

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-404

Title: AN ACT CONCERNING MANDATED REPORTERS.

Vote Date: 3/23/2018

Vote Action: Joint Favorable Substitute

PH Date: 3/16/2018

File No.:

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SPONSORS OF BILL:

Public Health Committee

REASONS FOR BILL:

This bill adds licensed behavior analysts and board certified assistant behavior analysts to the list of mandated reporters of child abuse or neglect.

This bill also creates a new category of mandated reporter for abuse of patients at DMHAS-operated facilities that provide mental health or substance use disorder services to adults. Under the bill, a mandatory reporter for this purpose is (1) anyone paid to provide direct care to patients at such a facility and (2) any licensed health care provider who is an employee, contractor, or consultant of such a facility. The bill sets procedural requirements for such mandatory reporting and penalties for noncompliance.

RESPONSE FROM ADMINISTRATION/AGENCY:

Miriam Delphin-Rittmon, Commissioner, Connecticut Department of Mental Health and Addiction Services [DMHAS]: The Department of Mental Health and Addiction Services is in support of SB 404. While policies and procedures related to reporting abuse are already in place at DMHAS, the concepts in this bill further ensures that patient abuse at state operated behavioral health facilities will be reported, fully investigated and, if substantiated, result in penalties under law.

Sarah Healy Eagan, Child Advocate, State of Connecticut: Sarah Healy Eagan, the Office of the Child Advocate [OCA], supports Section One of Senate Bill 404 which would ensure that licensed behavior analysts or board certified assistant behavior analysts are identified as mandated reporters of abuse or neglect. Children with disabilities are at greater risk for abuse and neglect. As the state expands its workforce of trained professionals, such

as behavioral analysts, who work closely with these individuals, it is imperative that such individuals be part of the mandate reporter network.

The OCA also supports Sections 2 and 3 of SB 404, which would create a framework for the mandated reporting of child abuse and neglect, of individuals housed in behavioral health facilities operated by the Department of Mental Health and Addiction Services [DMHAS].

OCA respectfully offers additional suggestions for Sections 2 and 3 of SB 404, including but not limited to the following. The timeframe for reporting should be reduced from 72 hours to 24 hours, because a person under duress is in an urgent situation. Consideration should be given to the classification of reports of suspected abuse or deprivation by urgency and risk level, with corresponding timeframes for response. Consideration should be given to language regarding when concerns must be shared with law enforcement and DPH.

External Affairs Division, State of Connecticut Judicial Branch: The Judicial Branch, while not having a substantive position on SB 404, submitted a request for a technical change.

The varying penalties in Section 2(c) of Sb 404 be separated into their own subdivisions, as follows: Any mandatory reporter who fails to make a report under subsection (b) of this section or fails to make such report within the prescribed time period set forth in said subsection shall (1) be fined not more than five hundred dollars, except if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of (2) a class C misdemeanor for the first violation, and (3) a class A misdemeanor for any subsequent violation.

Drafting the language in this way would allow the Judicial Branch to track the number of each offense and maintain more accurate statistical data.

Representative Bill Buckbee, Sixty-Seventh District, Connecticut General Assembly: Representative Buckbee submitted testimony in support of SB 404; as well as, a suggestion to amend section 17a-101 of the General Statutes to include camera, computer, and cellular telephone repair personnel as mandated reporters. Technicians have access to the contents of each device and should be mandated to report any incriminating evidence found while servicing such devices. This is a profession that could potentially help in curbing child abuse and neglect and could have a positive impact if put into effect.

Senator Martin M. Looney, President Pro Tempore, Connecticut General Assembly: Senator Looney submitted testimony in support of SB 404. Senator Looney added that the General Assembly should also ensure that our statutes do not contain any potentially serious oversights or omissions. Senator Looney recommended that the Public Health Committee add a provision to SB 404, directing the Department of Children and Families [DCF], with assistance from the Department of Public Health [DPH] and the Department of Education [DOE], to review our mandatory reporting laws and make recommendations to the General Assembly with recommendations including but not limited to additional categories and other suggestions to strengthen our law.

NATURE AND SOURCES OF SUPPORT:

Behavior Analyst Leadership Council; Autism Speaks; Marrakech Inc.; Area Cooperative Educational Services; Capital Region Education Council [CREC]; CT Autism Action Coalition [CAAC]; CT Families for Effective Autism Treatment [CTFEAT]; Law office of Jennifer Laviano LLC; Julie Swanson, Special Education Advocate:

Suzanne Letso, on behalf of the nine organizations listed, submitted testimony in support of Senate Bill 404. Behavior Analysts and Assistant Behavior Analysts are professionals working in the field of Applied Behavior Analysis and design methods of changing behavior to accelerate the learning of all kinds of new skills. Behavior Analysts use evidence-based principals of learning to address the needs of a wide variety of people including, but not limited to, children and adults with autism and other developmental disabilities. Behavior Analysts and Assistant Behavior Analysts regularly work with children and adults with significant disabilities such as those with Autism, Intellectual Disabilities, and Emotional Disturbances.

Behavior Analysts are not always required to report any suspicion of neglect or abuse. For instance, a Behavior Analyst employed by a public school or the Department of Developmental Services is a mandated reporter; however, one who is employed as a consultant is not.

Currently, 30 states including New York, New Jersey, Rhode Island, and Pennsylvania have laws that include Behavior Analysts and Assistant Behavior Analysts as mandated reporters. Suzanne Letso, and company, believes that including Behavior Analysts and Assistant Behavior Analysts, as mandated reporters, will protect some of the most vulnerable children in Connecticut.

Luis B. Perez, President and Chief Executive Officer, Mental Health Connecticut: Luis Perez, representing Mental Health Connecticut, submitted testimony in favor of SB 404. Mandated reporters are one of many essential components within a health care system that ensure that persons with disabilities are protected from incessant harm. Senate Bill 404 will enhance protections for persons with disabilities while also codifying the ethical mandate for caregivers. As someone who has worked for the State of Connecticut, as well as nonprofits, I have multiple experiences to share and would be happy to comment further if the Public Health Committee would like my assistance.

Kathleen Flaherty, Executive Director, Connecticut Legal Rights Project, Inc. [CLRP]: Kathleen Flaherty, representing Connecticut Legal Rights Project, Inc. [CLRP], submitted testimony in support of SB 404. CLRP was established in 1990 pursuant to a Consent Order which mandated that Connecticut provide funding for CLRP to protect the civil rights of DMHAS clients who are hospitalized and those living in the community. The astonishing failure of people who should have reported abuse makes the events that occurred at Whiting Forensic Hospital that much more heinous. This bill would require anyone who is paid to provide direct care for patients in a state-operated behavioral health facility to report any suspicion of abuse or neglect, as well as, outlining the penalties for failure to make a mandated report. SB 404 is necessary and CLRP encourages its swift approval by the entire General Assembly and the Governor.

NATURE AND SOURCES OF OPPOSITION:

None

Reported by: Anne Gallagher

04/02/2018