

CONNECTICUT LEGAL RIGHTS PROJECT

P.O. Box 351, Silver Street, Middletown, CT 06457
Telephone (860) 262-5030 · Fax (860) 262-5035

**Testimony of Susan Aranoff, J.D. Staff Attorney
Connecticut Legal Rights Project, Inc.
Before the Public Health Committee**

Good afternoon distinguished members of the Public Health Committee.

I am Susan Aranoff, Staff Attorney at Connecticut Legal Rights Project and I am here today to speak regarding **H.B. 5449 An Act Concerning the Issuance of Emergency Certificates by Licensed Clinical Social Workers and Advanced Practice Registered Nurses.**

Connecticut Legal Rights Project, Inc. is a non-profit legal services agency that provides individual and systemic legal services to indigent adults who have, or are perceived as having, psychiatric disabilities and who receive, or are eligible to receive, services from the Department of Mental Health and Addiction Services.

Connecticut Legal Rights Project maintains offices at all DMHAS operated in-patient and out-patient facilities in the state. Our offices are staffed by attorneys and paralegal advocates. I provide legal services to individual clients and I supervise four paralegals. My testimony today is informed by my expertise in the area of patients' rights, in general, and my direct experiences in Connecticut.

Connecticut General Statutes Section 17a-503 grants certain citizens the power to issue emergency certificates that authorize and direct that a fellow citizen be taken into custody and compelled to undergo a compulsory medical examination. The authority to

deprive a person of liberty implicates the fundamental constitutional right to liberty and therefore it is absolutely essential that the laws governing the emergency certificate process provide all necessary due process protections.

Under current law, a person must be examined within 24 hours of being *taken into custody* and must be released within 72 hours of being *taken into custody* unless committed. The length of time a person may be deprived of their liberty is calculated in a straight forward manner from the time when he or she is taken into custody and thereby deprived of their liberty.

H.B. 5449 would change that. Under H.B. 5449 the detained individual must be examined within 24 hours *of being taken to a hospital*. Likewise, said individual must be released after spending 72 hours *at a hospital*. The power to deprive some one of their freedom is an awesome power that must be exercised with the utmost restraint. The law governing the issuance of emergency certificates must be clear on its face and provide readily measurable parameters of time. Further, the law must not permit some one to be deprived of their liberty without due process of law for any longer then is absolutely necessary.

As H.B. 5449 links the 24 and 72 hour periods of detention to something other than when an individual is deprived of their liberty it necessarily lengthens the amount of time that individual is detained. Further, since it is impossible to control how and when an individual is brought to a hospital, which hospital or hospitals they are brought to and how long they have to wait prior to being admitted for an examination, it will be impossible to control the length of time some one may be detained prior to being examined and or committed.

Accordingly, CLRP opposes HB 5449 in its current form and has proposed substitute language that would cure it of the defect which extends the permitted period of

detention. It is my understanding that it was not DMHAS's intention to extend the length of time individuals could be held and that they do not oppose our proposed language.

The proposed language is attached hereto, and appears in bold. I thank you for your time and attention to this serious matter and am available to answer any questions or provide any additional materials at your request.

CLRP PROPOSED LANGUAGE IN BOLD

AN ACT CONCERNING ISSUANCE OF EMERGENCY CERTIFICATES BY LICENSED CLINICAL SOCIAL WORKERS AND ADVANCED PRACTICE REGISTERED NURSES.

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

Section 1. Section 17a-503 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any police officer who has reasonable cause to believe that a person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment, may take such person into custody and take or cause such person to be taken to a general hospital for emergency examination under this section. The officer shall execute a written request for emergency examination detailing the circumstances under which the person was taken into custody, and such request shall be left with the [facility] hospital. The person shall be examined [within] not later than twenty-four hours after being taken to the hospital into custody and shall not be held for more than seventy-two hours at the hospital after being taken into custody unless committed under section 17a-502 of the 2008 supplement to the general statutes.

(b) Upon application by any person to the court of probate having jurisdiction in accordance with section 17a-497, alleging that any respondent has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment in a hospital for psychiatric disabilities, such court may issue a warrant for the apprehension and bringing before it of such respondent and examine such respondent. If the court determines that there is probable cause to believe that such [person] respondent has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, the court shall order that such respondent be taken to a general hospital for examination. The [person] respondent shall be examined [within] not later than twenty-four hours after being taken to the hospital into custody and shall not be held for more than seventy-two hours at the hospital after being taken into custody unless committed under section 17a-502 of the 2008 supplement to the general statutes.

(c) Any psychologist licensed under chapter 383 who has reasonable cause to believe that a person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment, may issue an emergency certificate in writing that authorizes and

directs that such person be taken to a general hospital for purposes of a medical examination. The person shall be examined [within] not later than twenty-four hours **after being taken into custody** and ~~after being taken to the hospital~~ shall not be held for more than seventy-two hours ~~at the hospital~~ **after being taken into custody** unless committed under section 17a-502 of the 2008 supplement to the general statutes.

(d) Any clinical social worker licensed under chapter 383b or advanced practice registered nurse licensed under chapter 378 who (1) has received a minimum of eight hours of specialized training in the conduct of direct evaluations [under this subsection] as a member of any mobile crisis team, jail diversion program, crisis intervention team, advanced supervision and intervention support team, or assertive case management program operated by or under contract with the Department of Mental Health and Addiction Services, and (2) based upon the direct evaluation of a person, has reasonable cause to believe that such person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment, may issue an emergency certificate in writing that authorizes and directs that such person be taken to a general hospital for purposes of a medical examination. The person shall be examined [within] not later than twenty-four hours ~~after being taken to the hospital~~ **into custody** and shall not be held for more than seventy-two hours ~~at the hospital~~ **after being taken into custody** unless committed under section 17a-502 of the 2008 supplement to the general statutes. The Commissioner of Mental Health and Addiction Services shall collect and maintain statistical and demographic information pertaining to emergency certificates issued under this subsection.

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