



STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
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Testimony of the Office of Protection and Advocacy for Persons with Disabilities Before the Judiciary Committee

Presented by: James D. McGaughey
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February 5, 2007

Good afternoon and thank you for this opportunity to share our Agency's perspective on several of the bills on your agenda today.

Raised Bill No. 6390, AAC Treatment Options for Defendants Found Not Competent to Stand Trial would allow criminal courts the option of ordering DMHAS to provide community placement and mental health treatment of certain defendants who have been found to be not competent to stand trial, and non-restorable pursuant to the provisions of Section 54-56d of the General Statutes. Under current law, the court can order DMHAS to pursue civil commitment to a hospital for these individuals. DMHAS can then decide, usually after some period of hospitalization, whether the individual is a good candidate for furlough and conditional release to a community program. Our Office does not oppose the general concept of this bill because we recognize that there are some individuals who may not be competent to stand trial but for whom civil commitment to a psychiatric hospital is an unnecessary and unhelpful step. The bill affords the court the option of ordering DMHAS "to provide services to the defendant in a less restrictive setting." However, please note that the language about who is getting ordered to do what is critically important. We would oppose any attempt to change or interpret this language such that an individual who does not meet the criteria for civil commitment to a hospital could be ordered to accept outpatient treatment if that individual is unwilling to do so.

Raised Bill No. 6391, AAC Involuntary Administration of Psychiatric Medication for Purposes of Competency to Stand Trial would allow a court to order involuntary administration of medication in situations where an individual is determined to have been restored to competency pursuant to Section 54-56d, but then refuses to consent to continue to receive psychotropic medication. Our Office opposes this measure. While we recognize that there may be some individuals who will evade prosecution by refusing to consent to continued medication, forcing a competent person to take powerful, and in many cases potentially risky drugs that can significantly alter thought processes, moods and emotions constitutes a major intrusion by the state on fundamental personal rights. Although it is not often reported in the news media, many of the psychotropic drugs used to treat major mental illnesses are associated with significant side effects and risks to physical health. Different individuals respond differently to these medications. While the drugs may control symptoms in many cases, and many people find them useful, they also can deaden emotions, impede thought processes, cause considerable changes to body metabolism, and sometimes can even cause serious damage to organ systems. With some of these drugs, the potential for harmful effects on health increases over time. It has been our Office's experience that many people who refuse to consent take

medication have had prior bad experiences with particular drugs, or articulate other sound reasons for not wanting to take them. Because the decision about whether the benefits of taking these drugs outweigh the risks is a highly personal one with implications for a person's ability to think and feel emotions as well as for one's physical health, the law should not impose these drugs to anyone who is competent to make informed decisions on their own.

Raised Bill No. 6987, AAC the Rights of Inmates with Mental Illness would address a number of the issues our staff has noted during the course of investigating complaints and advocating for prisoners with mental illness. In fact, the provisions of the bill run parallel to some of the terms of a settlement agreement our Office and DOC entered into several years ago to resolve litigation we had initiated over the treatment of inmates with mental illness in maximum security and designated mental health housing units. The bill would extend the reach of those provisions of that settlement agreement beyond those particular units. Specifically it requires that inmates be afforded an opportunity to privately communicate with a mental health professional (as opposed to having to discuss one's mental health status through a cell door where neighbors and custodial staff can listen in). It would also require: face-to-face assessments prior to initiating medication; reviews of proposed disciplinary sanctions involving inmates with mental illness to ensure that discipline is not being initiated simply in response to a behavior that is a manifestation of the inmate's mental illness; and, where possible, an opportunity for a mental health professional to intervene prior to using force against an inmate with a known mental illness.

Our Office fully supports this bill. However, I cannot help but note that there is some risk that if it becomes law, we may create the impression that our prison system will become a safe and acceptable place to send people with mental illness. In truth, prisons are, and will always be unsatisfactory places to house people with psychiatric disabilities. Nonetheless, it is estimated that between 12 to 16 % of DOC inmates have mental illnesses serious enough to require treatment. In fact, as is true across the country, the number of inmates in Connecticut prisons with significant mental illnesses now far exceeds the number of people being served in state psychiatric hospitals. Incarceration has an enormous impact on the lives of those individuals, and they, in turn, significantly impact the resources of the law enforcement, judicial and correctional systems. So, while we want to protect the civil rights of inmates who have or who may develop mental illnesses, we do not want to encourage the practice of incarcerating even more people with mental illness by creating the inevitably false impression that we are making our prisons into good treatment and programming environments. Above all, we cannot lose sight of the reality that many (though admittedly not all) of the people with mental illness who are now being charged and convicted of offenses would never have gotten into trouble in the first place if relevant community-based services were more readily available.

On a more technical note, I am given to believe that one of the provisions of the bill may not be fully consistent with language in a consent decree the State entered into a number of years ago regarding mental health services at the York institution. Our Office was not involved in that case, but I believe you will be hearing some suggested language from a representative of the ACLU.

Thank you for your attention. If there are any questions, I would be happy to try to answer them.