



STATE OF CONNECTICUT

DEPARTMENT OF MENTAL HEALTH
AND ADDICTION SERVICES
A HEALTHCARE SERVICE AGENCY

M. JODI RELL
GOVERNOR

THOMAS A. KIRK, JR., Ph.D.
COMMISSIONER

Memorandum:

TO: Judiciary Committee

FROM: Thomas A. Kirk, Jr., Ph.D.
Commissioner

DATE: March 12, 2008

SUBJECT: **Written Testimony on S.B. 639, An Act Concerning Services Provided by the Department of Mental Health and Addiction Services to Arrested Persons**

Sen. McDonald, Rep. Lawlor and distinguished members of the Judiciary Committee, thank you for the opportunity to submit written testimony on **S.B. 639, An Act Concerning Services Provided by the Department of Mental Health and Addiction Services to Arrested Persons**. I regret that I am unable to attend today's hearing, but a scheduling conflict precludes my appearance. Because I cannot be present at the hearing, I am submitting written comments to assist you in your deliberations.

As written, Sec. 17a-486 of the Connecticut General Statutes directs DMHAS to provide clinical assessment of persons charged with the commission of a misdemeanor and to provide the court with the result of the assessment and a recommended treatment plan for consideration in its disposition of the case. S.B. 639 would amend the current statute to add a new requirement for DMHAS, within available appropriations and to the maximum extent possible, i.e., "to keep the person and the person's family members or representatives informed of the status of the criminal case."

The Department of Mental Health and Addiction Services is a health care agency charged with providing treatment services to persons who have mental illness or substance use disorders, or both. While we do have mental health staff working in our Jail Diversion program to conduct assessments and report back to the courts, they are not attorneys, and they are not trained in criminal law. Thus, I must vigorously oppose any statutory change that would require employees of my agency to be speaking to defendants and their families as to the "status of the criminal case(s)."

The legal status of a criminal case is a determination that must be made by a properly trained and credentialed attorney. Accurate and complete communication of that information to a defendant and/or his or her family members should be handled by the client's defense attorney, not by DMHAS

mental health staff. Most employees of our Jail Diversion program are graduates of Social Work Master's Degree programs, and they are bound to comply with the ethics of their profession.

The Code of Ethics of the National Association of Social Workers specifically states that "*Social workers should provide services and represent themselves as competent only within the boundaries of their education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.*" Please also consider the unacceptable liability issue that would be created for my department if a client or his or her family members made a decision about a criminal case based on inaccurate legal information provided by our Social Workers. For these reasons, all DMHAS staff are trained to refer clients and their families to members of the legal profession for any and all legal issues.

At present, our contact with individuals who have been charged with a crime relates solely to the clinical assessment and treatment options of such persons. We direct them to their attorney for specifics about court actions, decisions they must make about their case, and for legal questions.

If family members wants to know what is happening with the status of a potential jail diversion case they can, and do, request that DMHAS Jail Diversion staff keep them informed (the client must sign a Release form for this). Jail Diversion staff already provide the client (and his or her family when requested by the client) information about the treatment recommendation to the court, the nature of the treatment, the client's compliance with treatment, and the report to the court about compliance with treatment. I do not recall hearing of any complaints that DMHAS Jail Diversion staff refused to speak with families when they are aware of the request and have a signed Release form. However, I don't want DMHAS staff to be obligated to initiate contact with families in the absence of a request from either the client or family, as this change would require a significant amount of time and energy and would necessarily detract from their ability to serve their clients. For all of the foregoing reasons, I am unable to support **S.B. 639**.

Thank you for the opportunity to submit testimony to the Committee on S.B. 639.