



House of Representatives

General Assembly

File No. 731

January Session, 2009

Substitute House Bill No. 6341

House of Representatives, April 20, 2009

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING COMPETENCY TO STAND TRIAL.

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

1 Section 1. Section 54-56d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) A defendant shall not be tried, convicted or sentenced while the
4 defendant is not competent. For the purposes of this section, a
5 defendant is not competent if the defendant is unable to understand
6 the proceedings against him or her or to assist in his or her own
7 defense.

8 (b) A defendant is presumed to be competent. The burden of
9 proving that the defendant is not competent by a preponderance of the
10 evidence and the burden of going forward with the evidence are on the
11 party raising the issue. The burden of going forward with the evidence
12 shall be on the state if the court raises the issue. The court may call its
13 own witnesses and conduct its own inquiry.

14 (c) If, at any time during a criminal proceeding, it appears that the
15 defendant is not competent, counsel for the defendant or for the state,
16 or the court, on its own motion, may request an examination to
17 determine the defendant's competency.

18 (d) If the court finds that the request for an examination is justified
19 and that, in accordance with procedures established by the judges of
20 the Superior Court, there is probable cause to believe that the
21 defendant has committed the crime for which the defendant is
22 charged, the court shall order an examination of the defendant as to his
23 or her competency. The court may (1) appoint one or more physicians
24 specializing in psychiatry to examine the defendant, or (2) order the
25 Commissioner of Mental Health and Addiction Services to conduct the
26 examination either (A) by a clinical team consisting of a physician
27 specializing in psychiatry, a clinical psychologist and one of the
28 following: A clinical social worker licensed pursuant to chapter 383b or
29 a psychiatric nurse clinical specialist holding a master's degree in
30 nursing, or (B) by one or more physicians specializing in psychiatry,
31 except that no employee of the Department of Mental Health and
32 Addiction Services who has served as a member of a clinical team in
33 the course of such employment for at least five years prior to October
34 1, 1995, shall be precluded from being appointed as a member of a
35 clinical team. If the Commissioner of Mental Health and Addiction
36 Services is ordered to conduct the examination, the commissioner shall
37 select the members of the clinical team or the physician or physicians.
38 When performing an examination under this section, the examiners
39 shall have access to the defendant's treatment history contained in the
40 Department of Mental Health and Addiction Services' database of
41 treatment episodes. If the examiners determine that the defendant is
42 not competent, the examiners shall then determine whether there is a
43 substantial probability that the defendant, if provided with a course of
44 treatment, will regain competency within the maximum period of any
45 placement order under this section. If the examiners determine that
46 there is a substantial probability that the defendant, if provided with a
47 course of treatment, will regain competency within the maximum
48 period of any placement order under this section, the examiners shall

49 then determine whether the defendant appears to be eligible for civil
50 commitment, with monitoring by the Court Support Services Division,
51 pursuant to subdivision (2) of subsection (h) of this section. If the
52 examiners determine that there is not a substantial probability that the
53 defendant, if provided with a course of treatment, will regain
54 competency within the maximum period of any placement order
55 under this section, the examiners shall then determine whether the
56 defendant appears to be eligible for civil commitment to a hospital for
57 psychiatric disabilities pursuant to subsection (m) of this section and
58 make a recommendation to the court regarding the appropriateness of
59 such civil commitment. The court may authorize a physician
60 specializing in psychiatry, a clinical psychologist, a clinical social
61 worker licensed pursuant to chapter 383b or a psychiatric nurse
62 clinical specialist holding a master's degree in nursing selected by the
63 defendant to observe the examination. Counsel for the defendant may
64 observe the examination. The examination shall be completed within
65 fifteen business days from the date it was ordered and the examiners
66 shall prepare and sign, without notarization, a written report and file
67 such report with the court within twenty-one business days of the date
68 of the order. On receipt of the written report, the clerk of the court
69 shall cause copies to be delivered immediately to the state's attorney
70 and to counsel for the defendant.

71 (e) The court shall hold a hearing as to the competency of the
72 defendant [no] not later than ten days after the court receives the
73 written report. Any evidence regarding the defendant's competency,
74 including the written report, may be introduced at the hearing by
75 either the defendant or the state. If the written report is introduced, at
76 least one of the examiners shall be present to testify as to the
77 determinations in the report, unless the examiner's presence is waived
78 by the defendant and the state. Any member of the clinical team shall
79 be considered competent to testify as to the team's determinations. A
80 defendant and the defendant's counsel may waive the court hearing
81 only if the examiners, in the written report, determine without
82 qualification that the defendant is competent.

83 (f) If the court, after the hearing, finds that the defendant is
84 competent, the court shall continue with the criminal proceedings. If
85 the court finds that the defendant is not competent, the court shall also
86 find whether there is a substantial probability that the defendant, if
87 provided with a course of treatment, will regain competency within
88 the maximum period of any placement order permitted under this
89 section.

90 (g) If, at the hearing, the court finds that there is not a substantial
91 probability that the defendant, if provided with a course of treatment,
92 will regain competency within the period of any placement order
93 under this section, the court shall follow the procedure set forth in
94 subsection (m) of this section.

95 (h) (1) If, at the hearing, the court finds that there is a substantial
96 probability that the defendant, if provided with a course of treatment,
97 will regain competency within the period of any placement order
98 under this section, the court shall either (A) order placement of the
99 defendant for treatment for the purpose of rendering the defendant
100 competent, or (B) order placement of the defendant at a treatment
101 facility pending civil commitment proceedings pursuant to
102 subdivision (2) of this subsection.

103 (2) (A) Except as provided in subparagraph (B) of this subdivision, if
104 the court makes a finding pursuant to subdivision (1) of this subsection
105 and does not order placement pursuant to subparagraph (A) of said
106 subdivision, the court shall, on its own motion or on motion of the
107 state or the defendant, order placement of the defendant in the custody
108 of the Commissioner of Mental Health and Addiction Services at a
109 treatment facility pending civil commitment proceedings. The
110 treatment facility shall be determined by the Commissioner of Mental
111 Health and Addiction Services. Such order shall: (i) Include an
112 authorization for the Commissioner of Mental Health and Addiction
113 Services to apply for civil commitment of such defendant pursuant to
114 sections 17a-495 to 17a-528, inclusive; (ii) permit the defendant to agree
115 to request voluntarily to be admitted under section 17a-506 and

116 participate voluntarily in a treatment plan prepared by the
117 Commissioner of Mental Health and Addiction Services, and require
118 that the defendant comply with such treatment plan; and (iii) provide
119 that if the application for civil commitment is denied or not pursued
120 by the Commissioner of Mental Health and Addiction Services, or if
121 the defendant is unwilling or unable to comply with a treatment plan
122 despite reasonable efforts of the treatment facility to encourage the
123 defendant's compliance, the person in charge of the treatment facility,
124 or such person's designee, shall submit a written progress report to the
125 court and the defendant shall be returned to the court for a hearing
126 pursuant to subsection (k) of this section. Such written progress report
127 shall include the status of any civil commitment proceedings
128 concerning the defendant, the defendant's compliance with the
129 treatment plan, an opinion regarding the defendant's current
130 competency to stand trial, the clinical findings of the person
131 submitting the report and the facts upon which the findings are based,
132 and any other information concerning the defendant requested by the
133 court, including, but not limited to, the method of treatment or the
134 type, dosage and effect of any medication the defendant is receiving.
135 The Court Support Services Division shall monitor the defendant's
136 compliance with any applicable provisions of such order. The period
137 of placement and monitoring under such order shall not exceed the
138 period of the maximum sentence which the defendant could receive on
139 conviction of the charges against such defendant, or eighteen months,
140 whichever is less. If the defendant has complied with such treatment
141 plan and any applicable provisions of such order, at the end of the
142 period of placement and monitoring, the court shall approve the entry
143 of a nolle prosequi to the charges against the defendant or shall
144 dismiss such charges.

145 (B) This subdivision shall not apply: (i) To any person charged with
146 a class A felony, a class B felony, except a violation of section 53a-122
147 that does not involve the use, attempted use or threatened use of
148 physical force against another person, or a violation of section 14-227a,
149 subdivision (2) of subsection (a) of section 53-21 or section 53a-56b,
150 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b; (ii) to any

151 person charged with a crime or motor vehicle violation who, as a result
152 of the commission of such crime or motor vehicle violation, causes the
153 death of another person; or (iii) unless good cause is shown, to any
154 person charged with a class C felony.

155 (i) The placement of the defendant for treatment for the purpose of
156 rendering the defendant competent shall comply with the following
157 conditions: (1) The period of placement under the order or
158 combination of orders shall not exceed the period of the maximum
159 sentence which the defendant could receive on conviction of the
160 charges against the defendant or eighteen months, whichever is less;
161 (2) the placement shall be either in the custody of the Commissioner of
162 Mental Health and Addiction Services, the Commissioner of Children
163 and Families or the Commissioner of Developmental Services or, if the
164 defendant or the appropriate commissioner agrees to provide
165 payment, in the custody of any appropriate mental health facility or
166 treatment program which agrees to provide treatment to the defendant
167 and to adhere to the requirements of this section; and (3) the court
168 shall order the placement, on either an inpatient or an outpatient basis,
169 which the court finds is the least restrictive placement appropriate and
170 available to restore competency. If outpatient treatment is the least
171 restrictive placement for a defendant who has not yet been released
172 from a correctional facility, the court shall consider whether the
173 availability of such treatment is a sufficient basis on which to release
174 the defendant on a promise to appear, conditions of release, cash bail
175 or bond. If the court determines that the defendant may not be so
176 released, the court shall order treatment of the defendant on an
177 inpatient basis at a mental health facility or mental retardation facility.
178 Not later than twenty-four hours after the court orders placement of
179 the defendant for treatment for the purpose of rendering the defendant
180 competent, the evaluators shall transmit information obtained about
181 the defendant during the course of an evaluation pursuant to
182 subsection (d) of this section to the health care provider named in the
183 court's order.

184 (j) The person in charge of the treatment facility, or such person's

185 designee, shall submit a written progress report to the court (1) at least
186 seven days prior to the date of any hearing on the issue of the
187 defendant's competency; (2) whenever he or she believes that the
188 defendant has attained competency; (3) whenever he or she believes
189 that there is not a substantial probability that the defendant will attain
190 competency within the period covered by the placement order; or (4)
191 whenever, within the first one hundred twenty days of the period
192 covered by the placement order, he or she believes that the defendant
193 would be eligible for civil commitment pursuant to subdivision (2) of
194 subsection (h) of this section. The progress report shall contain: (A) The
195 clinical findings of the person submitting the report and the facts on
196 which the findings are based; (B) the opinion of the person submitting
197 the report as to whether the defendant has attained competency or as
198 to whether the defendant is making progress, under treatment, toward
199 attaining competency within the period covered by the placement
200 order; (C) the opinion of the person submitting the report as to
201 whether the defendant appears to be eligible for civil commitment to a
202 hospital for psychiatric disabilities pursuant to subsection (m) of this
203 section and the appropriateness of such civil commitment, if there is
204 not a substantial probability that the defendant will attain competency
205 within the period covered by the placement order; and (D) any other
206 information concerning the defendant requested by the court,
207 including, but not limited to, the method of treatment or the type,
208 dosage and effect of any medication the defendant is receiving. Not
209 later than five business days after the court finds either that the
210 defendant will not attain competency within the period of any
211 placement order under this section or that the defendant has regained
212 competency, the person in charge of the treatment facility, or such
213 person's designee, shall provide a copy of the written progress report
214 to the examiners who examined the defendant pursuant to subsection
215 (d) of this section.

216 (k) (1) When any placement order for treatment is rendered or
217 continued, the court shall set a date for a hearing, to be held within
218 ninety days, for reconsideration of the issue of the defendant's
219 competency. Whenever the court (A) receives a report pursuant to

220 subsection (j) of this section which indicates that (i) the defendant has
221 attained competency, (ii) the defendant will not attain competency
222 within the remainder of the period covered by the placement order,
223 (iii) the defendant will not attain competency within the remainder of
224 the period covered by the placement order absent administration of
225 psychiatric medication for which the defendant is unwilling or unable
226 to provide consent, or (iv) the defendant would be eligible for civil
227 commitment pursuant to subdivision (2) of subsection (h) of this
228 section, or (B) receives a report pursuant to subparagraph (A)(iii) of
229 subdivision (2) of subsection (h) of this section which indicates that (i)
230 the application for civil commitment of the defendant has been denied
231 or has not been pursued by the Commissioner of Mental Health and
232 Addiction Services, or (ii) the defendant is unwilling or unable to
233 comply with a treatment plan despite reasonable efforts of the
234 treatment facility to encourage the defendant's compliance, the court
235 shall set the matter for a hearing [no] not later than ten days after the
236 report is received. The hearing may be waived by the defendant only if
237 the report indicates that the defendant is competent. The court shall
238 determine whether the defendant is competent or is making progress
239 toward attainment of competency within the period covered by the
240 placement order. If the court finds that the defendant is competent, the
241 defendant shall be returned to the custody of the Commissioner of
242 Correction or released, if the defendant has met the conditions for
243 release, and the court shall continue with the criminal proceedings. If
244 the court finds that the defendant is still not competent but that the
245 defendant is making progress toward attaining competency, the court
246 may continue or modify the placement order. If the court finds that the
247 defendant is still not competent and will not attain competency within
248 the remainder of the period covered by the placement order absent
249 administration of psychiatric medication for which the defendant is
250 unwilling or unable to provide consent, the court shall proceed as
251 provided in subdivisions (2), (3) and (4) of this subsection. If the court
252 finds that the defendant is eligible for civil commitment, the court may
253 order placement of the defendant at a treatment facility pending civil
254 commitment proceedings pursuant to subdivision (2) of subsection (h)

255 of this section.

256 (2) If the court finds that the defendant will not attain competency
257 within the remainder of the period covered by the placement order
258 absent administration of psychiatric medication for which the
259 defendant is unwilling or unable to provide consent, and after any
260 hearing held pursuant to subdivision (3) of this subsection, the court
261 may order the involuntary medication of the defendant if the court
262 finds by clear and convincing evidence that: (A) To a reasonable
263 degree of medical certainty, involuntary medication of the defendant
264 will render the defendant competent to stand trial, (B) an adjudication
265 of guilt or innocence cannot be had using less intrusive means, (C) the
266 proposed treatment plan is narrowly tailored to minimize intrusion on
267 the defendant's liberty and privacy interests, (D) the proposed drug
268 regimen will not cause an unnecessary risk to the defendant's health,
269 and (E) the seriousness of the alleged crime is such that the criminal
270 law enforcement interest of the state in fairly and accurately
271 determining the defendant's guilt or innocence overrides the
272 defendant's interest in self-determination.

273 (3) (A) If the court finds that the defendant is unwilling or unable to
274 provide consent for the administration of psychiatric medication, and
275 prior to deciding whether to order the involuntary medication of the
276 defendant under subdivision (2) of this subsection, the court shall
277 appoint a health care guardian who shall be a licensed health care
278 provider with specialized training in the treatment of persons with
279 psychiatric disabilities to represent the health care interests of the
280 defendant before the court. Notwithstanding the provisions of section
281 52-146e, such health care guardian shall have access to the psychiatric
282 records of the defendant. Such health care guardian shall file a report
283 with the court not later than thirty days after his or her appointment.
284 The report shall set forth such health care guardian's findings and
285 recommendations concerning the administration of psychiatric
286 medication to the defendant, including the risks and benefits of such
287 medication, the likelihood and seriousness of any adverse side effects
288 and the prognosis with and without such medication. The court shall

289 hold a hearing on the matter not later than ten days after receipt of
290 such health care guardian's report and shall, in deciding whether to
291 order the involuntary medication of the defendant, take into account
292 such health care guardian's opinion concerning the health care
293 interests of the defendant.

294 (B) The court, in anticipation of considering continued involuntary
295 medication of the defendant under subdivision (4) of this subsection,
296 shall order the health care guardian to file a supplemental report
297 updating the findings and recommendations contained in the health
298 care guardian's report filed under subparagraph (A) of this
299 subdivision.

300 (4) If, after the defendant has been found to have attained
301 competency by means of involuntary medication ordered under
302 subdivision (2) of this subsection, the court determines by clear and
303 convincing evidence that the defendant will not remain competent
304 absent the continued administration of psychiatric medication for
305 which the defendant is unable to provide consent, and after any
306 hearing held pursuant to subdivision (3) of this subsection and
307 consideration of the supplemental report of the health care guardian,
308 the court may order continued involuntary medication of the
309 defendant if the court finds by clear and convincing evidence that: (A)
310 To a reasonable degree of medical certainty, continued involuntary
311 medication of the defendant will maintain the defendant's competency
312 to stand trial, (B) an adjudication of guilt or innocence cannot be had
313 using less intrusive means, (C) the proposed treatment plan is
314 narrowly tailored to minimize intrusion on the defendant's liberty and
315 privacy interests, (D) the proposed drug regimen will not cause an
316 unnecessary risk to the defendant's health, and (E) the seriousness of
317 the alleged crime is such that the criminal law enforcement interest of
318 the state in fairly and accurately determining the defendant's guilt or
319 innocence overrides the defendant's interest in self-determination.
320 Continued involuntary medication ordered under this subdivision
321 may be administered to the defendant while the criminal charges
322 against the defendant are pending and the defendant is in the custody

323 of the Commissioner of Correction or the Commissioner of Mental
324 Health and Addiction Services. An order for continued involuntary
325 medication of the defendant under this subdivision shall be reviewed
326 by the court every one hundred eighty days while such order remains
327 in effect. The court shall order the health care guardian to file a
328 supplemental report for each such review. After any hearing held
329 pursuant to subdivision (3) of this subsection and consideration of the
330 supplemental report of the health care guardian, the court may
331 continue such order if the court finds, by clear and convincing
332 evidence, that the criteria enumerated in subparagraphs (A) to (E),
333 inclusive, of this subdivision are met.

334 (5) The state shall hold harmless and indemnify any health care
335 guardian appointed by the court pursuant to subdivision (3) of this
336 subsection from financial loss and expense arising out of any claim,
337 demand, suit or judgment by reason of such health care guardian's
338 alleged negligence or alleged deprivation of any person's civil rights or
339 other act or omission resulting in damage or injury, provided the
340 health care guardian is found to have been acting in the discharge of
341 his or her duties pursuant to said subdivision and such act or omission
342 is found not to have been wanton, reckless or malicious. The
343 provisions of subsections (b), (c) and (d) of section 5-141d shall apply
344 to such health care guardian. The provisions of chapter 53 shall not
345 apply to a claim against such health care guardian.

346 (l) If a defendant who has been ordered placed for treatment on an
347 inpatient basis at a mental health facility or mental retardation facility
348 is released from such facility on a furlough or for work, therapy or any
349 other reason and fails to return to the facility in accordance with the
350 terms and conditions of the defendant's release, the person in charge of
351 the facility, or such person's designee, shall, within twenty-four hours
352 of the defendant's failure to return, report such failure to the
353 prosecuting authority for the court location which ordered the
354 placement of the defendant. Upon receipt of such a report, the
355 prosecuting authority shall, within available resources, make
356 reasonable efforts to notify any victim or victims of the crime for which

357 the defendant is charged of such defendant's failure to return to the
358 facility. No civil liability shall be incurred by the state or the
359 prosecuting authority for failure to notify any victim or victims in
360 accordance with this subsection. The failure of a defendant to return to
361 the facility in which the defendant has been placed may constitute
362 sufficient cause for the defendant's rearrest upon order by the court.

363 (m) If at any time the court determines that there is not a substantial
364 probability that the defendant will attain competency within the
365 period of treatment allowed by this section, or if at the end of such
366 period the court finds that the defendant is still not competent, the
367 court shall consider any recommendation made by the examiners
368 pursuant to subsection (d) of this section and any opinion submitted
369 by the treatment facility pursuant to subparagraph (C) of subsection (j)
370 of this section regarding eligibility for, and the appropriateness of, civil
371 commitment to a hospital for psychiatric disabilities and shall either
372 release the defendant from custody or order the defendant placed in
373 the custody of the Commissioner of Mental Health and Addiction
374 Services, the Commissioner of Children and Families or the
375 Commissioner of Developmental Services. If the court orders the
376 defendant placed in the custody of the Commissioner of Children and
377 Families or the Commissioner of Developmental Services, the
378 commissioner given custody, or the commissioner's designee, shall
379 then apply for civil commitment in accordance with sections 17a-75 to
380 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders
381 the defendant placed in the custody of the Commissioner of Mental
382 Health and Addiction Services, the court may order the commissioner,
383 or the commissioner's designee, to apply for civil commitment in
384 accordance with sections 17a-495 to 17a-528, inclusive, or order the
385 commissioner, or the commissioner's designee, to provide services to
386 the defendant in a less restrictive setting, provided the examiners have
387 determined in the written report filed pursuant to subsection (d) of this
388 section or have testified pursuant to subsection (e) of this section that
389 such services are available and appropriate. The court shall hear
390 arguments as to whether the defendant should be released or should
391 be placed in the custody of the Commissioner of Mental Health and

392 Addiction Services, the Commissioner of Children and Families or the
393 Commissioner of Developmental Services. If the court orders the
394 release of a defendant charged with the commission of a crime that
395 resulted in the death or serious physical injury, as defined in section
396 53a-3, of another person, or orders the placement of such defendant in
397 the custody of the Commissioner of Mental Health and Addiction
398 Services, the court may, on its own motion or on motion of the
399 prosecuting authority, order, as a condition of such release or
400 placement, periodic examinations of the defendant as to the
401 defendant's competency. Such an examination shall be conducted in
402 accordance with subsection (d) of this section. Upon receipt of the
403 written report as provided in subsection (d) of this section, the court
404 shall, upon the request of either party filed not later than thirty days
405 after the court receives such report, conduct a hearing as provided in
406 subsection (e) of this section. Such hearing shall be held not later than
407 ninety days after the court receives such report. If the court finds that
408 the defendant has attained competency, the defendant shall be
409 returned to the custody of the Commissioner of Correction or released,
410 if the defendant has met the conditions for release, and the court shall
411 continue with the criminal proceedings. Periodic examinations ordered
412 by the court under this subsection shall continue until the court finds
413 that the defendant has attained competency or until the time within
414 which the defendant may be prosecuted for the crime with which the
415 defendant is charged, as provided in section 54-193 or 54-193a, has
416 expired, whichever occurs first. The court shall dismiss, with or
417 without prejudice, any charges for which a nolle prosequi is not
418 entered when the time within which the defendant may be prosecuted
419 for the crime with which the defendant is charged, as provided in
420 section 54-193 or 54-193a, has expired. Notwithstanding the erasure
421 provisions of section 54-142a, police and court records and records of
422 any state's attorney pertaining to a charge which is nolleed or dismissed
423 without prejudice while the defendant is not competent shall not be
424 erased until the time for the prosecution of the defendant expires
425 under section 54-193 or 54-193a. A defendant who is not civilly
426 committed as a result of an application made by the Commissioner of

427 Mental Health and Addiction Services, the Commissioner of Children
428 and Families or the Commissioner of Developmental Services pursuant
429 to this section shall be released. A defendant who is civilly committed
430 pursuant to such an application shall be treated in the same manner as
431 any other civilly committed person.

432 (n) The cost of the examination effected by the Commissioner of
433 Mental Health and Addiction Services and of testimony of persons
434 conducting the examination effected by the commissioner shall be paid
435 by the Department of Mental Health and Addiction Services. The cost
436 of the examination and testimony by physicians appointed by the
437 court shall be paid by the Judicial Department. If the defendant is
438 indigent, the fee of the person selected by the defendant to observe the
439 examination and to testify on the defendant's behalf shall be paid by
440 the Public Defender Services Commission. The expense of treating a
441 defendant placed in the custody of the Commissioner of Mental Health
442 and Addiction Services, the Commissioner of Children and Families or
443 the Commissioner of Developmental Services pursuant to subdivision
444 (2) of subsection (h) of this section or subsection (i) of this section shall
445 be computed and paid for in the same manner as is provided for
446 persons committed by a probate court under the provisions of sections
447 17b-122, 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive,
448 17b-194 to 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-256,
449 17b-263, 17b-340 to 17b-350, inclusive, 17b-689b and 17b-743 to 17b-
450 747, inclusive.

451 (o) Until the hearing is held, the defendant, if not released on a
452 promise to appear, conditions of release, cash bail or bond, shall
453 remain in the custody of the Commissioner of Correction unless
454 hospitalized as provided in sections 17a-512 to 17a-517, inclusive.

455 (p) This section shall not be construed to require the Commissioner
456 of Mental Health and Addiction Services to place any violent
457 defendant in a mental institution which does not have the trained staff,
458 facilities and security to accommodate such a person.

459 (q) This section shall not prevent counsel for the defendant from

460 raising, prior to trial and while the defendant is not competent, any
461 issue susceptible of fair determination.

462 (r) Actual time spent in confinement on an inpatient basis pursuant
463 to this section shall be credited against any sentence imposed on the
464 defendant in the pending criminal case or in any other case arising out
465 of the same conduct in the same manner as time is credited for time
466 spent in a correctional facility awaiting trial.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	54-56d

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill permits clinical teams evaluating a defendant's competency to stand trial access to treatment history in the Department of Mental Health and Addiction Services data base of treatment episodes. There is no fiscal impact related to this access of data base information.

The bill also makes a variety of requirements related to the reporting of the defendant's competency to stand trial which will not result in a fiscal impact.

The Out Years

There is no fiscal impact in the out years.

Sources: 3/24/09 Public Hearing Testimony

OLR Bill Analysis

HB 6341

AN ACT CONCERNING COMPETENCY TO STAND TRIAL.

SUMMARY:

This bill permits information sharing among health care providers treating or evaluating a defendant who has been, or is believed to be, not guilty due to a mental disease or defect. Currently, there is no express authorization for sharing this information without the defendant's consent.

The bill gives clinical teams evaluating a defendant's competency access to the treatment history in the Department of Mental Health and Addiction Service's data base of treatment episodes.

And when a court orders a defendant to be treated to restore his or her competency, the bill requires the clinical evaluating team to give the court-ordered health care provider information they obtained in the course of their evaluation. They must do this within 24 hours of the court's restoration order.

Finally, no later than five business days after a court determines that the defendant (1) will not become competent within the time that he or she can be detained or supervised or (2) has become competent, the person in charge of the treatment facility, or a designee, must give a copy of its progress report to the clinical team that originally evaluated the defendant.

The bill also extends the deadline for completing the initial competency exam from 15 calendar to five business days.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (03/31/2009)