



House of Representatives

General Assembly

File No. 148

February Session, 2004

House Bill No. 5218

House of Representatives, March 18, 2004

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING DETERMINATIONS OF COMPETENCY TO STAND TRIAL AND ELIGIBILITY FOR CIVIL COMMITMENT.

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

1 Section 1. Subsection (d) of section 54-56d of the general statutes, as
2 amended by sections 13 and 97 of public act 03-3 of the June 30 special
3 session, is repealed and the following is substituted in lieu thereof
4 (*Effective from passage*):

5 (d) If the court finds that the request for an examination is justified
6 and that, in accordance with procedures established by the judges of
7 the Superior Court, there is probable cause to believe that the
8 defendant has committed the crime for which he is charged, the court
9 shall order an examination of the defendant as to his competency. The
10 court may (1) appoint one or more physicians specializing in
11 psychiatry to examine the defendant, or (2) order the Commissioner of
12 Mental Health and Addiction Services to conduct the examination
13 either (A) by a clinical team consisting of a physician specializing in

14 psychiatry, a clinical psychologist and one of the following: A clinical
 15 social worker licensed pursuant to chapter 383b or a psychiatric nurse
 16 clinical specialist holding a master's degree in nursing, or (B) by one or
 17 more physicians specializing in psychiatry, except that no employee of
 18 the Department of Mental Health and Addiction Services who has
 19 served as a member of a clinical team in the course of such
 20 employment for at least five years prior to October 1, 1995, shall be
 21 precluded from being appointed as a member of a clinical team. If the
 22 Commissioner of Mental Health and Addiction Services is ordered to
 23 conduct the examination, the commissioner shall select the members of
 24 the clinical team or the physician or physicians. If the examiners
 25 determine that the defendant is not competent, they shall then
 26 determine whether there is substantial probability that the defendant,
 27 if provided with a course of treatment, will regain competency within
 28 the maximum period of any placement order under this section, [or]
 29 and whether the defendant appears to be eligible for civil commitment,
 30 with monitoring by the Court Support Services Division, pursuant to
 31 subdivision (2) of subsection (h) of this section. The court may
 32 authorize a physician specializing in psychiatry, a clinical
 33 psychologist, a clinical social worker licensed pursuant to chapter 383b
 34 or a psychiatric nurse clinical specialist holding a master's degree in
 35 nursing selected by the defendant to observe the examination. Counsel
 36 for the defendant may observe the examination. The examination shall
 37 be completed within fifteen days from the date it was ordered and the
 38 examiner or examiners shall prepare and sign, without notarization, a
 39 written report and file such report with the court within twenty-one
 40 business days of the date of the order. On receipt of the written report,
 41 the clerk of the court shall cause copies to be delivered immediately to
 42 the state's attorney and to counsel for the defendant.

This act shall take effect as follows:	
Section 1	<i>from passage</i>

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill conforms statute to current practice. Consequently, there is no fiscal impact.

OLR Bill Analysis

HB 5218

AN ACT CONCERNING DETERMINATIONS OF COMPETENCY TO STAND TRIAL AND ELIGIBILITY FOR CIVIL COMMITMENT**SUMMARY:**

This bill requires court-ordered competency examiners to include both, instead of one of, these findings in their reports: (1) whether there is a substantial probability that an incompetent defendant will regain competency if committed to the Department of Mental Health and Addiction Services (DMHAS) for restoration treatment and (2) whether he appears to be eligible for civil commitment.

EFFECTIVE DATE: Upon passage

BACKGROUND***Incompetent Criminal Defendants***

By law, courts must order competency examinations when there is a question about a criminal defendant's ability to understand the court proceedings or assist in his defense. A team of mental health professionals conducts the examination and submits a court report. Courts must hold hearings within 10 days of receiving the clinical team's report. The judge can commit an incompetent defendant to Connecticut Valley Hospital's restoration unit (for 18 months or the maximum jail sentence for the crimes charged, whichever is shorter) if it appears that he will regain competency within that period. Alternatively, he can give DMHAS custody, at a treatment facility the department chooses, pending civil commitment. The latter alternative is restricted to people charged with less serious crimes.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 39 Nay 1

