



House of Representatives

General Assembly

File No. 68

February Session, 2010

Substitute House Bill No. 5249

House of Representatives, March 18, 2010

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 THE CONFIDENTIALITY OF CERTAIN DOCUMENTS AND RECORDS IN PSYCHIATRIC SECURITY REVIEW BOARD PROCEEDINGS.

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

1 Section 1. Section 17a-596 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) Prior to any hearing by the board concerning the discharge,
4 conditional release, temporary leave or confinement of the acquittee,
5 the board, acquittee and state's attorney may each choose a psychiatrist
6 or psychologist to examine the acquittee. The results of the
7 examination shall be in writing and filed with the board, and shall
8 include, but need not be limited to, an opinion as to whether the
9 acquittee is a person with psychiatric disabilities or mentally retarded
10 to the extent that [his] the acquittee's release would constitute a danger
11 to himself or others and whether the acquittee could be adequately
12 controlled with treatment as a condition of release. To facilitate
13 examination of the acquittee, the board may order [him] the acquittee

14 placed in the temporary custody of any hospital for psychiatric
15 disabilities or other suitable facility or placed with the Commissioner
16 of Developmental Services.

17 (b) The board shall consider all evidence available to it that is
18 material, relevant and reliable regarding the issues before the board.
19 Such evidence may include, but [is] need not be limited to, the record
20 of trial, the information supplied by the state's attorney or by any other
21 interested party, including the acquittee, and information concerning
22 the acquittee's mental condition and the entire psychiatric and criminal
23 history of the acquittee.

24 (c) Testimony shall be taken upon oath or affirmation of the witness
25 from whom the testimony is received.

26 (d) Any hearing by the board, including the taking of any testimony
27 at such hearing, shall be open to the public. At any hearing before the
28 board, the acquittee shall have all the rights given a party to a
29 contested case under chapter 54. In addition to the rights enumerated
30 [thereunder] in chapter 54, the acquittee shall have the right to appear
31 at all proceedings before the board, except board deliberations, and to
32 be represented by counsel, to consult with counsel prior to the hearing
33 and, if indigent, to have counsel provided, pursuant to the provisions
34 of chapter 887, without cost. At any hearing before the board, copies of
35 documents and reports considered by the board shall be available for
36 examination by the acquittee, counsel for the acquittee and the state's
37 attorney. [The confidentiality of these reports shall be determined
38 pursuant to sections 52-146c to 52-146j, inclusive.] Psychiatric or
39 psychological reports concerning the acquittee that are in the
40 possession of the board shall not be public records, as defined in
41 section 1-200, except that information in such reports relied on by the
42 board or used as evidence concerning the discharge, conditional
43 release, temporary leave or confinement of the acquittee shall not be
44 confidential. The provisions of sections 52-146c to 52-146j, inclusive,
45 shall not apply to such reports for the purposes of this section.

46 (e) Upon request of any party before the board, or on its own

47 motion, the board may continue a hearing for a reasonable time not to
48 exceed sixty days to obtain additional information or testimony or for
49 other good cause shown.

50 (f) At any hearing before the board, the acquittee, or any applicant
51 seeking an order less restrictive than the existing order, shall have the
52 burden of proving by a preponderance of the evidence the existence of
53 conditions warranting a less restrictive order.

54 (g) A record shall be kept of all hearings before the board, except
55 board deliberations.

56 (h) Within twenty-five days of the conclusion of the hearing, the
57 board shall provide the acquittee, [his] the acquittee's counsel, the
58 state's attorney and any victim as defined in section 17a-601 with
59 written notice of the board's decision. If there is no victim or the victim
60 is unidentified or cannot be located, the board shall be relieved of the
61 requirement of providing notice to the victim.

62 Sec. 2. Section 17a-590 of the general statutes is repealed and the
63 following is substituted in lieu thereof (*Effective October 1, 2010*):

64 As one of the conditions of release, the board may require the
65 acquittee to report to any public or private mental health facility for
66 examination. Whenever medical, psychiatric or psychological
67 treatment is recommended, the board may order the acquittee, as a
68 condition of release, to cooperate with and accept treatment from the
69 facility. The facility to which the acquittee has been referred for
70 examination shall perform the examination and submit a written
71 report of its findings to the board. If the facility finds that treatment of
72 the person is appropriate, it shall include its recommendations for
73 treatment in the report to the board. Whenever treatment is provided
74 by the facility, [it] the facility shall furnish reports to the board on a
75 regular basis concerning the status of the acquittee and the degree to
76 which [he] the acquittee is a danger to himself or others. The board
77 shall furnish copies of all such reports to the acquittee, counsel for the
78 acquittee and the state's attorney. [The confidentiality of these reports

79 shall be determined pursuant to sections 52-146c to 52-146j, inclusive.]
80 The facility shall comply with any other conditions of release
81 prescribed by order of the board.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	17a-596
Sec. 2	October 1, 2010	17a-590

Statement of Legislative Commissioners:

Section 3 was deleted for accuracy because the conforming change made in the section was unnecessary.

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 clarifies that certain information contained in psychiatric or psychological reports concerning an acquittee is not considered confidential, and has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5249*****AN ACT CONCERNING THE CONFIDENTIALITY OF CERTAIN DOCUMENTS AND RECORDS IN PSYCHIATRIC SECURITY REVIEW BOARD PROCEEDINGS.*****SUMMARY:**

This bill makes public certain mental health information about people under the supervision of the Psychiatric Security Review Board (PSRB) after being acquitted of a crime due to a mental disease or defect (acquittees). It applies to otherwise-confidential psychological or psychiatric information that the acquittee or PSRB used as evidence in a public hearing concerning the acquittee's release, conditional release, temporary leave, or confinement. Under current law, such information is not a public record and disclosure is protected by the psychologist- or psychiatrist-patient privilege (confidentiality) rules. There is no provision in current statute concerning temporary leaves.

The bill also eliminates the psychologist and psychiatrist privileges, which currently apply to mental status examinations acquittees must undergo while conditionally released in the community. In contrast to the limited disclosure of information disclosed in PSRB hearings, this change appears to make all information in mental status reports publicly available.

Finally, the bill requires PSRB to hold a hearing before granting a request for a temporary leave. Currently, hearings are required only for decisions to discharge, conditionally discharge, or continue the acquittee's confinement.

EFFECTIVE DATE: October 1, 2010

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 0 (03/03/2010)