



**STATE OF CONNECTICUT**  
OFFICE OF PROTECTION AND ADVOCACY FOR  
PERSONS WITH DISABILITIES  
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**Testimony of the Office of Protection and Advocacy for Persons with Disabilities  
Before the Public Safety and Security Committee**

Presented by: James D. McGaughey  
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Good morning and thank you for this opportunity to comment on Committee Bill No. 6162, AN ACT CONCERNING INELIGIBILITY FOR A PERMIT TO CARRY A PISTOL OR REVOLVER OR AN ELIGIBILITY CERTIFICATE BASED ON A PRIOR HOSPITALIZATION.

This bill would change the criteria for automatic disqualification for both a pistol carry permit and a certificate of eligibility to purchase or receive a handgun by: 1) extending the look-back period for psychiatric hospitalization from one to two years; 2) including voluntary hospitalizations as well as commitments based on adjudication by a court as grounds for disqualification; and 3) prohibiting the issuance of permits or certificates to anyone who lives in a household with a person who has been hospitalized during the two year look back period. Our Office sees several problems with this bill.

The current statutory disqualification is tied to psychiatric hospitalizations which result from adjudication by a probate court. While probate procedures are generally less formal than those followed in superior court, commitment proceedings are conducted in conformance with the requirements of due process – notice, an opportunity to be present and be heard, to be represented by counsel, to cross examine witnesses, to present and challenge evidence, and opportunities for appeal.

From a Constitutional perspective, that Due Process is critically important: The U.S. Supreme Court has held that the Second Amendment confers an individual right to keep and bear firearms, subject to reasonable regulation by the states. The underlying statute which this bill seeks to amend is just such a reasonable regulation. To the extent it establishes categorical prohibitions, they are narrowly tailored and reasonably related to legitimate state interests. And, to the extent they approach the sensitive classification of “mental disability” – which receives strict scrutiny as an “inherently suspect classification” under the Equal Protection clause of the Connecticut Constitution – they deny eligibility only to those who have been determined to require hospitalization in a court of law. Extending the categorical denial of eligibility to people who have voluntarily entered hospitals and to members of their households, as this bill proposes to do, effectively deprives those people of a Constitutionally protected right without affording them due process of law.

In addition to noting the Constitutional problems raised by this bill, we also have concerns about its policy implications. If enacted, the period of ineligibility for permits and certificates would have to be made known to persons seeking or accepting voluntary admission the process of obtaining their informed consent for admission and treatment. People who would otherwise seek hospital-level treatment might be discouraged, particularly if members of their households would also suffer ineligibility. Indeed, families might become reluctant to welcome relatives into their homes following a hospital stay if other members would lose or be denied eligibility for a permit or certificate, compounding the problems many such individuals encounter locating suitable, affordable housing.

It should also be noted that there is currently no governmental mechanism for tracking and reporting on voluntary admissions to private psychiatric hospitals or psychiatric units of general hospitals. Most people seeking psychiatric care are not clients of the Department of Mental Health and Addiction Services (DMHAS). So, if DMHAS were to play the role envisioned in this bill, it would need to significantly expand both its record keeping capacity and its legal authority to access confidential information about psychiatric treatment of private citizens.

Part of the underlying difficulty here involves categorical presumptions. Experts agree that people who experience mental illnesses are, in general, no more prone to violence against others than are members of the general public. Yet, as a group, they are often treated as scapegoats, ready victims of stigmatizing stereotypes and discrimination. Any measure that relies on and reinforces these unfair interpretations is inherently flawed. The better approach is to treat people as individuals, recognizing that there may be times and circumstances when particular individuals may exhibit behaviors that are worrisome – whether or not they carry a psychiatric diagnosis. Treatment professionals (or family or community members) who are concerned about the behavior of an individual who possesses firearms can, and, in fact have been reporting those concerns to law enforcement agencies for follow-up in accordance with C.G.S Sec.29-38c. The procedures for seizure of firearms where there is probable cause to believe someone is at risk of “imminent personal injury to himself or herself or to others with such firearm” are specified in that statute, and afford individuals their Due Process rights. Concerns about access to firearms owned by other members of an individual’s household can be addressed by extending and clarifying safe storage requirements that currently apply to situations where children have access to premises where firearms are kept. (There is currently a bill before the Judiciary Committee that would do just that.)

Thank you for your attention. If there are any questions, I will try to answer them.