Effective*
95 *October 1, 2020*):

96 (a) There shall be a pretrial program for accelerated rehabilitation of
97 persons accused of a crime or crimes or a motor vehicle violation or
98 violations for which a sentence to a term of imprisonment may be
99 imposed, which crimes or violations are not of a serious nature. Upon
100 application by any such person for participation in the program, the
101 court shall, but only as to the public, order the court file sealed, except
102 as provided in subsection (g) of this section.

103 (b) The court may, in its discretion, invoke such program on motion
104 of the defendant or on motion of a state's attorney or prosecuting
105 attorney with respect to a defendant (1) who, the court believes, will
106 probably not offend in the future, (2) who has no previous record of
107 conviction of a crime or of a violation of section 14-196, subsection (c) of
108 section 14-215, section 14-222a, subsection (a) or subdivision (1) of
109 subsection (b) of section 14-224, section 14-227a or 14-227m or
110 subdivision (1) or (2) of subsection (a) of section 14-227n, and (3) who
111 states under oath, in open court or before any person designated by the
112 clerk and duly authorized to administer oaths, under the penalties of
113 perjury, (A) that the defendant has never had such program invoked on
114 the defendant's behalf or that the defendant was charged with a
115 misdemeanor or a motor vehicle violation for which a term of
116 imprisonment of one year or less may be imposed and ten or more years
117 have passed since the date that any charge or charges for which the

118 program was invoked on the defendant's behalf were dismissed by the
119 court, or (B) with respect to a defendant who is a veteran, that the
120 defendant has not had such program invoked in the defendant's behalf
121 more than once previously, provided the defendant shall agree thereto
122 and provided notice has been given by the defendant, on a form
123 prescribed by the Office of the Chief Court Administrator, to the victim
124 or victims of such crime or motor vehicle violation, if any, by registered
125 or certified mail and such victim or victims have an opportunity to be
126 heard thereon. Any defendant who makes application for participation
127 in such program shall pay to the court an application fee of thirty-five
128 dollars. No defendant shall be allowed to participate in the pretrial
129 program for accelerated rehabilitation more than two times. For the
130 purposes of this section, "veteran" means any person who was
131 discharged or released under conditions other than dishonorable from
132 active service in the armed forces as defined in section 27-103.

133 (c) This section shall not be applicable: (1) To any person charged
134 with (A) a class A felony, (B) a class B felony, except a violation of
135 subdivision (1), (2) or (3) of subsection (a) of section 53a-122 that does
136 not involve the use, attempted use or threatened use of physical force
137 against another person, or a violation of subdivision (4) of subsection (a)
138 of section 53a-122 that does not involve the use, attempted use or
139 threatened use of physical force against another person and does not
140 involve a violation by a person who is a public official, as defined in
141 section 1-110, or a state or municipal employee, as defined in section 1-
142 110, or (C) a violation of section 53a-70b of the general statutes, revision
143 of 1958, revised to January 1, 2019, or section 14-227a or 14-227m,
144 subdivision (1) or (2) of subsection (a) of section 14-227n, subdivision (2)
145 of subsection (a) of section 53-21 or section 53a-56b, 53a-60d, 53a-70, 53a-
146 70a, 53a-71, except as provided in subdivision (5) of this subsection, 53a-
147 72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f, (2) to any person charged
148 with a crime or motor vehicle violation who, as a result of the
149 commission of such crime or motor vehicle violation, causes the death
150 of another person, (3) to any person accused of a family violence crime
151 as defined in section 46b-38a who (A) is eligible for the pretrial family

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

172 (d) Except as provided in subsection (e) of this section, any defendant
173 who enters such program shall pay to the court a participation fee of one
174 hundred dollars. Any defendant who enters such program shall agree
175 to the tolling of any statute of limitations with respect to such crime and
176 to a waiver of the right to a speedy trial. Any such defendant shall
177 appear in court and shall, under such conditions as the court shall order,
178 be released to the custody of the Court Support Services Division, except
179 that, if a criminal docket for drug-dependent persons has been
180 established pursuant to section 51-181b in the judicial district, such
181 defendant may be transferred, under such conditions as the court shall
182 order, to the court handling such docket for supervision by such court.
183 If the defendant refuses to accept, or, having accepted, violates such
184 conditions, the defendant's case shall be brought to trial. The period of
185 such probation or supervision, or both, shall not exceed two years. If the

186 defendant has reached the age of sixteen years but has not reached the
187 age of eighteen years, the court may order that as a condition of such
188 probation the defendant be referred for services to a youth service
189 bureau established pursuant to section 10-19m, provided the court
190 finds, through an assessment by a youth service bureau or its designee,
191 that the defendant is in need of and likely to benefit from such services.
192 When determining any conditions of probation to order for a person
193 entering such program who was charged with a misdemeanor that did
194 not involve the use, attempted use or threatened use of physical force
195 against another person or a motor vehicle violation, the court shall
196 consider ordering the person to perform community service in the
197 community in which the offense or violation occurred. If the court
198 determines that community service is appropriate, such community
199 service may be implemented by a community court established in
200 accordance with section 51-181c if the offense or violation occurred
201 within the jurisdiction of a community court established by said section.
202 If the defendant is charged with a violation of section 46a-58, 53-37a,
203 53a-181j, 53a-181k or 53a-181l, the court may order that as a condition of
204 such probation the defendant participate in a hate crimes diversion
205 program as provided in subsection (e) of this section. If a defendant is
206 charged with a violation of section 53-247, the court may order that as a
207 condition of such probation the defendant undergo psychiatric or
208 psychological counseling or participate in an animal cruelty prevention
209 and education program provided such a program exists and is available
210 to the defendant.

211 (e) If the court orders the defendant to participate in a hate crimes
212 diversion program as a condition of probation, the defendant shall pay
213 to the court a participation fee of four hundred twenty-five dollars. No
214 person may be excluded from such program for inability to pay such
215 fee, provided (1) such person files with the court an affidavit of
216 indigency or inability to pay, (2) such indigency or inability to pay is
217 confirmed by the Court Support Services Division, and (3) the court
218 enters a finding thereof. The Judicial Department shall contract with
219 service providers, develop standards and oversee appropriate hate

220 crimes diversion programs to meet the requirements of this section. Any
221 defendant whose employment or residence makes it unreasonable to
222 attend a hate crimes diversion program in this state may attend a
223 program in another state which has standards substantially similar to,
224 or higher than, those of this state, subject to the approval of the court
225 and payment of the application and program fees as provided in this
226 section. The hate crimes diversion program shall consist of an
227 educational program and supervised community service.

228 (f) If a defendant released to the custody of the Court Support
229 Services Division satisfactorily completes such defendant's period of
230 probation, such defendant may apply for dismissal of the charges
231 against such defendant and the court, on finding such satisfactory
232 completion, shall dismiss such charges. If the defendant does not apply
233 for dismissal of the charges against such defendant after satisfactorily
234 completing such defendant's period of probation, the court, upon
235 receipt of a report submitted by the Court Support Services Division that
236 the defendant satisfactorily completed such defendant's period of
237 probation, may on its own motion make a finding of such satisfactory
238 completion and dismiss such charges. If a defendant transferred to the
239 court handling the criminal docket for drug-dependent persons
240 satisfactorily completes such defendant's period of supervision, the
241 court shall release the defendant to the custody of the Court Support
242 Services Division under such conditions as the court shall order or shall
243 dismiss such charges. Upon dismissal, all records of such charges shall
244 be erased pursuant to section 54-142a, except as provided in subsection
245 (g) of this section. An order of the court denying a motion to dismiss the
246 charges against a defendant who has completed such defendant's period
247 of probation or supervision or terminating the participation of a
248 defendant in such program shall be a final judgment for purposes of
249 appeal.

250 (g) In the case of a defendant who is charged with a violation of
251 section 53a-129c, 53a-129d or 53a-129e and participates in the program,
252 the victim of such offense shall be able to access the victim's complaint
253 against the defendant and any report by a law enforcement agency

254 concerning such offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	53a-32
Sec. 2	<i>October 1, 2020</i>	54-56e

Statement of Purpose:

To ensure crime victims are permitted to attend and participate in violation of probation or conditional discharge hearings and to provide crime victims access to information about the arrest and conviction of a defendant in the case of identity theft when the defendant participates in accelerated rehabilitation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]