



General Assembly

January Session, 2001

Raised Bill No. 6535

LCO No. 3024

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING LIMITED LIABILITY FOR COURT APPOINTED HEALTH CARE GUARDIANS.

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

1 Subsection (k) of section 54-56d of the general statutes is repealed
2 and the following is substituted in lieu thereof:

3 (k) (1) When any placement order for treatment is rendered or
4 continued, the court shall set a date for a hearing, to be held within
5 ninety days, for reconsideration of the issue of the defendant's
6 competency. Whenever the court receives a report pursuant to
7 subsection (j) which indicates that (A) the defendant has attained
8 competency, (B) the defendant will not attain competency within the
9 remainder of the period covered by the placement order, or (C) the
10 defendant will not attain competency within the remainder of the
11 period covered by the placement order absent administration of
12 psychiatric medication for which the defendant is unwilling or unable
13 to provide consent, the court shall set the matter for a hearing no later
14 than ten days after the report is received. The hearing may be waived
15 by the defendant only if the report indicates that he is competent. The
16 court shall determine whether the defendant is competent or whether

17 he is making progress toward attainment of competency within the
18 period covered by the placement order. If the court finds that the
19 defendant is competent, he shall be returned to the custody of the
20 Commissioner of Correction or released, if he has met the conditions
21 for release, and the court shall continue with the criminal proceedings.
22 If the court finds that the defendant is still not competent but that he is
23 making progress toward attaining competency, it may continue or
24 modify the placement order. If the court finds that the defendant is still
25 not competent and will not attain competency within the remainder of
26 the period covered by the placement order absent administration of
27 psychiatric medication for which he is unwilling or unable to provide
28 consent, it shall proceed as provided in subdivisions (2) and (3) of this
29 subsection.

30 (2) If the court finds that the defendant will not attain competency
31 within the remainder of the period covered by the placement order
32 absent administration of psychiatric medication for which the
33 defendant is unwilling or unable to provide consent, and after any
34 hearing held pursuant to subdivision (3) of this subsection, it may
35 order the involuntary medication of the defendant if it finds by clear
36 and convincing evidence that: (A) To a reasonable degree of medical
37 certainty involuntary medication of the defendant will render him
38 competent to stand trial, (B) an adjudication of guilt or innocence
39 cannot be had using less intrusive means, (C) the proposed treatment
40 plan is narrowly tailored to minimize intrusion on the defendant's
41 liberty and privacy interests, (D) the proposed drug regime will not
42 cause an unnecessary risk to the defendant's health, and (E) the
43 seriousness of the alleged crime is such that the criminal law
44 enforcement interest of the state in fairly and accurately determining
45 the defendant's guilt or innocence overrides the defendant's interest in
46 self-determination.

47 (3) If the court finds that the defendant is unable to provide consent
48 for the administration of psychiatric medication, and prior to deciding
49 whether to order the involuntary medication of the defendant under

50 subdivision (2) of this subsection, the court shall appoint a licensed
51 health care provider with specialized training in the treatment of
52 persons with psychiatric disabilities to represent the health care
53 interests of the defendant before the court. Notwithstanding the
54 provisions of section 52-146e, such person shall have access to the
55 psychiatric records of the defendant. Such person shall file a report
56 with the court not later than thirty days after his or her appointment.
57 The report shall set forth such person's findings and recommendations
58 concerning the administration of psychiatric medication to the
59 defendant including the risks and benefits of such medication, the
60 likelihood and seriousness of any adverse side effects and the
61 prognosis with and without such medication. The court shall hold a
62 hearing on the matter not later than ten days after receipt of such
63 person's report and shall, in deciding whether to order the involuntary
64 medication of the defendant, take into account such person's opinion
65 concerning the health care interests of the defendant. Any such person
66 who acts in good faith shall be immune from civil liability, except that
67 such immunity shall not extend to gross negligence or to wanton,
68 reckless or malicious acts.

Statement of Purpose:

To provide limited liability to health care providers appointed by the court.