



Substitute Senate Bill No. 1055

Public Act No. 19-151

AN ACT ESTABLISHING A TASK FORCE TO STUDY THE JUROR SELECTION PROCESS, PROVIDING ACCESS TO CERTAIN RECORDS POSSESSED BY THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES, CONNECTICUT VALLEY HOSPITAL AND THE PSYCHIATRIC SECURITY REVIEW BOARD, AND CONCERNING SENTENCING OF PERSISTENT LARCENY OFFENDERS AND CONFIDENTIALITY UPON APPLICATION TO A DIVERSIONARY PROGRAM.

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

Section 1. (*Effective from passage*) (a) There is established a task force to study jury selection in the state to determine whether processes currently in place result in a fair cross-section of the community being summoned for jury duty and whether a fair cross-section of the community appear for jury service. In connection with such study, the task force may (1) collect statistics and conduct data analysis of jurors appearing for jury service, (2) review juror selection processes and procedures utilized in other jurisdictions, and (3) conduct research that is consistent with the objectives of the study. Such study shall be undertaken with the objective of ensuring that the state's juror selection processes encompass a full and fair representation of the community at large.

(b) The task force shall consist of the following members:

Substitute Senate Bill No. 1055

(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) The president of the Connecticut Asian Pacific American Bar Association, or the president's designee;

(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; and

(13) The deans of The University of Connecticut School of Law, Quinnipiac University School of Law and Yale Law School, or their respective designees.

Substitute Senate Bill No. 1055

(c) All appointments to the task force shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(d) The Chief Court Administrator shall select the chairpersons of the task force from among the members of the task force. Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than sixty days after the effective date of this section.

(e) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary shall serve as administrative staff of the task force.

(f) Not later than July 1, 2020, the task force shall report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary and to the Chief Court Administrator, in accordance with the provisions of section 11-4a of the general statutes. Such recommendations may include statutory revisions that would enhance the representativeness of the juror array. The task force shall terminate on the date that it submits such report or July 1, 2020, whichever is later.

Sec. 2. (NEW) (*Effective from passage*) (a) Any image or recording of an acquittee, who is under the jurisdiction of the Psychiatric Security Review Board, that is recorded within or on the property of any inpatient facility of the Department of Mental Health and Addiction Services where the acquittee receives treatment, shall be reviewable by counsel representing the acquittee in any matter before the Psychiatric Security Review Board or the Superior Court related to the jurisdiction of the Psychiatric Security Review Board upon written request made to the director of such facility. The director of such facility shall permit such review to occur not later than thirty days after the date of receipt

Substitute Senate Bill No. 1055

of the written request, provided (1) the acquittee consents to such review; (2) any other identifiable patient in the image or recording consents to such review; (3) such review shall be conducted in accordance with the provisions of subsection (d) of section 17a-596 of the general statutes; and (4) the image or recording for which review is sought is not the subject of a pending criminal investigation by state or local law enforcement officials, including any agency police of the Department of Mental Health and Addiction Services, for which there exists a record of such investigation or a pending criminal prosecution. The Department of Mental Health and Addiction Services, when permitting such review, shall adhere to all other provisions of the general statutes and federal law or regulation concerning the confidentiality of records and protected health information of psychiatric patients. As used in this section, "image or recording" includes, but is not limited to, a still or electronically stored photograph and any video or audio recording stored on any device.

(b) Notwithstanding the provisions of subsection (a) of this section, any such image or recording shall remain the property of the Department of Mental Health and Addiction Services and shall be utilized and maintained in compliance with all applicable state and federal laws and regulations.

Sec. 3. Section 53a-40 of the general statutes 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

Substitute Senate Bill No. 1055

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

Substitute Senate Bill No. 1055

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

Substitute Senate Bill No. 1055

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) A persistent larceny offender is a person who (1) 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 (2) has been, at separate times, [prior to the commission of the present larceny,] twice convicted of the crime of larceny for violations committed during the ten years prior to the commission of the present 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

Substitute Senate Bill No. 1055

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

Substitute Senate Bill No. 1055

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) (1) 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, 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, but prior to October 1, 2019.

(2) 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 for a violation committed on or after October 1, 2019, may impose the sentence of (A) imprisonment for a class E felony

Substitute Senate Bill No. 1055

authorized by section 53a-35a, if such person presently stands convicted of a violation of section 53a-125, or (B) imprisonment authorized by section 53a-36 for the next more serious degree of misdemeanor authorized under section 53a-36 if such person presently stands convicted of a violation of section 53a-125a or 53a-125b.

(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

Substitute Senate Bill No. 1055

such person to be transferred to a judicial district courthouse.

(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.

Sec. 4. Subsection (a) of section 54-56g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(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] the court shall, but only

Substitute Senate Bill No. 1055

as to the public, order the court file sealed, and such person shall pay 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] and such person shall state 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 subdivision (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

Substitute Senate Bill No. 1055

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.

Sec. 5. Subsection (b) of section 54-56i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Upon application by any such person for participation in such program, [and payment] the court shall, but only as to the public, order the court file sealed, and such person shall pay to the court of an application fee of one hundred dollars and a nonrefundable evaluation fee of one hundred fifty dollars. [, the court shall, but only as to the public, order the court file sealed.] A person shall be ineligible for participation in such pretrial drug education and community service program if such person has twice previously participated in (1) the pretrial drug education program established under the provisions of this section in effect prior to October 1, 2013, (2) the community service labor program established under section 53a-39c, (3) the pretrial drug education and community service program established under this section, or (4) any of such programs, except that the court may allow a

Substitute Senate Bill No. 1055

person who has twice previously participated in such programs to participate in the pretrial drug education and community service program one additional time, for good cause shown. The evaluation and application fee imposed under this subsection shall be credited to the pretrial account established under section 54-56k.

Sec. 6. Subsection (a) of section 54-56j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be a school violence prevention program for students of a public or private secondary school charged with an offense involving the use or threatened use of physical violence in or on the real property comprising a public or private elementary or secondary school or at a school-sponsored activity as defined in subsection (h) of section 10-233a. Upon application by any such person for participation in such program, the court shall, but only as to the public, order the court file sealed, [provided] and such person [states] shall state under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury that such person has never had such system invoked in such person's behalf and that such person has not been convicted of an offense involving the threatened use of physical violence in or on the real property comprising a public or private elementary or secondary school or at a school-sponsored activity as defined in subsection (h) of section 10-233a, and that 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 such an offense.