



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

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**Testimony of Deborah J. Fuller
Judiciary Committee
March 19, 2008**

**Senate Bill 601, An Act Concerning the
Court Support Services Division of the Judicial Branch**

Good afternoon. I am here today to testify, on behalf of the Judicial Branch, in support of *Senate Bill 601, An Act Concerning the Court Support Services Division of the Judicial Branch*. This bill was submitted by the Judicial Branch as part of our legislative package.

This bill contains several provisions to enhance the operations of the Judicial Branch's Court Support Services Division. Section 1 would expand probation officers' authority to address some real-life situations that they have encountered while in the field. This includes allowing a probation officer to detain, until a police officer arrives, any person who the probation officer observes violating a condition of probation, as well as any person who has outstanding arrest warrants against them. Under current law, all a probation officer who observes a probationer presenting a threat to public or victim safety can do is to call the police and then attempt to persuade the probationer to remain until the police officer arrives. It would also allow them to detain probationers with outstanding warrants. This, along with the provision authorizing probation officers to participating in interagency warrant squads, will greatly assist in reducing the high number of outstanding arrest warrants.

A related provision would make it clear that probation officers, in the course of the official duties, can possess contraband. They need this explicit authority because

although it seems only logical that a probation officer who discovers, for example, illegal drugs while conducting a visit would be able to seize those drugs, this authority is not currently in statute.

Another related provision related to this area would authorize probation officers to notify a police officer that, in their judgment, the probationer is in violation of probation and that such notice would be sufficient to authorize the police officer to arrest the probationer for violation of probation. Currently, probation officers have this authority in regard to sex offenders who have moved without approval. The proposed language would expand it to all situations where a probation office has probable cause to believe that the probationer has violated a condition of probation, but it is our intent that this power will only be exercised in situations where the probationer is presenting a threat to public safety. This will be delineated in Court Support Services Division policy, which will also require that the officer obtain approval from their supervisor prior to exercising this authority. It is an important tool in those cases where field contact shows a probationer to be in violation, but the process of obtaining a warrant is likely to result in victimization or absconding by the probationer. Examples of this are sex offenders who are in violation of contact prohibitions, domestic violence probationers in violation of no contact conditions, curfew violations and proximity violations, among others.

Other provisions of the bill include a technical change to one of the titles of Juvenile Detention workers (section 2), a conforming change to the period of time for which records of participation in the Alcohol Education Program are retained (section 6) and a minor change to language that was passed in 2006 regarding space for probation officers in contract facilities. In addition, the bill repeals the Zero Tolerance Drug Education program. This program, which provides no treatment services and is inconsistent with the Risk Reduction model that the Legislature has endorsed, has been shown to be ineffective. Moreover, the problem it sought to solve has been better addressed by the probation Technical Violation Units, which were established a couple of years ago. Finally, the bill removes from statute the cap on the cost of electronic monitoring, which includes GPS, as this cap was unworkable. Although the intent of

the language may have been to limit the amount that the offenders could be charged for this monitoring, the language actually limits the amount that the Judicial Branch can pay for electronic monitoring. We have been unable to find a provider that will provide GPS services for the statutory cap of \$6.00 a day. Currently, passive GPS costs \$6.45 a day and active GPS, which we use rarely but which some of the legislation passed during the February special session and under consideration during this session, cost \$12.95 per day.

Finally, I have attached to my testimony a proposed amendment to the language contained in P.A. 08-1 establishing a Psychiatric Accelerated Rehabilitation program. The language in the bill, which was drafted under time constraints, is vague and does not provide sufficient guidance. The attached proposed amendment would remedy this situation. We have discussed the language with the Department of Mental Health and Addiction Services and they agree with these proposed changes. I would urge the committee to incorporate this amendment into any language that is voted out of committee.

In conclusion, I respectfully request that the Committee act favorably and vote this proposal out of Committee. Thank you for the opportunity to testify.

Proposed Amendment to Senate Bill 601

Insert the following after Line 336:

Amendment to Public Act Number 08-1 (formerly Bill 1700)

Section 41 (NEW) (*Effective October 1, 2008*) (a) There shall be a supervised diversionary program for persons with psychiatric disabilities accused of a crime or crimes or a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed, which crimes or violations are not of a serious nature. For the purposes of this section, "psychiatric disability" means a mental or emotional condition, other than solely substance abuse, that (1) has substantial adverse effects on the defendant's ability to function, and (2) requires care and treatment. The Judicial Branch, Court Support Services Division in collaboration with the Department of Mental Health and Addiction Services will establish the mental health criteria for program eligibility.

Reason for suggested change in section (a) above:

A significant intent of this program is to provide treatment, supervision and case management to persons with psychiatric disabilities who would not otherwise be released from incarceration while their case is pending. It is important that specific criteria be established to identify clients whose mental health condition has shown a "substantial adverse effects on the defendant's ability to function" and requires "care and treatment". Collaboration between CSSD and DMHAS would be ideal to establish criteria that define eligibility based on the acuteness of the mental health condition.

(b) A person shall be ineligible for participation in such supervised diversionary program if such person (1) is ineligible to participate in the pretrial program for accelerated rehabilitation under subsection (c) of section 54-56e of the general statutes, or (2) has twice previously participated in such supervised diversionary program.

(c) Upon application by any such person for participation in such program, the court shall, but only as to the public, order the court file sealed provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury, that such person has not had such program invoked in such person's behalf more than once. Court personnel shall provide notice, on a form approved by rule of court, to any victim of such crime or motor vehicle violation, by registered or certified mail, that such person has applied for the program and that such victim has an opportunity to be heard by the court on the matter.

(d) The court shall refer such person to the Court Support Services Division for confirmation of eligibility ~~and assessment of the person's mental health condition.~~ based on (1) the criteria established under subsection (c) of section 54-56e of the general statutes and (2) previous

participation in the Supervised Diversionary Program for people with Psychiatric Disabilities as referenced in section (b) subsection (2) of this Act. Court Support Services Division's contracted provider for mental health services or the Department of Mental Health and Addiction Services will determine if the defendant meets the clinical eligibility criteria established by the Department of Mental Health and Addiction Services and Court Support Services Division as referenced in section (a) of this Act. The Court Support Services Division will inform the court of the client's eligibility status. The persons or agency that provided the clinical determination regarding eligibility will develop the treatment plan for all eligible clients that will be provided to the court by CSSD. The prosecuting attorney shall provide the division with a copy of the police report in the case to assist the division in its assessment. 4 Based on consultation with Court Support Services Division's contracted provider for mental health services or the Department of Mental Health and Addiction Services, the division shall determine if the person agrees to participate in is amenable to treatment and if appropriate services and treatment are available. If the division determines that the person agrees to participate in is amenable to treatment and that appropriate services and treatment are available, it shall develop a treatment plan tailored to the person and shall present it to the court.

Reason for suggested change in section (d) above:

Defendants who are referred for program eligibility will need to be seen by a person with clinical expertise. Some of these potential applicants will already be known by the Jail Diversion staff members, who are employed by DMHAS, and others can be screened for eligibility by the Jail Diversion. Jail Diversion staff is located in every courthouse in the state and they possess the skills to determine if the client has a psychiatric disability.

CSSD can utilize appropriate people from their treatment network to determine a defendant's eligibility based on their mental health status. These people are not located at the court and will require a continuance of the proceedings to report back to the court. A collaborative effort by both DMHAS and CSSD will allow more resource options for the court and create a partnership in the process that utilizes the skills and expertise of Connecticut's quintessential mental health agency, DMHAS.

DMHAS recommendation (in yellow) for the above section

Section (d) sounded like CSSD would make the clinical decision so we added the part regarding "in consultation with". Also "amenable" often has a clinical meaning so we substituted "agrees to participate in".

(e) Upon confirmation of eligibility and consideration of the treatment plan presented by the Court Support Services Division, the court may grant such application. If the court grants the application, such person shall be referred to the division. The division shall collaborate with the Court Support Services Division's contracted provider for mental health services or the Department of Mental Health and Addiction Services to place such person in a program that provides appropriate community supervision, treatment and services. The person shall be subject to the supervision of a probation officer who has a reduced caseload and specialized training in working with persons with psychiatric disabilities until the client has (1) shown a history of compliance with their court ordered conditions of the program.

(2) demonstrated a period of stability in the community and
(3) successfully completed treatment or is currently in compliance
with treatment to include, but not limited to, compliance with medication when prescribed.
Persons granted the diversionary program shall remain under supervision
of Court Support Service Division until their case is dismissed or
determined to be unsatisfactorily completed by the Court.

Reason for suggested change in section (e) above:

In an effort to maximize the number of clients CSSD can provide specialized supervision services on reduced caseloads, we are suggesting the changes above. This will allow CSSD to provide the intended services from the onset of supervision until the newly established criteria are met. The importance of an early connection to treatment services and case management and supervision with the probation officer provides the greatest positive impact we can provide the client as well as our communities. The ability to move clients who meet the criteria suggested in section (e) will allow officers to spend more time with the more needy clients. Clients who transition out of supervision from the specially trained officer will still receive supervision from CSSD and be able to continue in treatment with DMHAS or CSSD's network of providers.

DMHAS recommendation (in yellow) for the above section

Section (e) - added the CSSD contracted providers so that DMHAS does not become responsible for everyone.

(f) The Court Support Services Division shall establish policy and procedures to require division employees to notify any victim of the person admitted to the program of any conditions ordered by the court that directly affect the victim and of such person's scheduled court appearance with respect to the case.

(g) Any person who enters the program shall agree: (1) To the tolling of the statute of limitations with respect to such crime or violation; (2) to a waiver of such person's right to a speedy trial; and (3) to any conditions that may be established by the division concerning participation in the supervised diversionary program including conditions concerning participation in meetings or sessions of the program. The period of such probation shall not exceed two years.

Reason for suggested change in section (g) above:

The original CSSD proposal for this legislation requested that the period of supervision mirror the parameters established for the Pretrial Accelerated Rehabilitation program, which allows for a maximum of 2 years of supervision. Longer periods of supervision could potentially impact the resources available for this program and require an inordinate period of supervision for clients with psychiatric disabilities compared to other diversion programs.

(h) If the Court Support Services Division informs the court that such person is ineligible for the program and the court makes a determination of ineligibility or if the division certifies to the court that such person did not successfully complete the assigned program, the

court shall order the court file to be unsealed, enter a plea of not guilty for such person and immediately place the case on the trial list.

(i) If such person satisfactorily completes the assigned program, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If such person does not apply for dismissal of the charges against such person after satisfactorily completing the assigned program, the court, upon receipt of the record of such person's participation in such program submitted by the Court Support Services Division, may on its own motion make a finding of such satisfactory completion and dismiss the charges. Except as provided in subsection (j) of this section, upon dismissal, all records of such charges shall be erased pursuant to section 54-142a of the general statutes. An order of the court denying a motion to dismiss the charges against a person who has completed such person's period of probation or supervision or terminating the participation of a person in such program shall be a final judgment for purposes of appeal.

(j) The Court Support Services Division shall develop and maintain a database of information concerning persons admitted to the supervised diversionary program that shall be available to the state police and organized local police departments for use by sworn police officers when responding to incidents involving such persons. Such information shall include the person's name, date of birth, Social Security number, the violation or violations with which the person was charged, the dates of program participation and whether a deadly weapon or dangerous instrument was involved in the violation or violations for which the program was granted. The division shall enter such information in the database upon such person's entry into the program, update such information as necessary and retain such information for a period of five years after the date of such person's entry into the program.

(k) The Court Support Services Division, in collaboration with the Department of Mental Health and Addiction Services, shall develop standards and oversee appropriate treatment programs to meet the requirements of this section and may contract with service providers to provide such programs.

(l) The Court Support Services Division shall retain the police report provided to it by the prosecuting attorney and the record of supervision including the dates of supervision and shall provide such information to the court, prosecuting attorney and defense counsel whenever a court is considering whether to grant an application by such person for participation in the supervised diversionary program for a second time