Judiciary Committee

JOINT FAVORABLE REPORT

Bill No.: SB-939
Title: AN ACT CONCERNING PSYCHIATRIC COMMITMENT EVALUATIONS.
Vote Date: 3/6/2019
Vote Action:
PH Date: 3/6/2019
File No.:

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SPONSORS OF BILL:
Judiciary Committee

REASONS FOR BILL:
There is a shortage of psychiatrists throughout Connecticut who are willing to accept court appointments to evaluate potential patients for commitment at hospitals. The current provisions of the law require two evaluations from physicians to determine if the respondent should be committed to a hospital. The Department of Mental Health and Addiction Services estimates that the state spends “more than $250,000 per year” on having the extra evaluation. A physician, who may be one of the evaluators now, may not have proper training in psychiatry, which could render the second evaluation unnecessary and unhelpful. This bill would reduce the number of evaluations to one evaluation and the evaluation would have to be done by a psychiatrist, not a physician.

SUBSTITUTE LANGUAGE:
The substitute language removed immunity from liability for the evaluating psychiatrists.

RESPONSE FROM ADMINISTRATION/AGENCY:
Department of Mental Health and Addiction Services, Commissioner Miriam Delphin-Rittmon: Supports bill because it reduces the number of independent evaluations from two to one, which would create more efficiency and “not impact the right of the patient to appeal the findings using the judicial process, but would address the chronic shortage of doctors available for such evaluations”. They also support the amendment adding immunity from liability to psychiatrists from malpractice because it would add a measure to “appeal to a broader cohort of psychiatrists willing to accept court appointments, a problem related to the chronic shortage of psychiatrists”.

Office of the Probate Court Administrator, Probate Court Administrator, Paul J. Knierim: Supports bill because the reduction of required examinations from two to one is unnecessary since the “second examination required under the existing statute adds little value to the proceedings” and are “frequently duplicative”. Mr. Knierim also supports the immunity from liability because it addresses “the chronic shortage of psychiatrists who are willing to accept court appointments, a problem that is severe in rural parts of the state” and that “potential liability deters many psychiatrists from accepting court appointments”.

NATURE AND SOURCES OF SUPPORT:

Connecticut Hospital Association (CHA): CHA supports bill because the bill reduces the number of examinations from two to one. CHA supports the change because the “second examination is often either duplicative of the psychiatric examination or adds little new information that is not otherwise available to the court”. CHA also supports the amendment establishing immunity from liability in court-appointed cases because the immunity will “enable the state to recruit more psychiatrists to join and accept court appointments to conduct examinations in civil commitments”.

NATURE AND SOURCES OF OPPOSITION:

CT Trial Lawyers Association: Opposes provisions providing immunity from liability to psychiatrists in court-appointed cases. Believes that “an injured party should be able to bring a civil claim for damages, just as anyone who is harmed in the same way outside the court process” if negligent, harmful or reckless work was done by the appointed psychiatrist. Does not take position of the reduction of evaluations from psychiatrists from two to one.

CT Legal Rights Project (CLRP), Executive Director, Kathleen Flaherty: CLRP does not object to the reduction of evaluations from psychiatrists from two to one. CLRP opposes the provision of providing immunity from liability to psychiatrists in court-appointed cases because “with no consideration of additional due process protections, (this bill) is an ‘overzealous exercise of state power’”. CLRP offers a series of amendments that they think will protect “the due process rights of respondents in civil commitment proceedings”.

National Alliance on Mental Illness (NAMI), CT State Chapter, Directory of Advocacy and Policy, Susan Kelley: NAMI-CT opposes the reduction of having two physician evaluations because these proceedings need to be “impartial and appropriate” and having two physicians evaluate the respondent would ensure this. NAMI-CT opposes the proposed immunity from liability for the psychiatrist evaluator because “psychiatrists in involuntary commitment proceedings should not be afforded any greater protection than other treating physicians” and this protection would “undermine the validity of the commitment determination they are charged with making”.

Reported by: Logan Durant
Date: April 16, 2019