



House of Representatives

File No. 900

General Assembly

January Session, 2009

(Reprint of File No. 731)

Substitute House Bill No. 6341
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 4, 2009

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 Section 54-56d of the general statutes is repealed and the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 information on treatment dates and locations in the
40 defendant's treatment history contained in the Department of Mental
41 Health and Addiction Services' database of treatment episodes for the
42 purpose of requesting a release of treatment information from the
43 defendant. If the examiners determine that the defendant is not
44 competent, the examiners shall then determine whether there is a
45 substantial probability that the defendant, if provided with a course of
46 treatment, will regain competency within the maximum period of any
47 placement order under this section. If the examiners determine that
48 there is a substantial probability that the defendant, if provided with a

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

73 (e) The court shall hold a hearing as to the competency of the
74 defendant [no] not later than ten days after the court receives the
75 written report. Any evidence regarding the defendant's competency,
76 including the written report, may be introduced at the hearing by
77 either the defendant or the state, except that no treatment information
78 contained in the Department of Mental Health and Addiction Services'
79 database of treatment episodes may be included in the written report
80 or introduced at the hearing unless the defendant released the
81 treatment information pursuant to subsection (d) of this section. If the
82 written report is introduced, at least one of the examiners shall be

83 present to testify as to the determinations in the report, unless the
84 examiner's presence is waived by the defendant and the state. Any
85 member of the clinical team shall be considered competent to testify as
86 to the team's determinations. A defendant and the defendant's counsel
87 may waive the court hearing only if the examiners, in the written
88 report, determine without qualification that the defendant is
89 competent. Nothing in this subsection shall limit any other release or
90 use of information from said database permitted by law.

91 (f) If the court, after the hearing, finds that the defendant is
92 competent, the court shall continue with the criminal proceedings. If
93 the court finds that the defendant is not competent, the court shall also
94 find whether there is a substantial probability that the defendant, if
95 provided with a course of treatment, will regain competency within
96 the maximum period of any placement order permitted under this
97 section.

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

103 (h) (1) If, at the hearing, the court finds that there is a substantial
104 probability that the defendant, if provided with a course of treatment,
105 will regain competency within the period of any placement order
106 under this section, the court shall either (A) order placement of the
107 defendant for treatment for the purpose of rendering the defendant
108 competent, or (B) order placement of the defendant at a treatment
109 facility pending civil commitment proceedings pursuant to
110 subdivision (2) of this subsection.

111 (2) (A) Except as provided in subparagraph (B) of this subdivision, if
112 the court makes a finding pursuant to subdivision (1) of this subsection
113 and does not order placement pursuant to subparagraph (A) of said
114 subdivision, the court shall, on its own motion or on motion of the

115 state or the defendant, order placement of the defendant in the custody
116 of the Commissioner of Mental Health and Addiction Services at a
117 treatment facility pending civil commitment proceedings. The
118 treatment facility shall be determined by the Commissioner of Mental
119 Health and Addiction Services. Such order shall: (i) Include an
120 authorization for the Commissioner of Mental Health and Addiction
121 Services to apply for civil commitment of such defendant pursuant to
122 sections 17a-495 to 17a-528, inclusive; (ii) permit the defendant to agree
123 to request voluntarily to be admitted under section 17a-506 and
124 participate voluntarily in a treatment plan prepared by the
125 Commissioner of Mental Health and Addiction Services, and require
126 that the defendant comply with such treatment plan; and (iii) provide
127 that if the application for civil commitment is denied or not pursued
128 by the Commissioner of Mental Health and Addiction Services, or if
129 the defendant is unwilling or unable to comply with a treatment plan
130 despite reasonable efforts of the treatment facility to encourage the
131 defendant's compliance, the person in charge of the treatment facility,
132 or such person's designee, shall submit a written progress report to the
133 court and the defendant shall be returned to the court for a hearing
134 pursuant to subsection (k) of this section. Such written progress report
135 shall include the status of any civil commitment proceedings
136 concerning the defendant, the defendant's compliance with the
137 treatment plan, an opinion regarding the defendant's current
138 competency to stand trial, the clinical findings of the person
139 submitting the report and the facts upon which the findings are based,
140 and any other information concerning the defendant requested by the
141 court, including, but not limited to, the method of treatment or the
142 type, dosage and effect of any medication the defendant is receiving.
143 The Court Support Services Division shall monitor the defendant's
144 compliance with any applicable provisions of such order. The period
145 of placement and monitoring under such order shall not exceed the
146 period of the maximum sentence which the defendant could receive on
147 conviction of the charges against such defendant, or eighteen months,
148 whichever is less. If the defendant has complied with such treatment
149 plan and any applicable provisions of such order, at the end of the

150 period of placement and monitoring, the court shall approve the entry
151 of a nolle prosequi to the charges against the defendant or shall
152 dismiss such charges.

153 (B) This subdivision shall not apply: (i) To any person charged with
154 a class A felony, a class B felony, except a violation of section 53a-122
155 that does not involve the use, attempted use or threatened use of
156 physical force against another person, or a violation of section 14-227a,
157 subdivision (2) of subsection (a) of section 53-21 or section 53a-56b,
158 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b; (ii) to any
159 person charged with a crime or motor vehicle violation who, as a result
160 of the commission of such crime or motor vehicle violation, causes the
161 death of another person; or (iii) unless good cause is shown, to any
162 person charged with a class C felony.

163 (i) The placement of the defendant for treatment for the purpose of
164 rendering the defendant competent shall comply with the following
165 conditions: (1) The period of placement under the order or
166 combination of orders shall not exceed the period of the maximum
167 sentence which the defendant could receive on conviction of the
168 charges against the defendant or eighteen months, whichever is less;
169 (2) the placement shall be either in the custody of the Commissioner of
170 Mental Health and Addiction Services, the Commissioner of Children
171 and Families or the Commissioner of Developmental Services or, if the
172 defendant or the appropriate commissioner agrees to provide
173 payment, in the custody of any appropriate mental health facility or
174 treatment program which agrees to provide treatment to the defendant
175 and to adhere to the requirements of this section; and (3) the court
176 shall order the placement, on either an inpatient or an outpatient basis,
177 which the court finds is the least restrictive placement appropriate and
178 available to restore competency. If outpatient treatment is the least
179 restrictive placement for a defendant who has not yet been released
180 from a correctional facility, the court shall consider whether the
181 availability of such treatment is a sufficient basis on which to release
182 the defendant on a promise to appear, conditions of release, cash bail
183 or bond. If the court determines that the defendant may not be so

184 released, the court shall order treatment of the defendant on an
185 inpatient basis at a mental health facility or mental retardation facility.
186 Not later than twenty-four hours after the court orders placement of
187 the defendant for treatment for the purpose of rendering the defendant
188 competent, the evaluators shall transmit information obtained about
189 the defendant during the course of an evaluation pursuant to
190 subsection (d) of this section to the health care provider named in the
191 court's order.

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

218 defendant will not attain competency within the period of any
219 placement order under this section or that the defendant has regained
220 competency, the person in charge of the treatment facility, or such
221 person's designee, shall provide a copy of the written progress report
222 to the examiners who examined the defendant pursuant to subsection
223 (d) of this section.

224 (k) (1) When any placement order for treatment is rendered or
225 continued, the court shall set a date for a hearing, to be held within
226 ninety days, for reconsideration of the issue of the defendant's
227 competency. Whenever the court (A) receives a report pursuant to
228 subsection (j) of this section which indicates that (i) the defendant has
229 attained competency, (ii) the defendant will not attain competency
230 within the remainder of the period covered by the placement order,
231 (iii) the defendant will not attain competency within the remainder of
232 the period covered by the placement order absent administration of
233 psychiatric medication for which the defendant is unwilling or unable
234 to provide consent, or (iv) the defendant would be eligible for civil
235 commitment pursuant to subdivision (2) of subsection (h) of this
236 section, or (B) receives a report pursuant to subparagraph (A)(iii) of
237 subdivision (2) of subsection (h) of this section which indicates that (i)
238 the application for civil commitment of the defendant has been denied
239 or has not been pursued by the Commissioner of Mental Health and
240 Addiction Services, or (ii) the defendant is unwilling or unable to
241 comply with a treatment plan despite reasonable efforts of the
242 treatment facility to encourage the defendant's compliance, the court
243 shall set the matter for a hearing [no] not later than ten days after the
244 report is received. The hearing may be waived by the defendant only if
245 the report indicates that the defendant is competent. The court shall
246 determine whether the defendant is competent or is making progress
247 toward attainment of competency within the period covered by the
248 placement order. If the court finds that the defendant is competent, the
249 defendant shall be returned to the custody of the Commissioner of
250 Correction or released, if the defendant has met the conditions for
251 release, and the court shall continue with the criminal proceedings. If

252 the court finds that the defendant is still not competent but that the
253 defendant is making progress toward attaining competency, the court
254 may continue or modify the placement order. If the court finds that the
255 defendant is still not competent and will not attain competency within
256 the remainder of the period covered by the placement order absent
257 administration of psychiatric medication for which the defendant is
258 unwilling or unable to provide consent, the court shall proceed as
259 provided in subdivisions (2), (3) and (4) of this subsection. If the court
260 finds that the defendant is eligible for civil commitment, the court may
261 order placement of the defendant at a treatment facility pending civil
262 commitment proceedings pursuant to subdivision (2) of subsection (h)
263 of this section.

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

281 (3) (A) If the court finds that the defendant is unwilling or unable to
282 provide consent for the administration of psychiatric medication, and
283 prior to deciding whether to order the involuntary medication of the
284 defendant under subdivision (2) of this subsection, the court shall
285 appoint a health care guardian who shall be a licensed health care

286 provider with specialized training in the treatment of persons with
287 psychiatric disabilities to represent the health care interests of the
288 defendant before the court. Notwithstanding the provisions of section
289 52-146e, such health care guardian shall have access to the psychiatric
290 records of the defendant. Such health care guardian shall file a report
291 with the court not later than thirty days after his or her appointment.
292 The report shall set forth such health care guardian's findings and
293 recommendations concerning the administration of psychiatric
294 medication to the defendant, including the risks and benefits of such
295 medication, the likelihood and seriousness of any adverse side effects
296 and the prognosis with and without such medication. The court shall
297 hold a hearing on the matter not later than ten days after receipt of
298 such health care guardian's report and shall, in deciding whether to
299 order the involuntary medication of the defendant, take into account
300 such health care guardian's opinion concerning the health care
301 interests of the defendant.

302 (B) The court, in anticipation of considering continued involuntary
303 medication of the defendant under subdivision (4) of this subsection,
304 shall order the health care guardian to file a supplemental report
305 updating the findings and recommendations contained in the health
306 care guardian's report filed under subparagraph (A) of this
307 subdivision.

308 (4) If, after the defendant has been found to have attained
309 competency by means of involuntary medication ordered under
310 subdivision (2) of this subsection, the court determines by clear and
311 convincing evidence that the defendant will not remain competent
312 absent the continued administration of psychiatric medication for
313 which the defendant is unable to provide consent, and after any
314 hearing held pursuant to subdivision (3) of this subsection and
315 consideration of the supplemental report of the health care guardian,
316 the court may order continued involuntary medication of the
317 defendant if the court finds by clear and convincing evidence that: (A)
318 To a reasonable degree of medical certainty, continued involuntary
319 medication of the defendant will maintain the defendant's competency

320 to stand trial, (B) an adjudication of guilt or innocence cannot be had
321 using less intrusive means, (C) the proposed treatment plan is
322 narrowly tailored to minimize intrusion on the defendant's liberty and
323 privacy interests, (D) the proposed drug regimen will not cause an
324 unnecessary risk to the defendant's health, and (E) the seriousness of
325 the alleged crime is such that the criminal law enforcement interest of
326 the state in fairly and accurately determining the defendant's guilt or
327 innocence overrides the defendant's interest in self-determination.
328 Continued involuntary medication ordered under this subdivision
329 may be administered to the defendant while the criminal charges
330 against the defendant are pending and the defendant is in the custody
331 of the Commissioner of Correction or the Commissioner of Mental
332 Health and Addiction Services. An order for continued involuntary
333 medication of the defendant under this subdivision shall be reviewed
334 by the court every one hundred eighty days while such order remains
335 in effect. The court shall order the health care guardian to file a
336 supplemental report for each such review. After any hearing held
337 pursuant to subdivision (3) of this subsection and consideration of the
338 supplemental report of the health care guardian, the court may
339 continue such order if the court finds, by clear and convincing
340 evidence, that the criteria enumerated in subparagraphs (A) to (E),
341 inclusive, of this subdivision are met.

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

354 (l) If a defendant who has been ordered placed for treatment on an
355 inpatient basis at a mental health facility or mental retardation facility
356 is released from such facility on a furlough or for work, therapy or any
357 other reason and fails to return to the facility in accordance with the
358 terms and conditions of the defendant's release, the person in charge of
359 the facility, or such person's designee, shall, within twenty-four hours
360 of the defendant's failure to return, report such failure to the
361 prosecuting authority for the court location which ordered the
362 placement of the defendant. Upon receipt of such a report, the
363 prosecuting authority shall, within available resources, make
364 reasonable efforts to notify any victim or victims of the crime for which
365 the defendant is charged of such defendant's failure to return to the
366 facility. No civil liability shall be incurred by the state or the
367 prosecuting authority for failure to notify any victim or victims in
368 accordance with this subsection. The failure of a defendant to return to
369 the facility in which the defendant has been placed may constitute
370 sufficient cause for the defendant's rearrest upon order by the court.

371 (m) If at any time the court determines that there is not a substantial
372 probability that the defendant will attain competency within the
373 period of treatment allowed by this section, or if at the end of such
374 period the court finds that the defendant is still not competent, the
375 court shall consider any recommendation made by the examiners
376 pursuant to subsection (d) of this section and any opinion submitted
377 by the treatment facility pursuant to subparagraph (C) of subsection (j)
378 of this section regarding eligibility for, and the appropriateness of, civil
379 commitment to a hospital for psychiatric disabilities and shall either
380 release the defendant from custody or order the defendant placed in
381 the custody of the Commissioner of Mental Health and Addiction
382 Services, the Commissioner of Children and Families or the
383 Commissioner of Developmental Services. If the court orders the
384 defendant placed in the custody of the Commissioner of Children and
385 Families or the Commissioner of Developmental Services, the
386 commissioner given custody, or the commissioner's designee, shall
387 then apply for civil commitment in accordance with sections 17a-75 to

388 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders
389 the defendant placed in the custody of the Commissioner of Mental
390 Health and Addiction Services, the court may order the commissioner,
391 or the commissioner's designee, to apply for civil commitment in
392 accordance with sections 17a-495 to 17a-528, inclusive, or order the
393 commissioner, or the commissioner's designee, to provide services to
394 the defendant in a less restrictive setting, provided the examiners have
395 determined in the written report filed pursuant to subsection (d) of this
396 section or have testified pursuant to subsection (e) of this section that
397 such services are available and appropriate. The court shall hear
398 arguments as to whether the defendant should be released or should
399 be placed in the custody of the Commissioner of Mental Health and
400 Addiction Services, the Commissioner of Children and Families or the
401 Commissioner of Developmental Services. If the court orders the
402 release of a defendant charged with the commission of a crime that
403 resulted in the death or serious physical injury, as defined in section
404 53a-3, of another person, or orders the placement of such defendant in
405 the custody of the Commissioner of Mental Health and Addiction
406 Services, the court may, on its own motion or on motion of the
407 prosecuting authority, order, as a condition of such release or
408 placement, periodic examinations of the defendant as to the
409 defendant's competency. Such an examination shall be conducted in
410 accordance with subsection (d) of this section. Upon receipt of the
411 written report as provided in subsection (d) of this section, the court
412 shall, upon the request of either party filed not later than thirty days
413 after the court receives such report, conduct a hearing as provided in
414 subsection (e) of this section. Such hearing shall be held not later than
415 ninety days after the court receives such report. If the court finds that
416 the defendant has attained competency, the defendant shall be
417 returned to the custody of the Commissioner of Correction or released,
418 if the defendant has met the conditions for release, and the court shall
419 continue with the criminal proceedings. Periodic examinations ordered
420 by the court under this subsection shall continue until the court finds
421 that the defendant has attained competency or until the time within
422 which the defendant may be prosecuted for the crime with which the

423 defendant is charged, as provided in section 54-193 or 54-193a, has
424 expired, whichever occurs first. The court shall dismiss, with or
425 without prejudice, any charges for which a nolle prosequi is not
426 entered when the time within which the defendant may be prosecuted
427 for the crime with which the defendant is charged, as provided in
428 section 54-193 or 54-193a, has expired. Notwithstanding the erasure
429 provisions of section 54-142a, police and court records and records of
430 any state's attorney pertaining to a charge which is nolle or dismissed
431 without prejudice while the defendant is not competent shall not be
432 erased until the time for the prosecution of the defendant expires
433 under section 54-193 or 54-193a. A defendant who is not civilly
434 committed as a result of an application made by the Commissioner of
435 Mental Health and Addiction Services, the Commissioner of Children
436 and Families or the Commissioner of Developmental Services pursuant
437 to this section shall be released. A defendant who is civilly committed
438 pursuant to such an application shall be treated in the same manner as
439 any other civilly committed person.

440 (n) The cost of the examination effected by the Commissioner of
441 Mental Health and Addiction Services and of testimony of persons
442 conducting the examination effected by the commissioner shall be paid
443 by the Department of Mental Health and Addiction Services. The cost
444 of the examination and testimony by physicians appointed by the
445 court shall be paid by the Judicial Department. If the defendant is
446 indigent, the fee of the person selected by the defendant to observe the
447 examination and to testify on the defendant's behalf shall be paid by
448 the Public Defender Services Commission. The expense of treating a
449 defendant placed in the custody of the Commissioner of Mental Health
450 and Addiction Services, the Commissioner of Children and Families or
451 the Commissioner of Developmental Services pursuant to subdivision
452 (2) of subsection (h) of this section or subsection (i) of this section shall
453 be computed and paid for in the same manner as is provided for
454 persons committed by a probate court under the provisions of sections
455 17b-122, 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive,
456 17b-194 to 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-256,

457 17b-263, 17b-340 to 17b-350, inclusive, 17b-689b and 17b-743 to 17b-
458 747, inclusive.

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

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

467 (q) This section shall not prevent counsel for the defendant from
468 raising, prior to trial and while the defendant is not competent, any
469 issue susceptible of fair determination.

470 (r) Actual time spent in confinement on an inpatient basis pursuant
471 to this section shall be credited against any sentence imposed on the
472 defendant in the pending criminal case or in any other case arising out
473 of the same conduct in the same manner as time is credited for time
474 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

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.

House "A " adds various clarifying statements that does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6341 (as amended by House "A")******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 information on treatment dates and locations in the treatment history in the Department of Mental Health and Addiction Service's (DMHAS) database of treatment episodes for the purpose of requesting a release of information from the defendant. It specifies that no treatment in the database can be included in the evaluators' written report or introduced at the competency hearing unless the defendant authorized its release. Under the bill, the limitation in access to information for this purpose does not limit any other lawful release or use of information from the database.

In addition, 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 extends the deadline for completing the initial competency exam from 15 calendar to 15 business days.

*House Amendment "A" places restrictions on access and use of treatment information in the DMHAS database.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (03/31/2009)