



General Assembly

February Session, 2000

**Raised Bill No. 5699**

LCO No. 513

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***An Act Concerning Assisted Outpatient Treatment For Persons With Psychiatric Disabilities Having A Propensity For Violence.***

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

1 Section 1. (NEW) (a) For the purposes of this section:

2 (1) "Assisted outpatient treatment" means a treatment program that  
3 provides for the monitoring of persons with psychiatric disabilities  
4 who have demonstrated a propensity for violence to ensure that such  
5 persons comply with their treatment plan and take medication for the  
6 treatment of their psychiatric disabilities. Such program shall consist of  
7 intensive monitoring of, and interaction with, persons with psychiatric  
8 disabilities on an outpatient basis by staff members of a supervising  
9 agency having appropriate training and clinically manageable  
10 caseloads who shall (A) visit the participants on a regular basis to  
11 monitor the taking by the participants of the medication prescribed for  
12 the treatment of their psychiatric disabilities; (B) ensure that the  
13 participants take their medication on schedule by directly observing  
14 the participants ingesting each dosage of their medication; (C) monitor  
15 the living conditions of the participants; (D) provide the participants  
16 with information about any services for which they may be eligible

17 and assist them in applying for and receiving such services; (E)  
18 attempt to develop a rapport with the participants and earn their trust.

19 (2) "Examining physician" means a physician licensed to practice  
20 medicine in the state of Connecticut who is not related by blood or  
21 marriage to the respondent nor to the applicant and who has examined  
22 the respondent not less than ten days prior to the submission of an  
23 application for an order of assisted outpatient treatment.

24 (3) "Respondent" means a person with psychiatric disabilities who is  
25 the subject of an application for an order of assisted outpatient  
26 treatment.

27 (4) "Supervising agency" means an appropriate public or private  
28 agency that provides services for the care and treatment of persons  
29 with psychiatric disabilities that is designated by the Probate Court to  
30 supervise and monitor a respondent ordered to receive assisted  
31 outpatient treatment.

32 (b) A member of a person's immediate family, an individual  
33 identified by a person as being concerned with such person's welfare,  
34 the Commissioner of Mental Health and Addiction Services, the  
35 director of an agency or facility providing services for the care and  
36 treatment of persons with psychiatric disabilities or a person's  
37 probation or parole officer may make application to the Court of  
38 Probate for an order requiring the respondent to receive assisted  
39 outpatient treatment. The application shall contain the facts that  
40 support the applicant's belief that the respondent meets the criteria set  
41 forth in subsection (c) of this section and a clinical recommendation for  
42 assisted outpatient treatment made by the examining physician.

43 (c) The Court of Probate may order the respondent to receive  
44 assisted outpatient treatment if the court finds that:

45 (1) The respondent is eighteen years of age or older;

46 (2) The respondent is a person with psychiatric disabilities, as

47 defined in subsection (a) of section 17a-458 of the general statutes;

48 (3) The respondent has inflicted or threatened to inflict serious  
49 physical injury upon another person or persons on one or more  
50 occasions and such actions were caused by the psychiatric disabilities  
51 with which the person has been diagnosed and is documented by  
52 objective medical and other factual evidence;

53 (4) The respondent has a history of lack of compliance with  
54 treatment plans;

55 (5) The respondent's treatment plan includes the taking of  
56 medication;

57 (6) The respondent will voluntarily take medication for the  
58 treatment of his or her psychiatric disabilities;

59 (7) If the respondent fails to take his or her prescribed medication,  
60 the respondent will likely suffer a relapse or deterioration and be at  
61 risk of inflicting or threatening to inflict serious physical injury upon  
62 another person or persons; and

63 (8) The respondent will likely benefit from assisted outpatient  
64 treatment.

65 (d) Upon an application for an order of assisted outpatient  
66 treatment being filed in the Probate Court, such court shall assign a  
67 time, not later than ten business days thereafter, and a place for  
68 hearing such application, and shall cause reasonable notice thereof to  
69 be given to the respondent and to such relative and friends as it deems  
70 advisable. Such notice shall inform such respondent that he or she has  
71 a right to be present at the hearing, that he or she has a right to  
72 counsel, that he or she, if indigent, has a right to have counsel  
73 appointed to represent him or her and to have an independent  
74 physician appointed to examine him or her and that he or she has a  
75 right to cross-examine witnesses testifying at any such hearing.

76 (e) If the court finds such respondent is indigent or otherwise  
77 unable to pay for counsel, the court shall appoint counsel for such  
78 respondent, unless such respondent refuses counsel and the court  
79 finds that the respondent understands the nature of his or her refusal.  
80 The court shall provide such respondent a reasonable opportunity to  
81 select his or her own counsel to be appointed by the court. If the  
82 respondent does not select counsel or if counsel selected by the  
83 respondent refuses to represent such respondent or is not available for  
84 such representation, the court shall appoint counsel for the respondent  
85 from a panel of attorneys admitted to practice in this state provided by  
86 the Probate Court Administrator in accordance with regulations  
87 promulgated by the Probate Court Administrator in accordance with  
88 section 45a-77 of the general statutes. The reasonable compensation of  
89 appointed counsel shall be established by the Probate Court  
90 Administrator and paid from the Probate Court Administration Fund.  
91 Prior to such hearing, such respondent, or his or her counsel, shall be  
92 afforded access to all records including, without limitation, hospital  
93 records if such respondent is hospitalized, and shall be entitled to take  
94 notes therefrom. If such respondent is hospitalized at the time of the  
95 hearing, the hospital shall make available at such hearing for use by  
96 the patient or his or her counsel all records in its possession relating to  
97 condition of the respondent. Notwithstanding the provisions of  
98 sections 52-146d to 52-146i, inclusive, of the general statutes, all such  
99 hospital records directly relating to the respondent shall be admissible  
100 at the request of any party or the Court of Probate in any proceeding  
101 conducted pursuant to this section. Nothing herein shall prevent  
102 timely objection to the admissibility of evidence in accordance with the  
103 rules of civil procedure.

104 (f) The court shall require the sworn certificate of the examining  
105 physician. Such certificate shall indicate that such physician has  
106 personally examined such person within twenty days prior to such  
107 hearing. Such certificate shall state the facts which support the  
108 respondent's meeting all the criteria for receiving assisted outpatient  
109 treatment. Such respondent or such respondent's counsel shall have

110 the right to present evidence and cross-examine witnesses who testify  
111 at any hearing on the application. At the hearing the respondent shall  
112 be afforded the opportunity to present all relevant evidence. If the  
113 Probate Court determines that the respondent is indigent, an  
114 independent physician shall be appointed to examine the respondent  
115 and be available to testify at the hearing if the respondent so chooses.  
116 The independent physician shall be selected from a list of such  
117 qualified physicians as maintained by the Probate Court  
118 Administrator. The costs of the independent physician will be borne by  
119 the Department of Mental Health and Addiction Services. If such  
120 respondent notifies the court not less than three days before the  
121 hearing that he or she wishes to cross-examine the examining  
122 physician, the court shall order such physician to appear. The court  
123 shall cause a recording of the testimony of such hearing to be made to  
124 be transcribed only in the event of an appeal from the order rendered  
125 under this section. A copy of such transcript shall be furnished without  
126 charge to any appellant whom the Court of Probate finds unable to  
127 pay for the same. The cost of such transcript shall be paid from funds  
128 appropriated to the Judicial Department.

129 (g) If, on such hearing, the court finds by clear and convincing  
130 evidence that the respondent meets the criteria for participation in the  
131 assisted outpatient treatment program, and that there is no appropriate  
132 and feasible less restrictive alternative, it shall order the respondent to  
133 participate in such program for a period not to exceed one hundred  
134 eighty days. The order shall include a prescribed treatment plan. The  
135 order shall further designate a supervising agency. Prior to the  
136 designation, the court shall notify the proposed supervising agency  
137 and provide such agency with an opportunity to be heard before the  
138 court. After receiving an order of assisted outpatient treatment, the  
139 supervising agency shall assume the responsibility for supervising and  
140 monitoring the implementation of the prescribed treatment plan.  
141 Notice of any action taken by the court shall be given to the  
142 respondent and his or her attorney, if any, in such manner as the court  
143 concludes would be appropriate under the circumstances.

144 (h) If the supervising agency determines that a respondent currently  
145 under an order of assisted outpatient treatment requires an additional  
146 period of assisted outpatient treatment, a petition shall be filed with  
147 the probate court seeking such continued treatment not less than  
148 fifteen days prior to the expiration of the current order. The court shall  
149 conduct a hearing on the continued treatment in accordance with the  
150 procedures for ordering assisted outpatient treatment pursuant to  
151 subsections (c) to (g), inclusive, of this section. If the court determines  
152 that the respondent continues to meet the requirements for assisted  
153 outpatient treatment as set forth in subsection (c) of this section it may  
154 order the respondent to receive assisted outpatient treatment for an  
155 additional period not to exceed one hundred eighty days.

156 (i) Nothing in this section shall preclude the admission,  
157 commitment or detention of a person otherwise authorized by law,  
158 including, but not limited to, the provisions of sections 17a-495 to  
159 17a-528, inclusive, of the general statutes, as amended.

160 (j) Notwithstanding any provision of general statutes, no  
161 supervising agency shall be liable for damages or injury caused by an  
162 individual who is subject to an order of assisted outpatient treatment  
163 unless such agency's actions with respect to that individual are  
164 wanton, reckless or malicious or are such a substantial departure from  
165 accepted professional judgment, practice or standards as to  
166 demonstrate that professional judgment was not exercised, and unless  
167 it is demonstrated that such damages or injury would not have been  
168 sustained absent the supervising agency's actions. For purposes of this  
169 subsection, "supervising agency" shall include any related entity,  
170 official, employee or agent of a supervising agency.

171 Sec. 2. (NEW) If a person with psychiatric disabilities who is  
172 ordered to receive assisted outpatient treatment under section 1 of this  
173 act fails or refuses to take medication for such person's psychiatric  
174 disabilities in accordance with the treatment plan ordered by the  
175 Probate Court, the supervising agency shall report such

176 noncompliance to the Probate Court. If the court determines that there  
177 is reasonable cause to believe that such person has psychiatric  
178 disabilities and is dangerous to himself or herself or others or gravely  
179 disabled, it shall order that such person be taken to a general hospital  
180 for examination. The person shall be examined within twenty-four  
181 hours and shall not be held for more than seventy-two hours unless  
182 committed under section 17a-502 of the general statutes.

***Statement of Purpose:***

To protect public safety by providing assisted outpatient treatment to persons with psychiatric disabilities who pose a risk of causing serious physical injury to other persons if they fail to take medication prescribed for their psychiatric disability.

*[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.]*