



House of Representatives

General Assembly

File No. 48

January Session, 2005

Substitute House Bill No. 6577

House of Representatives, March 22, 2005

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

AN ACT CONCERNING PATIENTS AT THE WHITING FORENSIC DIVISION AND HEARINGS FOR CERTAIN CRIMINAL DEFENDANTS PLACED FOR TREATMENT PENDING CIVIL COMMITMENT PROCEEDINGS.

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

1 Section 1. Section 17a-517 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 If any person in the custody of the Commissioner of Correction who
4 is brought to a hospital pursuant to the provisions of sections 17a-499,
5 17a-509, 17a-512 to 17a-517, inclusive, 17a-520, [and] 17a-521 and ~~54-~~
6 ~~56d, as amended by this act,~~ is a desperate or dangerous individual,
7 such person shall be hospitalized in the Whiting Forensic Division. If
8 the Whiting Forensic Division is unable to accommodate such transfer,
9 then such person shall remain in the custody of the commissioner at a
10 correctional institution, there confined under appropriate care and
11 supervision. Under no circumstances shall an inmate with psychiatric
12 disabilities requiring maximum security conditions be placed in a state

13 hospital for persons with psychiatric disabilities which does not have
14 the facilities and trained personnel to provide appropriate care and
15 supervision for such individuals.

16 Sec. 2. Subdivision (1) of subsection (k) of section 54-56d of the
17 general statutes is repealed and the following is substituted in lieu
18 thereof (*Effective October 1, 2005*):

19 (k) (1) When any placement order for treatment is rendered or
20 continued, the court shall set a date for a hearing, to be held within
21 ninety days, for reconsideration of the issue of the defendant's
22 competency. Whenever the court receives a report pursuant to
23 subsection (j) of this section which indicates that (A) the defendant has
24 attained competency, (B) the defendant will not attain competency
25 within the remainder of the period covered by the placement order,
26 [or] (C) the defendant will not attain competency within the remainder
27 of the period covered by the placement order absent administration of
28 psychiatric medication for which the defendant is unwilling or unable
29 to provide consent, or (D) the defendant has been placed for treatment
30 pending civil commitment proceedings pursuant to subdivision (2) of
31 subsection (h) of this section and the application for civil commitment
32 of the defendant is denied or not pursued, the court shall set the matter
33 for a hearing no later than ten days after the report is received. The
34 hearing may be waived by the defendant only if the report indicates
35 that the defendant is competent. The court shall determine whether the
36 defendant is competent or is making progress toward attainment of
37 competency within the period covered by the placement order. If the
38 court finds that the defendant is competent, the defendant shall be
39 returned to the custody of the Commissioner of Correction or released,
40 if the defendant has met the conditions for release, and the court shall
41 continue with the criminal proceedings. If the court finds that the
42 defendant is still not competent but that the defendant is making
43 progress toward attaining competency, it may continue or modify the
44 placement order. If the court finds that the defendant is still not
45 competent and will not attain competency within the remainder of the
46 period covered by the placement order absent administration of

47 psychiatric medication for which the defendant is unwilling or unable
48 to provide consent, it shall proceed as provided in subdivisions (2) and
49 (3) of this subsection.

50 Sec. 3. Subsection (p) of section 54-56d of the general statutes is
51 repealed and the following is substituted in lieu thereof (*Effective*
52 *October 1, 2005*):

53 (p) This section shall not be construed to require the Commissioner
54 of Mental Health and Addiction Services to place any violent
55 defendant in a mental institution which does not have the trained staff,
56 facilities and security to accommodate such a person. [If placement in
57 such a facility becomes necessary, a state policeman shall be provided
58 to guard the defendant after placement in such an institution.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	17a-517
Sec. 2	<i>October 1, 2005</i>	54-56d(k)(1)
Sec. 3	<i>October 1, 2005</i>	54-56d(p)

JUD *Joint Favorable Subst.*

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:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - None	None	None
Correction, Dept.	GF - Cost	Potential Minimal	Potential Minimal
Public Safety, Dept.	GF - Savings	Potential Minimal	Potential Minimal
Mental Health & Addiction Serv., Dept.	GF - None	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The provisions of this bill may reduce the number of individuals who are referred to the Whiting Forensic Institute at the Department of Mental Health and Addiction Services. However, this reduction is not expected to lead to direct operational savings as the Institute is expected to still be operating at capacity even without these referrals.

The bill could result in additional costs to the Department of Correction (DOC) to the extent that individuals are placed in DOC facilities rather than at Whiting. Since the numbers of cases affected by the bill are anticipated to be few, any additional marginal costs would be minimal.

The bill could also result in minimal savings to the Department of Public Safety to the extent that state police officers are not required to guard dangerous prisoners.

It is anticipated that few additional hearings would be held by the Judicial Department annually under the bill's provision requiring a hearing within ten days of receiving a report that a pending civil

commitment has been denied since approximately twenty individuals are committed to the hospital by the probate court each year. The Judicial Department is not expected to incur additional expenses under this provision, nor would it experience a substantial workload increase such that additional resources would be required. Consequently, there is no fiscal impact.

OLR Bill Analysis

sHB 6577

AN ACT CONCERNING PATIENTS AT THE WHITING FORENSIC DIVISION AND HEARINGS FOR CERTAIN CRIMINAL DEFENDANTS PLACED FOR TREATMENT PENDING CIVIL COMMITMENT PROCEEDINGS**SUMMARY:**

This bill specifies that Whiting Forensic Institute is the only Department of Mental Health and Addiction Services (DMHAS) facility that can accept desperate and dangerous prisoners who are incompetent to stand trial. But it allows the DMHAS commissioner to refuse to admit violent prisoners when the agency lacks the staff, facilities, or security to accommodate them. This is the current standard for prisoners sent to Whiting for other reasons (e.g., emergency commitments); in such cases the Department of Correction must maintain custody and give them appropriate treatment.

Under current law, state police officers must guard dangerous prisoners who are placed in DMHAS's custody for treatment to restore competency when DMHAS lacks the resources to do so. The bill eliminates this option.

The bill also requires courts to schedule hearings within 10 days of receiving a report that an incompetent criminal defendant placed at Whiting pending civil commitment has been denied commitment or that commitment is not being pursued. Currently, courts must schedule hearings for defendants placed at Whiting for competency restoration treatment within 10 days of receiving reports indicating either that the defendant (1) is competent to stand trial or (2) will not regain competency within the period specified in his placement order.

EFFECTIVE DATE: October 1, 2005

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0