



STATE OF CONNECTICUT

DEPARTMENT OF MENTAL HEALTH
AND ADDICTION SERVICES
A HEALTHCARE SERVICE AGENCY

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Testimony of Peter Rockholz, MSSW, Deputy Commissioner Department of Mental Health and Addiction Services Before the Judiciary Committee April 2, 2007

Good afternoon, Senator McDonald, Representative Lawlor, and distinguished members of the Judiciary Committee. I am Peter Rockholz, Deputy Commissioner of the Department of Mental Health and Addiction Services, and I am here today to testify regarding **S.B. 1348, "An Act Strengthening Drunk Driving Enforcement"** and **S.B. 1433, "An Act Concerning Alcohol Education and Treatment for Persons Arrested for Drunken Driving."**

The Department of Mental Health & Addiction Services is responsible for the development and management of the state's Pretrial Alcohol Education System (PAES) for first-time offenders who are charged with "Operating Under the Influence." Both of these bills impact the PAES program.

Our concerns regarding the changes proposed in **S.B. 1348** revolve around the issues of offenders' accessibility to the program, their ability to complete the program, and the possible unintended outcome of having greater numbers of offenders regaining their licenses and driving, without having participated in the program. As written, the portions of **S.B. 1348** that could impact the PAES program adversely are as follows:

(1) **Section 8, subsection (b)(5), lines 786-788, of S.B. 1348 would eliminate the opportunity for a court-ordered, delayed entry into the program**, which could result in fewer persons being able to utilize the program due to accessibility problems. It is our understanding that such a change would also increase court workloads by requiring more time and effort for them to adjudicate each of these cases.

Historically, the delayed entry option has been available to the court in order to permit an offender to regain his/her license and, thus, have transportation to be able to attend the program. On occasion, it has also been used when an offender attends school in another state and wishes, or needs, to attend the Connecticut instate program following completion of the school semester. Having such an option available benefits the courts because it does not require them to maintain these as active cases for extended periods of time (i.e., having to continue them with multiple court dates until the end of the school year or until the period of license suspension is completed)

Since the program's inception, DMHAS has strongly resisted any delays in an offender's entering this program that are not judicially approved. An example would be an offender contacted by our providers who indicates he "has a whole year in which to do the program," and thus he does not want to enter the program at that time. In the event the defendant persists with this position, our providers are required to return such cases to the court for "failure to cooperate with the programming." It is not prudent — from either a public safety or liability standpoint — to have offenders who have thus regained their licenses to be driving for an extended period of time with no involvement in either the intervention or treatment components of this program without judicial knowledge and permission.

Perhaps clarification of the existing "delay option" would be helpful. Many areas of our state lack adequate public transportation at present. Furthermore, it is neither fiscally feasible nor logistically practical for DMHAS to have providers available in each of the state's 169 cities and towns for this program. Thus, in order to ensure that offenders can participate in and benefit from the PAES program, they must be able to get to the treatment locations for weekly sessions over a 10- to 15-week period.

This issue is of even greater concern in instances where treatment has been ordered by the court. For the more clinically problematic offenders (i.e., those who pose a higher risk for re-offending), the program can last longer than 15 sessions. Lack of transportation to reach the training site keeps the offender from participating in the program, which means that he or she will resume driving at the end of the license suspension period without having had any professional intervention to educate him/her or to modify problematic behavior. While a "hardship" or "work" license— after a mandatory suspension period— does allow an offender to travel to and from work, it makes no provision for the offender to use it in order to attend the Pretrial Alcohol Education System program.

(2) The second problem we see with this bill is the elimination of a possible "for cause" extension, after the original one-year program period. This could keep some participants from being able to complete the program successfully and gain the benefits from it.

Elimination of this judicial option means that offenders attending school out of state could be unable to finish the program by their original court return date. Would such individuals be deemed "successful" by the court without completing the program, or would they be deemed "in violation" on a technicality, even though they may be doing well in the program? This would also impact offenders who are subsequently referred for additional treatment in-order to address identified, ongoing problems. The initial program and the subsequent treatment may easily stretch longer than one year.

This proposed change would also impact those reinstated into the program. It is not unusual for an offender to be removed from a program for behavioral problems and then, upon returning to

court, be re-instated into the program by the court, sometimes even to a “higher” level of programming. Frequently, these cases can also exceed the initial one-year period.

(3) **Under section 2, subsection (i)(1)(A), periods of license suspension for “Operating Under the Influence” would be increased.** Together with the above elimination of the court-approved extensions, the combined effect of these two changes would pose additional problems.

Even if the “delayed entry” option is retained, a defendant who refused the breath test and requires a 15-week program could find himself or herself running out of time before beginning the program. A license suspension of 240 days, called for by this section — when coupled with a 15-week program (105 days) and a logistic timeframe for actual program involvement of 75 days— already exceeds the number of days in a year.

If the offender’s breathalyzer test shows a reading of 0.16 or greater and he/she requires a 15-week program, that works out to 180 days for the suspension, 105 days for the 15-week program, and a logistic timeframe of 75 days— for a total of 360 days— leaving only 5 days’ leeway, which may be an overly optimistic expectation.

For the foregoing reasons, we respectfully request that both the limited, judicially approved, “delayed entry” option and the judicially approved, “for cause” possible extension be retained.

I would like to add that it is my understanding that problems similar to the ones we have identified in **S.B. 1348** also exist with **S.B. 409, An Act Concerning the Enforcement of Drunk Driving Laws**, which has been referred to the Judiciary Committee by the Public Safety Committee.

With regard to **S.B. 1433, an Act Concerning Alcohol Education and Treatment for Persons Arrested for Drunken Driving**, as presently worded, we oppose one requirement contained in this bill for the following reasons. Lines 40 through 42 would create an additional programmatic component for all PAES participants. Currently, program participants complete either: (1) intervention programming of 15- or 22.5-hours duration or (2) treatment. S.B. 1433 would mandate the creation of a second stage of the program for all participants, involving monthly follow-up sessions for the remainder of the initially determined continuance time period established by the court.

Operating costs of the PAES program are borne by the offenders themselves, in the form of statutory fees specified in CGS Sec. 54-56g(c), which are paid into the Pretrial Account and then used to meet the program’s financial obligations. Adding an entirely new component would significantly increase the expenses associated with this program, but the cost issue is not addressed anywhere in S.B. 1433. Moreover, it would be difficult to determine an appropriate

fee and mechanism for payment of this proposed addition because these mandated follow-up sessions would differ in duration from one individual to another and, thus, would not be consistent for all program participants.

The number of required sessions would not be driven by any identified clinical need of the offenders themselves, nor even by a clear statutory requirement. Instead, these would vary from one person to the next, depending on a number of factors that change with each case, including:

- How soon a defendant started the initial program.
- The differing lengths of that program, which vary from one individual to another (i.e., 10 weeks, 15 weeks, or even longer if the person is ordered into treatment).
- Any possible reinstatements back into the program, which also vary from one person to another.
- The actual continuance period itself, which is set by the court. Usually, this period is one year. However, some courts impose shorter (4- to 6-month) or longer (18-month) periods.

Other questions arising from the proposed change include the following:

- What should be the structure of these meetings?
- What is their intended goal?
- Are these merely to provide ongoing education to program participants?
- Would these include ongoing re-evaluations of each offender? If so, what if the evaluation detects problems in an offender who has essentially completed the program?

Given that there would not be a set number of meetings that each participant is required to attend— and that the needs of individual offenders could vary widely — then a consistent “group” programming approach would appear to be unworkable. If these must then be individual sessions, that will significantly increase the cost of the program without any assurance that outcomes (i.e., a decrease in repeat offending) would be significantly improved.

In view of the current time limitations of the 2007 legislative session, it is our belief that attempting to address all of the above-listed concerns will likely result in a rushed and more expensive or even flawed product. Accordingly, we respectfully suggest that a more constructive approach would be for DMHAS, in concert with the Court Support Services Division and our providers, to research this matter — along with a review of the impact of recent changes to the PAES program — and put together a workable plan to be submitted as a comprehensive proposal for the 2008 legislative session.

Thank you for the opportunity to comment on S.B. 1348 and S.B. 1433. I would be happy to answer any questions you may have at this time.