

CONNECTICUT LEGAL RIGHTS PROJECT, INC.

**P.O. Box 351, Silver Street • Middletown, CT 06457
(860) 262-5030 • Fax: (860) 262-5035**

CLRP is a non-profit legal services organization that advocates for low-income individuals in institutions and in the community who have, or are perceived to have, psychiatric disabilities. We promote initiatives that integrate clients into the community.

JUDICIARY COMMITTEE, April 8, 2011

Testimony of Thomas Behrendt regarding:

**HB 6648 - AN ACT CONCERNING A CLINICAL ASSESSMENT
OF FIRST-TIME OFFENDERS**

Connecticut Legal Rights Project (CLRP) **OPPOSES HB 6648 - An Act Concerning a Clinical Assessment of First-Time Offenders**¹ because:

- Better programs, currently funded and functioning, accomplish the objectives sought by this legislation.
- The bill would stigmatize and infringe the rights of people who have or are perceived to have psychiatric disabilities.

Connecticut statutes provide for pretrial diversion out of the criminal justice system for people with psychiatric disabilities. Police officers already exercise discretion to bring people to the emergency room rather than to arrest them. We do not need legislation for that. HB 6648 is costly, in terms of police and hospital/clinical resources. The bill is unnecessary because we have excellent programs already in place, such as Crisis Intervention Teams and jail diversion, that accomplish its objectives.

In addition to the pretrial diversion, Connecticut has a CIT (Crisis Intervention Team) program which is a national model. In addition to providing clinical staff via DMHAS, CIT training is offered to every police force in the state. Sadly, not all of the towns have availed themselves of that training, which saves lives; and there are still some towns that refuse the assistance offered by the CIT program. Here is DMHAS's description of that program:

Crisis Intervention Teams are a partnership program between the local police and the community provider network that provides training to law enforcement personnel and provides for a joint response to crisis in the community involving persons with behavioral health disorders. The goal of CIT is to reduce the need for arrest in favor of referrals to appropriate treatment resources...

[C]linicians from the local DMHAS service provider are designated to work in collaboration with the police department. This critical link between mental health professionals and law enforcement ensures follow-up on the effort to engage CIT clients in treatment. These clinicians can ride with CIT officers and be present to immediately begin engaging and linking individuals to treatment and other needed services. In addition, they can also provide support to clients who are having difficulty engaging in treatment.

¹ Section 1. (NEW) Whenever a police officer arrests a person with no prior arrest record whom the officer reasonably believes has psychiatric disabilities, the officer shall cause such person to be taken to a hospital or other facility for the performance of a clinical assessment of such person and a determination of whether such person would benefit from mental health services.

It is not clear under HB 6648 what will happen to a mandated clinical assessment of a first time offender whom police officers suspect “may have psychiatric disabilities.” Does that assessment become part of the criminal record? Does referral for such an assessment mean there will be no criminal charges? Or does this bill really expect a clinician to “assess the likelihood of recidivism?” This bill will not stand up to the scrutiny of anti discrimination laws and constitutional protections.

Although HB 6648 is intended to be helpful, it invites arbitrary decisions and abuse by authorities. It is likely that it will punish people with disabilities with inappropriate psychiatric detention, and stigmatize them with labels and diagnoses.

The Supreme Court stated “The interest of the prisoner in not being arbitrarily classified as mentally ill and subjected to unwelcome treatment is also powerful. . . . [T]he risk of error in making the determinations . . . is substantial enough to warrant appropriate procedural safeguards against error.” Yitek v. Jones, 445 US 480, 495 (1979). See also, Addington v. Texas, 441 US 418 (1979) (“Whether we label this phenomenon “stigma” or choose to call it something else is less important than that we recognize that it can occur, and that it can have a very significant impact on the individual.”)

HB 6648 leaves too much discretion in the hands of lay persons, as opposed to clinicians, to detain people and bring them to emergency rooms and psychiatric facilities. It will result in deprivations of liberty beyond the arrest -- in violation of the individual’s right to due process of law.

CLRP supports efforts to divert people out of the criminal justice system, but opposes HB 6648 because it does not provide procedural safeguards or choice to the individuals affected. The purpose of this legislation is already achieved through pretrial diversion and the state’s Crisis Intervention Team program. There is no additional benefit offered by this bill. HB 6648 would result in additional risk, negative consequences to individuals, and significant fiscal impact.

We urge you to focus on the excellent programs already operating in the state, and on efforts to expand the CIT program and get all of our towns and police chiefs to take advantage of the training and resources available to them. And we urge you not to move this bill forward.