



General Assembly

February Session, 2018

Raised Bill No. 294

LCO No. 1779



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING THE PSYCHIATRIC SECURITY REVIEW BOARD.

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

1 Section 1. Section 17a-497 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) The jurisdiction of the commitment of a person with psychiatric
4 disabilities to a hospital for psychiatric disabilities shall be vested in
5 the Probate Court for the district in which such person resides or,
6 when his or her place of residence is out of the state or unknown, in
7 which he or she may be at the time of filing the application, except in
8 cases where it is otherwise expressly provided by law. In any case in
9 which the person is hospitalized in accordance with the provisions of
10 sections 17a-498, 17a-502, [or] 17a-506 or 17a-582 and an application for
11 the commitment of such person is filed in accordance with the
12 provisions of said sections, the jurisdiction shall be vested in the
13 Probate Court for the district in which the hospital where such person
14 is a patient is located. In the event that an application has been
15 previously filed in another Probate Court with respect to the same

16 confinement, no further action shall be taken on such prior application.
17 If the respondent is confined to a hospital, notwithstanding the
18 provisions of section 45a-7, the probate judge from the district where
19 the application was filed shall hold the hearing on such commitment at
20 the hospital where such person is confined [] if, in the opinion of at
21 least one of the physicians appointed by the court to examine [him] the
22 respondent, (1) it would be detrimental to the health and welfare of the
23 respondent to travel to the Probate Court where the application was
24 filed, or [if] (2) it could be dangerous to the respondent or others for
25 [him] the respondent to travel to such court. The Probate Court shall
26 exercise such jurisdiction only upon written application alleging in
27 substance that such person has psychiatric disabilities and is
28 dangerous to himself or herself or others or gravely disabled. Such
29 application may be filed by any person and, if any person with
30 psychiatric disabilities is at large and dangerous to the community, the
31 first selectman or chief executive officer of the town in which he or she
32 resides or in which he or she is at large shall make such application.

33 (b) Upon the motion of any respondent or [his or her] respondent's
34 counsel, or the probate judge having jurisdiction over such application,
35 filed not later than three days prior to any hearing scheduled on such
36 application, the Probate Court Administrator shall appoint a three-
37 judge court from among the probate judges to hear such application.
38 The judge of the Probate Court having jurisdiction over such
39 application under the provisions of this section shall be a member,
40 provided such judge may disqualify himself or herself, in which case
41 all three members of such court shall be appointed by the Probate
42 Court Administrator. Such three-judge court when convened shall
43 have all the powers and duties set forth under sections 17a-75 to 17a-
44 83, inclusive, 17a-450 to 17a-484, inclusive, 17a-495 to 17a-528,
45 inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive,
46 and 17a-615 to 17a-618, inclusive, and shall be subject to all of the
47 provisions of law as if it were a single-judge court. No such respondent
48 shall be involuntarily confined without the vote of at least two of the
49 three judges convened hereunder. The judges of such court shall

50 designate a chief judge from among their members. All records for any
51 case before the three-judge court shall be maintained in the Probate
52 Court having jurisdiction over the matter as if the three-judge court
53 had not been appointed.

54 Sec. 2. Section 17a-584 of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2018*):

56 At any hearing before the board considering the discharge,
57 conditional release or confinement of the acquittee, except a hearing
58 pursuant to section 17a-592 or subsection (d) of section 17a-593, as
59 amended by this act, the board shall make a finding as to the mental
60 condition of the acquittee and, considering that its primary concern is
61 to (1) balance the protection of society, (2) consider whether or not a
62 less restrictive placement is available, and (3) protect the rights of
63 patients hospitalized or treated in any public or private facility for the
64 treatment of persons with psychiatric disabilities pursuant to section
65 17a-541, shall do one of the following:

66 (1) If the board finds that the acquittee is a person who should be
67 discharged, it shall recommend such discharge to the court pursuant to
68 section 17a-593, as amended by this act.

69 (2) If the board finds that the acquittee is a person who should be
70 conditionally released, the board shall order the acquittee
71 conditionally released subject to such conditions as are necessary to
72 prevent the acquittee from constituting a danger to himself or herself
73 or others.

74 (3) If the board finds that the acquittee is a person who should be
75 confined, the board shall order the [person] acquittee confined in a
76 hospital for psychiatric disabilities or placed with the Commissioner of
77 Developmental Services for custody, care and treatment.

78 Sec. 3. Section 17a-593 of the general statutes is repealed and the
79 following is substituted in lieu thereof (*Effective October 1, 2018*):

80 (a) The board, pursuant to section 17a-584, as amended by this act,
81 or 17a-592, may recommend to the court the discharge of the acquittee
82 from custody or the acquittee may apply directly to the court for
83 discharge from custody. The court shall send copies of the
84 recommendation or application to the state's attorney and to counsel
85 for the acquittee. An acquittee may apply for discharge not more than
86 once every six months and no sooner than six months after the initial
87 board hearing held pursuant to section 17a-583.

88 (b) The recommendation or application shall contain the dates on
89 which any prior recommendations or applications for discharge had
90 been filed with the court, the dates on which decisions thereon were
91 rendered, and a statement of facts, including any change in
92 circumstances since the determination on the most recent
93 recommendation or application, sufficient to qualify the acquittee as a
94 person who should be discharged. A recommendation by the board
95 shall contain findings and conclusions to support the recommendation.

96 (c) If reasonable cause exists to believe that the acquittee (1) remains
97 a person with psychiatric disabilities or a person with intellectual
98 disability to the extent that [his] such acquittee's discharge at the
99 expiration of [his] such aquittee's maximum term of commitment
100 would constitute a danger to himself or herself or others, or (2) is
101 gravely disabled, the state's attorney [, at least one hundred thirty-five
102 days prior to such expiration, may petition the court for an order of
103 continued commitment of the acquittee] may make an application for
104 commitment of such acquittee to a hospital for psychiatric disabilities
105 pursuant to part II of chapter 319i.

106 (d) The court shall forward any application for discharge received
107 from the acquittee [and any petition for continued commitment of the
108 acquittee] to the board. The board shall, [within] not later than ninety
109 days after the date of its receipt of the application or petition, file a
110 report with the court, and send a copy thereof to the state's attorney
111 and counsel for the acquittee, setting forth its findings and conclusions
112 as to whether the acquittee is a person who should be discharged. The

113 board may hold a hearing or take other action appropriate to assist it
114 in preparing its report.

115 (e) [Within] Not later than ten days after the date of receipt of a
116 recommendation for discharge filed by the board under subsection (a)
117 of this section or receipt of the board's report filed under subsection (d)
118 of this section, either the state's attorney or counsel for the acquittee
119 may file notice of intent to perform a separate examination of the
120 acquittee. An examination conducted on behalf of the acquittee may be
121 performed by a psychiatrist or psychologist of the acquittee's own
122 choice and shall be performed at the expense of the acquittee unless
123 [he] the acquittee is indigent. If the acquittee is indigent, the court shall
124 provide [him] the acquittee with the services of a psychiatrist or
125 psychologist to perform the examination at the expense of the state.
126 Any such separate examination report shall be filed with the court
127 [within] not later than thirty days after the filing date of the notice of
128 intent to perform the examination. To facilitate examinations of the
129 acquittee, the court may order [him] the acquittee to be placed in the
130 temporary custody of any hospital for psychiatric disabilities or other
131 suitable facility or [placed] with the Commissioner of Developmental
132 Services.

133 (f) After receipt of the board's report and any separate examination
134 reports, the court shall promptly commence a hearing on the
135 recommendation or application for discharge. [or petition for
136 continued commitment.] At the hearing, the acquittee shall have the
137 burden of proving by a preponderance of the evidence that the
138 acquittee is a person who should be discharged.

139 (g) The court shall make a finding as to the mental condition of the
140 acquittee and, considering that its primary concern is the balance
141 between the protection of society and the rights of patients
142 hospitalized or treated in any public or private facility for the
143 treatment of persons with psychiatric disabilities pursuant to section
144 17a-541, make one of the following orders: (1) If the court finds that the
145 acquittee is not a person who should be discharged, the court shall

146 order the recommendation or application for discharge be dismissed;
147 or (2) if the court finds that the acquittee is a person who should be
148 discharged, the court shall order the acquittee discharged from
149 custody. The court shall send a copy of such finding and order to the
150 board.

151 Sec. 4. Section 17a-587 of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective October 1, 2018*):

153 (a) If at any time after the confinement of an acquittee in a hospital
154 for psychiatric disabilities or the placement of an acquittee with the
155 Commissioner of Developmental Services pursuant to an order of the
156 board, the superintendent of such hospital or said commissioner is of
157 the opinion that the acquittee's psychiatric supervision and treatment
158 would be advanced by permitting the acquittee to leave such hospital
159 or the custody of said commissioner temporarily, the superintendent
160 or said commissioner shall apply to the board for an order authorizing
161 temporary leaves. The application shall include a statement of reasons
162 in support thereof. The board shall send a copy of the application to
163 the state's attorney. The board may order a hearing on the application
164 and shall order such a hearing if the state's attorney files with the
165 board a request therefor [within] not later than ten days after the date
166 of his or her receipt of the application. The board shall grant the
167 application, subject to such conditions and supervision as the board
168 may set in the order for temporary leave, if it concludes that the
169 acquittee's temporary leave, under the conditions specified, would not
170 constitute a danger to himself or herself or others. If such application is
171 granted, the acquittee may be permitted to leave such hospital or the
172 custody of said commissioner temporarily, under the charge of [his]
173 the acquittee's guardian, relatives or friends, or by himself or herself, at
174 such times and under such conditions as the superintendent or said
175 commissioner deems appropriate, unless the order of the board
176 provides otherwise. The provisions of section 17a-521 not inconsistent
177 with this section shall be applicable to temporary leaves authorized by
178 this section.

179 (b) At any time after the confinement of an acquittee in a hospital
180 for psychiatric disabilities or the placement of an acquittee with the
181 Commissioner of Developmental Services, the acquittee or a legal
182 guardian or representative acting on the acquittee's behalf may apply
183 to the board for an order of temporary release. Following receipt of the
184 application, the board shall request the superintendent of the hospital
185 or said commissioner to report whether such superintendent or said
186 commissioner is of the opinion that the acquittee is a person who
187 should be temporarily released. The report shall set forth the facts
188 supporting the opinion. An application for temporary release under
189 this subsection shall not be filed more than once every six months from
190 the date of the initial board hearing held pursuant to section 17a-583.
191 The board is not required to hold a hearing on a first application under
192 this subsection any sooner than ninety days after the date of the initial
193 hearing. Hearings resulting from any subsequent requests shall be held
194 not later than sixty days after the filing date of the application.

195 [(b)] (c) The board may designate any capable person or appropriate
196 public or private agency to supervise the acquittee on temporary leave
197 pursuant to subsection (a) of this section. Prior to any designation, the
198 board shall notify the person or agency that the board contemplates
199 designating to supervise the acquittee's temporary leave and provide
200 the person or agency with an opportunity to be heard before the board.
201 Any person or agency designated by the board to supervise the
202 acquittee's temporary leave shall comply with such conditions as the
203 board sets in the order for temporary leave.

204 Sec. 5. (NEW) (Effective October 1, 2018) Notwithstanding any
205 provisions of the general statutes concerning the confidentiality of
206 records, (1) all information and media pertaining to the Department of
207 Mental Health and Addiction Services, Connecticut Valley Hospital or
208 the Psychiatric Security Review Board, and (2) all records and media
209 recorded within or on the property of any such facility, in which an
210 acquittee is present or in regard to an acquittee, shall be disclosable to
211 counsel for the acquittee without the acquittee's consent. As used in
212 this section, "records and media" include, but are not limited to, (A)

213 still or electronically stored photographs, (B) security cameras or
 214 videos, (C) CDs, (D) DVDs, (E) flash drive recordings, (F) cellphones,
 215 (G) tablets, or (H) any other electronic media and storage, whether
 216 stored locally or remotely.

217 Sec. 6. Subsection (a) of section 17a-458a of the general statutes is
 218 repealed and the following is substituted in lieu thereof (*Effective*
 219 *October 1, 2018*):

220 (a) Whenever the term "mental illness" is used or referred to in the
 221 following sections of the general statutes, the term "psychiatric
 222 disabilities" shall be substituted in lieu thereof: 17a-474, 17a-478, 17a-
 223 479, 17a-495, to 17a-508, inclusive, 17a-510 to 17a-513, inclusive, 17a-
 224 515, 17a-521, 17a-523, 17a-524, 17a-526, 17a-528, 17a-540 to 17a-543,
 225 inclusive, 17a-546, 17a-582, 17a-584, 17a-586 to 17a-588, inclusive, 17a-
 226 592, 17a-593, 17a-594 [.] and 17a-596. [and 17a-599.]

227 Sec. 7. Section 17a-599 of the 2018 supplement to the general statutes
 228 is repealed. (*Effective October 1, 2018*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	17a-497
Sec. 2	<i>October 1, 2018</i>	17a-584
Sec. 3	<i>October 1, 2018</i>	17a-593
Sec. 4	<i>October 1, 2018</i>	17a-587
Sec. 5	<i>October 1, 2018</i>	New section
Sec. 6	<i>October 1, 2018</i>	17a-458a(a)
Sec. 7	<i>October 1, 2018</i>	Repealer section

Statement of Purpose:

To amend the Psychiatric Review Board process on intra-hospital transfers and to make the commitment process conform to the psychiatric model.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]