



Senate

General Assembly

File No. 533

January Session, 2011

Substitute Senate Bill No. 970

Senate, April 14, 2011

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND RESPONSE IN HEALTH CARE SETTINGS.

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

1 Section 1. (NEW) (*Effective July 1, 2011*) (a) As used in this section,
2 sections 2 and 3 of this act, and section 53a-167c of the general statutes,
3 as amended by this act:

4 (1) "Health care employer" means any institution, as defined in
5 section 19a-490 of the general statutes, with fifty or more full or part-
6 time employees. Health care employer includes a facility for the care or
7 treatment of mentally ill persons or persons with substance abuse
8 issues, a residential facility for persons with intellectual disability
9 licensed pursuant to section 17a-227 of the general statutes, and a
10 community health center, as defined in section 19a-490a of the general
11 statutes; and

12 (2) "Health care employee" means any individual employed by a
13 health care employer.

14 (b) On or before October 1, 2011, each health care employer shall
15 establish and convene an ongoing workplace safety committee to
16 address issues related to the health and safety of health care
17 employees. A health care employer's workplace safety committee shall
18 be composed of representatives from the administration; physician,
19 nursing and other direct patient care staff; security personnel; and any
20 other staff deemed appropriate by the health care employer. Not less
21 than fifty per cent of the committee membership shall be composed of
22 nonmanagement employees. The committee shall select a chairperson
23 from among its membership. The committee shall meet not less than
24 quarterly and shall make available meeting minutes and other records
25 from its proceedings to all employees.

26 (c) On or before October 1, 2011, and annually thereafter, each
27 health care employer shall undertake a risk assessment of the factors
28 that put any health care employee at risk for being a victim of
29 workplace violence. Based on the findings of the risk assessment, on or
30 before January 1, 2012, and on or before each January first thereafter,
31 each health care employer, in collaboration with the workplace safety
32 committee, shall develop and implement a written workplace violence
33 prevention and response plan. A hospital, as defined in section 19a-490
34 of the general statutes, may utilize an existing committee established
35 by such hospital to assist in the preparation of the plan, provided not
36 less than fifty per cent of the membership of such existing committee
37 are nonmanagement employees. In developing the plan, the health
38 care employer may consider any guidance on workplace violence
39 issued by any government agency, including the federal Occupational
40 Safety and Health Administration, the federal Centers for Medicare
41 and Medicaid Services, the Department of Public Health and the Labor
42 Department, and any hospital accrediting organizations.

43 (d) Notwithstanding the provisions of subsection (c) of this section,
44 a health care employer may satisfy the requirements for the
45 establishment of a written workplace violence prevention and
46 response plan by utilizing existing policies, plans or procedures if,
47 after undertaking the risk assessment, the health care employer, in

48 consultation with the workplace safety committee, determines that
49 such employer's existing policies, plans or procedures are sufficient.

50 (e) A health care employer shall, to the extent practicable, adjust
51 patient care assignments so that no health care employee who requests
52 an adjustment to his or her patient care assignment is required to treat
53 or provide services to a patient who the employer knows to have
54 intentionally physically abused or threatened the employee. When
55 adjusting patient care assignments, a health care employer shall give
56 due consideration to the employer's obligation to meet the needs of all
57 patients. Patient behavior that is a direct manifestation of the patient's
58 condition or disability, including physical abuse or threatening
59 behavior, shall not be considered intentional physical abuse or
60 threatening of an employee. In situations where a health care employer
61 has determined that an adjustment to a health care employee's patient
62 care assignment is not practicable, any health care employee who has
63 been physically abused or threatened by a patient may request of the
64 employer that a second health care employee be present when treating
65 such patient.

66 (f) The Labor Commissioner may adopt regulations in accordance
67 with the provisions of chapter 54 of the general statutes necessary to
68 carry out the purposes of this section.

69 Sec. 2. (NEW) (*Effective October 1, 2011*) A health care employer shall
70 maintain records which detail incidents of workplace violence and
71 include the specific area or department of the employer's premises
72 where the incident occurred. A health care employer, upon the request
73 of the Department of Public Health, shall report to the department the
74 number of workplace violence incidents occurring on the employer's
75 premises and the specific area or department where such incidents
76 occurred.

77 Sec. 3. (NEW) (*Effective October 1, 2011*) Except as provided in this
78 section, a health care employer shall report to such employer's local
79 law enforcement agency any act which may constitute an assault or
80 related offense, as described in part V of chapter 952 of the general

81 statutes, against a health care employee acting in the performance of
82 his or her duties. A health care employer shall make such report not
83 later than twenty-four hours after the occurrence of the act. The health
84 care employer shall provide the names and addresses of those
85 involved with such act to the local law enforcement agency. A health
86 care employer shall not be required to report any act which may
87 constitute assault or a related offense if the act was committed by a
88 person with a disability as described in section 46a-51 whose conduct
89 is a clear and direct manifestation of the disability.

90 Sec. 4. Section 53a-167c of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2011*):

92 (a) A person is guilty of assault of public safety, emergency medical,
93 [or] public transit or health care personnel when, with intent to
94 prevent a reasonably identifiable peace officer, special policeman
95 appointed under section 29-18b, motor vehicle inspector designated
96 under section 14-8 and certified pursuant to section 7-294d, firefighter
97 or employee of an emergency medical service organization, as defined
98 in section 53a-3, emergency room physician or nurse, health care
99 employee as defined in section 1 of this act, employee of the
100 Department of Correction, member or employee of the Board of
101 Pardons and Paroles, probation officer, employee of the Judicial
102 Branch assigned to provide pretrial secure detention and
103 programming services to juveniles accused of the commission of a
104 delinquent act, employee of the Department of Children and Families
105 assigned to provide direct services to children and youths in the care
106 or custody of the department, employee of a municipal police
107 department assigned to provide security at the police department's
108 lockup and holding facility, active individual member of a volunteer
109 canine search and rescue team, as defined in section 5-249, or public
110 transit employee from performing his or her duties, and while such
111 peace officer, special policeman, motor vehicle inspector, firefighter,
112 employee, physician, nurse, member, probation officer or active
113 individual member is acting in the performance of his or her duties, (1)
114 such person causes physical injury to such peace officer, special

115 policeman, motor vehicle inspector, firefighter, employee, physician,
116 nurse, member, probation officer or active individual member, or (2)
117 such person throws or hurls, or causes to be thrown or hurled, any
118 rock, bottle, can or other article, object or missile of any kind capable of
119 causing physical harm, damage or injury, at such peace officer, special
120 policeman, motor vehicle inspector, firefighter, employee, physician,
121 nurse, member, probation officer or active individual member, or (3)
122 such person uses or causes to be used any mace, tear gas or any like or
123 similar deleterious agent against such peace officer, special policeman,
124 motor vehicle inspector, firefighter, employee, physician, nurse,
125 member, probation officer or active individual member, or (4) such
126 person throws or hurls, or causes to be thrown or hurled, any paint,
127 dye or other like or similar staining, discoloring or coloring agent or
128 any type of offensive or noxious liquid, agent or substance at such
129 peace officer, special policeman, motor vehicle inspector, firefighter,
130 employee, physician, nurse, member, probation officer or active
131 individual member, or (5) such person throws or hurls, or causes to be
132 thrown or hurled, any bodily fluid including, but not limited to, urine,
133 feces, blood or saliva at such peace officer, special policeman, motor
134 vehicle inspector, firefighter, employee, physician, nurse, member,
135 probation officer or active individual member. For the purposes of this
136 section, "public transit employee" means a person employed by the
137 state, a political subdivision of the state, a transit district formed under
138 chapter 103a or a person with whom the Commissioner of
139 Transportation has contracted in accordance with section 13b-34 to
140 provide transportation services who operates a vehicle or vessel
141 providing public rail service, ferry service or fixed route bus service or
142 performs duties directly related to the operation of such vehicle or
143 vessel.

144 (b) Assault of public safety, emergency medical, [or] public transit
145 or health care personnel is a class C felony. If any person who is
146 confined in an institution or facility of the Department of Correction is
147 sentenced to a term of imprisonment for assault of an employee of the
148 Department of Correction under this section, such term shall run
149 consecutively to the term for which the person was serving at the time

150 of the assault.

151 (c) In any prosecution under this section involving assault of a
152 health care employee, as defined in section 1 of this act, it shall be a
153 defense that the defendant is a person with a disability as described in
154 section 46a-51 and the defendant's conduct was a clear and direct
155 manifestation of the disability.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2011	New section
Sec. 2	October 1, 2011	New section
Sec. 3	October 1, 2011	New section
Sec. 4	October 1, 2011	53a-167c

Statement of Legislative Commissioners:

In section 1(a)(1), a period was inserted after "employees" and the phrase "and includes" was changed to "Health care employer includes" for clarity. In section 3, the phrase "person with disabilities" was change to "person with a disability as described in section 46a-51" for consistency with the provisions of section 4(c).

PH 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:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Judicial Dept.	GF - Potential Revenue Gain	10,000	10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes assault against a health care employee a class C felony, which will result in a revenue gain to the General Fund of less than \$10,000. The estimate assumes that the establishment of a class C felony for this offense will increase the likelihood that an estimated less than 10 offenders annually would be prosecuted and receive harsher penalties than under current law.¹

It is anticipated that the number of additional offenders placed on probation would be less than 10, and would not result in additional resources being required by the Judicial Department.

The Out Years

The annualized ongoing revenue identified above would remain constant into the future since fine amounts are set by statute.

¹ In 2010, four convictions were made for this offense; \$5,500 in fine revenue was collected.

OLR Bill Analysis**sSB 970*****AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND RESPONSE IN HEALTH CARE SETTINGS.*****SUMMARY:**

This bill (1) requires certain health care employers to develop and implement plans concerning workplace violence prevention and response, (2) requires health care employers to report incidents of workplace violence to local law enforcement, and (3) establishes criminal penalties for assault of a health care employee.

The bill requires the labor commissioner to adopt regulations to implement its provisions.

EFFECTIVE DATE: October 1, 2011, except for the provisions on establishing workplace safety committee, risk assessment, violence prevention plan and patient care assignment, and regulations which are effective July 1, 2011.

WORKPLACE SAFETY COMMITTEE

By October 1, 2011, the bill requires each health care employer to convene an ongoing workplace safety committee to address issues concerning the health and safety of health care employees. A "health care employer" means any institution, as defined in law, with 50 or more full- or part-time employees and includes a facility caring for or treating mentally ill persons or those with substance abuse, a licensed residential care facility for persons with intellectual disability, and a community health center. "Institution", with the 50 employee minimum, includes hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health care agencies; homemaker-home health aide agencies; assisted living services agencies; outpatient surgical facilities; an infirmary operated

by an educational institution; and facilities providing services for the prevention, diagnosis, treatment, or care of human health conditions, including state agency facilities.

A “health care employee” is a person employed by a health care employer.

The workplace safety committee must include representatives from the administration; physician, nursing and other direct patient care staff; security personnel; and any other staff determined appropriate by the employer. At least 50% of the membership must be nonmanagement employees. The committee selects a chairperson from its membership. The committee must meet at least quarterly and make meeting minutes and other records of proceedings available to all employees.

RISK ASSESSMENT; WORKPLACE VIOLENCE PREVENTION AND RESPONSE PLAN

By October 1, 2011 and annually afterwards, each health care employer must do an assessment of the factors that put any health care employee at risk for workplace violence. Based on these findings, the employer, by January 1, 2012 and annually afterwards, must develop and implement a workplace violence prevention and response plan. This must be done in collaboration with the workplace safety committee.

Under the bill, a hospital may use an existing committee it has established to assist with the plan if as required, at least 50% of the committee membership is nonmanagement employees. The employer, when developing the plan, can consider any guidance on workplace violence provided by any government agency, including the federal Occupational Safety and Health Administration, the federal Centers for Medicare and Medicaid Services, the Public Health (DPH) and Labor departments, and any hospital accrediting organizations.

A health care employer can meet the bill’s requirements for a workplace violence prevention and response plan by using existing

policies, plans, or procedures if, after performing the risk assessment, the employer, in consultation with the safety committee, determines that they are sufficient.

ADJUSTING PATIENT ASSIGNMENTS

To the extent practicable, a health care employer must adjust patient care assignments so that an employee making the request does not have to treat a patient who the employer knows has intentionally physically abused or threatened the employee. The employer must give due consideration to its obligation to meet the needs of all patients. The bill specifies that patient behavior that is a direct manifestation of the patient's condition or disability, including physical abuse or threatening behavior, is not considered intentional physical abuse or threatening of an employee.

An employee who has been physically abused or threatened by a patient may request that a second employee be present when treating the patient in situations where the employer determines that patient assignment adjustment is not practicable.

RECORDS

The bill requires health care employers to keep records detailing workplace violence incidents, including the specific area or department where the incident happened. Upon DPH's request, an employer must report the number of incidents occurring on the employer's premises and the specific areas or departments.

REPORTING TO LOCAL LAW ENFORCEMENT

A health care employer must report to its local law enforcement agency any act which may be an assault or related offense under the Penal Code against an employee acting in the performance of his or her duties. The report must be made within 24 hours of the act and the employer must provide the names and addresses of those involved to the local law enforcement agency. An employer does not have to report any act which may be an assault or related offense if it was committed by a person with a disability whose action is a clear and

direct manifestation of the disability.

ASSAULT OF HEALTH CARE PERSONNEL

The bill makes assault of a health care employee a class C felony. It also specifies that it is a defense that the defendant has a disability which presumably includes a physical, mental, or learning disability.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 28 Nay 0 (03/30/2011)