



General Assembly

Substitute Bill No. 5247

February Session, 2010

* _____HB05247JUD__030310_____*

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 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

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

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

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

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

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

74 (e) The court shall hold a hearing as to the competency of the
75 defendant not later than ten days after the court receives the written
76 report. Any evidence regarding the defendant's competency, including
77 the written report, may be introduced at the hearing by either the
78 defendant or the state, except that no treatment information contained
79 in the Department of Mental Health and Addiction Services' database
80 of treatment episodes may be included in the written report or
81 introduced at the hearing unless the defendant released the treatment
82 information pursuant to subsection (d) of this section. If the written
83 report is introduced, at least one of the examiners shall be present to
84 testify as to the determinations in the report, unless the examiner's
85 presence is waived by the defendant and the state. Any member of the
86 clinical team shall be considered competent to testify as to the team's
87 determinations. A defendant and the defendant's counsel may waive

88 the court hearing only if the examiners, in the written report,
89 determine without qualification that the defendant is competent.
90 Nothing in this subsection shall limit any other release or use of
91 information from said database permitted by law.

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

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

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

112 (2) (A) Except as provided in subparagraph (B) of this subdivision, if
113 the court makes a finding pursuant to subdivision (1) of this subsection
114 and does not order placement pursuant to subparagraph (A) of said
115 subdivision, the court shall, on its own motion or on motion of the
116 state or the defendant, order placement of the defendant in the custody
117 of the Commissioner of Mental Health and Addiction Services at a
118 treatment facility pending civil commitment proceedings. The
119 treatment facility shall be determined by the Commissioner of Mental

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

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

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

188 the defendant for treatment for the purpose of rendering the defendant
189 competent, the [evaluators] examiners shall transmit information
190 obtained about the defendant during the course of an [evaluation]
191 examination pursuant to subsection (d) of this section to the health
192 care provider named in the court's order.

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

222 person's designee, shall provide a copy of the written progress report
223 to the examiners who examined the defendant pursuant to subsection
224 (d) of this section.

225 (k) (1) When any placement order for treatment is rendered or
226 continued, the court shall set a date for a hearing, to be held within
227 ninety days, for reconsideration of the issue of the defendant's
228 competency. Whenever the court (A) receives a report pursuant to
229 subsection (j) of this section which indicates that (i) the defendant has
230 attained competency, (ii) the defendant will not attain competency
231 within the remainder of the period covered by the placement order,
232 (iii) the defendant will not attain competency within the remainder of
233 the period covered by the placement order absent administration of
234 psychiatric medication for which the defendant is unwilling or unable
235 to provide consent, or (iv) the defendant would be eligible for civil
236 commitment pursuant to subdivision (2) of subsection (h) of this
237 section, or (B) receives a report pursuant to subparagraph (A)(iii) of
238 subdivision (2) of subsection (h) of this section which indicates that (i)
239 the application for civil commitment of the defendant has been denied
240 or has not been pursued by the Commissioner of Mental Health and
241 Addiction Services, or (ii) the defendant is unwilling or unable to
242 comply with a treatment plan despite reasonable efforts of the
243 treatment facility to encourage the defendant's compliance, the court
244 shall set the matter for a hearing not later than ten days after the report
245 is received. The hearing may be waived by the defendant only if the
246 report indicates that the defendant is competent. The court shall
247 determine whether the defendant is competent or is making progress
248 toward attainment of competency within the period covered by the
249 placement order. If the court finds that the defendant is competent, the
250 defendant shall be returned to the custody of the Commissioner of
251 Correction or released, if the defendant has met the conditions for
252 release, and the court shall continue with the criminal proceedings. If
253 the court finds that the defendant is still not competent but that the
254 defendant is making progress toward attaining competency, the court
255 may continue or modify the placement order. If the court finds that the

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

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

282 (3) (A) If the court finds that the defendant is unwilling or unable to
283 provide consent for the administration of psychiatric medication, and
284 prior to deciding whether to order the involuntary medication of the
285 defendant under subdivision (2) of this subsection, the court shall
286 appoint a health care guardian who shall be a licensed health care
287 provider with specialized training in the treatment of persons with
288 psychiatric disabilities to represent the health care interests of the
289 defendant before the court. Notwithstanding the provisions of section

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

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

309 (4) If, after the defendant has been found to have attained
310 competency by means of involuntary medication ordered under
311 subdivision (2) of this subsection, the court determines by clear and
312 convincing evidence that the defendant will not remain competent
313 absent the continued administration of psychiatric medication for
314 which the defendant is unable to provide consent, and after any
315 hearing held pursuant to subdivision (3) of this subsection and
316 consideration of the supplemental report of the health care guardian,
317 the court may order continued involuntary medication of the
318 defendant if the court finds by clear and convincing evidence that: (A)
319 To a reasonable degree of medical certainty, continued involuntary
320 medication of the defendant will maintain the defendant's competency
321 to stand trial, (B) an adjudication of guilt or innocence cannot be had
322 using less intrusive means, (C) the proposed treatment plan is
323 narrowly tailored to minimize intrusion on the defendant's liberty and

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

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

355 (l) If a defendant who has been ordered placed for treatment on an
356 inpatient basis at a mental health facility or mental retardation facility
357 is released from such facility on a furlough or for work, therapy or any

358 other reason and fails to return to the facility in accordance with the
359 terms and conditions of the defendant's release, the person in charge of
360 the facility, or such person's designee, shall, within twenty-four hours
361 of the defendant's failure to return, report such failure to the
362 prosecuting authority for the court location which ordered the
363 placement of the defendant. Upon receipt of such a report, the
364 prosecuting authority shall, within available resources, make
365 reasonable efforts to notify any victim or victims of the crime for which
366 the defendant is charged of such defendant's failure to return to the
367 facility. No civil liability shall be incurred by the state or the
368 prosecuting authority for failure to notify any victim or victims in
369 accordance with this subsection. The failure of a defendant to return to
370 the facility in which the defendant has been placed may constitute
371 sufficient cause for the defendant's rearrest upon order by the court.

372 (m) (1) If at any time the court determines that there is not a
373 substantial probability that the defendant will attain competency
374 within the period of treatment allowed by this section, or if at the end
375 of such period the court finds that the defendant is still not competent,
376 the court shall consider any recommendation made by the examiners
377 pursuant to subsection (d) of this section and any opinion submitted
378 by the treatment facility pursuant to subparagraph (C) of subsection (j)
379 of this section regarding eligibility for, and the appropriateness of, civil
380 commitment to a hospital for psychiatric disabilities and shall either
381 release the defendant from custody or order the defendant placed in
382 the custody of the Commissioner of Mental Health and Addiction
383 Services, the Commissioner of Children and Families or the
384 Commissioner of Developmental Services. If the court orders the
385 defendant placed in the custody of the Commissioner of Children and
386 Families or the Commissioner of Developmental Services, the
387 commissioner given custody, or the commissioner's designee, shall
388 then apply for civil commitment in accordance with sections 17a-75 to
389 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders
390 the defendant placed in the custody of the Commissioner of Mental
391 Health and Addiction Services, the court may order the commissioner,

392 or the commissioner's designee, to apply for civil commitment in
393 accordance with sections 17a-495 to 17a-528, inclusive, or order the
394 commissioner, or the commissioner's designee, to provide services to
395 the defendant in a less restrictive setting, provided the examiners have
396 determined in the written report filed pursuant to subsection (d) of this
397 section or have testified pursuant to subsection (e) of this section that
398 such services are available and appropriate. If the court orders the
399 defendant placed in the custody of the Commissioner of Mental Health
400 and Addiction Services and orders the commissioner to apply for civil
401 commitment pursuant to this subsection, the court may order the
402 commissioner to give the court notice when the defendant is released
403 from the commissioner's custody if such release is prior to the
404 expiration of the time within which the defendant may be prosecuted
405 for the crime with which the defendant is charged, provided such
406 order indicates when such time expires.

407 (2) The court shall hear arguments as to whether the defendant
408 should be released or should be placed in the custody of the
409 Commissioner of Mental Health and Addiction Services, the
410 Commissioner of Children and Families or the Commissioner of
411 Developmental Services.

412 (3) If the court orders the release of a defendant charged with the
413 commission of a crime that resulted in the death or serious physical
414 injury, as defined in section 53a-3, of another person, or with a
415 violation of subdivision (2) of subsection (a) of section 53-21,
416 subdivision (2) of subsection (a) of section 53a-60 or section 53a-60a,
417 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, or orders the
418 placement of such defendant in the custody of the Commissioner of
419 Mental Health and Addiction Services, the court may, on its own
420 motion or on motion of the prosecuting authority, order, as a condition
421 of such release or placement, periodic examinations of the defendant
422 as to the defendant's competency at intervals of not less than six
423 months. Such an examination shall be conducted in accordance with
424 subsection (d) of this section. Periodic examinations ordered by the
425 court under this subsection shall continue until the court finds that the

426 defendant has attained competency or until the time within which the
427 defendant may be prosecuted for the crime with which the defendant
428 is charged, as provided in section 54-193 or 54-193a, has expired,
429 whichever occurs first.

430 (4) Upon receipt of the written report as provided in subsection (d)
431 of this section, the court shall, upon the request of either party filed not
432 later than thirty days after the court receives such report, conduct a
433 hearing as provided in subsection (e) of this section. Such hearing shall
434 be held not later than ninety days after the court receives such report.
435 If the court finds that the defendant has attained competency, the
436 defendant shall be returned to the custody of the Commissioner of
437 Correction or released, if the defendant has met the conditions for
438 release, and the court shall continue with the criminal proceedings.
439 [Periodic examinations ordered by the court under this subsection
440 shall continue until the court finds that the defendant has attained
441 competency or until the time within which the defendant may be
442 prosecuted for the crime with which the defendant is charged, as
443 provided in section 54-193 or 54-193a, has expired, whichever occurs
444 first.]

445 (5) The court shall dismiss, with or without prejudice, any charges
446 for which a nolle prosequi is not entered when the time within which
447 the defendant may be prosecuted for the crime with which the
448 defendant is charged, as provided in section 54-193 or 54-193a, has
449 expired. Notwithstanding the record erasure provisions of section 54-
450 142a, police and court records and records of any state's attorney
451 pertaining to a charge which is nolleed or dismissed without prejudice
452 while the defendant is not competent shall not be erased until the time
453 for the prosecution of the defendant expires under section 54-193 or 54-
454 193a. A defendant who is not civilly committed as a result of an
455 application made by the Commissioner of Mental Health and
456 Addiction Services, the Commissioner of Children and Families or the
457 Commissioner of Developmental Services pursuant to this section shall
458 be released. A defendant who is civilly committed pursuant to such an
459 application shall be treated in the same manner as any other civilly

460 committed person.

461 (n) The cost of the examination effected by the Commissioner of
462 Mental Health and Addiction Services and of testimony of persons
463 conducting the examination effected by the commissioner shall be paid
464 by the Department of Mental Health and Addiction Services. The cost
465 of the examination and testimony by physicians appointed by the
466 court shall be paid by the Judicial Department. If the defendant is
467 indigent, the fee of the person selected by the defendant to observe the
468 examination and to testify on the defendant's behalf shall be paid by
469 the Public Defender Services Commission. The expense of treating a
470 defendant placed in the custody of the Commissioner of Mental Health
471 and Addiction Services, the Commissioner of Children and Families or
472 the Commissioner of Developmental Services pursuant to subdivision
473 (2) of subsection (h) of this section or subsection (i) of this section shall
474 be computed and paid for in the same manner as is provided for
475 persons committed by a probate court under the provisions of sections
476 17b-122, 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive,
477 17b-194 to 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-256,
478 17b-263, 17b-340 to 17b-350, inclusive, 17b-689b and 17b-743 to 17b-
479 747, inclusive.

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

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

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

491 (r) Actual time spent in confinement on an inpatient basis pursuant

492 to this section shall be credited against any sentence imposed on the
493 defendant in the pending criminal case or in any other case arising out
494 of the same conduct in the same manner as time is credited for time
495 spent in a correctional facility awaiting trial.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2010</i>	54-56d
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JUD *Joint Favorable Subst.*