



# Senate

General Assembly

**File No. 522**

February Session, 2022

Substitute Senate Bill No. 450

*Senate, April 19, 2022*

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CONNECTICUT VALLEY AND WHITING FORENSIC HOSPITALS.***

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

1 Section 1. (*Effective from passage*) (a) The Department of Mental Health  
2 and Addiction Services shall develop a plan for the construction of a  
3 new facility for Whiting Forensic Hospital in consultation with the  
4 patients of said hospital, the legal guardians and family members of  
5 such patients, staff of said hospital, community providers of health care  
6 and mental health care services to such patients, the Commissioner of  
7 Correction and any other relevant stakeholders, as determined by the  
8 Commissioner of Mental Health and Addiction Services. In developing  
9 such plan, the department shall:

10 (1) Conduct a comprehensive assessment of the needs of all patients  
11 of said hospital, including, but not limited to, the safety, recovery and  
12 standard of care for treatment of such patients while in the new facility  
13 and a pathway toward reintegration of such patients into the  
14 community;

15 (2) Consider a facility design that incorporates spaces, as an intrinsic  
16 part of the facility, where the patients can engage in self-enrichment,  
17 creative activities, educational pursuits, vocational training and training  
18 in independent living skills to facilitate a safe transition to life in the  
19 community; and

20 (3) Develop an individualized care plan for each patient in the new  
21 facility that engages the patient and, if deemed appropriate by the  
22 commissioner, the patient's family members or guardian, as active  
23 participants in such plan and includes adequate preparation to enable  
24 the patient to reintegrate safely and successfully into the community.

25 (b) Not later than January 1, 2023, the Commissioner of Mental Health  
26 and Addiction Services shall report, in accordance with the provisions  
27 of section 11-4a of the general statutes, regarding the plan developed  
28 under subsection (a) of this section to the joint standing committee of  
29 the General Assembly having cognizance of matters relating to public  
30 health.

31 Sec. 2. Section 17a-565 of the 2022 supplement to the general statutes  
32 is repealed and the following is substituted in lieu thereof (*Effective from*  
33 *passage*):

34 [There] (a) (1) On and before September 30, 2022, there shall be an  
35 advisory board for Whiting Forensic Hospital, constituted as follows:  
36 The Commissioner of Mental Health and Addiction Services, three  
37 physicians licensed to practice in this state, two of whom shall be  
38 psychiatrists, two attorneys of this state, at least one of whom shall be  
39 in active practice and have at least five years' experience in the trial of  
40 criminal cases, one licensed psychologist with experience in clinical  
41 psychology, one licensed clinical social worker, one person actively  
42 engaged in business who shall have at least ten years' experience in  
43 business management, and two persons with psychiatric disabilities, at  
44 least one of whom shall have received inpatient services in a psychiatric  
45 hospital. Annually, on October first, the Governor shall appoint a  
46 member or members to replace those whose terms expire for terms of  
47 five years each. The board shall elect a chairman and a secretary, who

48 shall keep full and accurate minutes of its meetings and preserve the  
49 same. The board shall meet at the call of the chairman at least quarterly.  
50 Members of the board shall receive no compensation for their duties as  
51 such but shall be reimbursed for their actual expenses incurred in the  
52 course of their duties. [Said]

53 (2) On and after October 1, 2022, there shall be an oversight board for  
54 Whiting Forensic Hospital, constituted as follows: Three physicians  
55 licensed under chapter 370, two of whom shall be psychiatrists, two  
56 attorneys licensed in this state, at least one of whom shall be in active  
57 practice and have at least five years' experience in the trial of criminal  
58 cases, one psychologist licensed under chapter 383 with experience in  
59 clinical psychology, one clinical social worker licensed under chapter  
60 383b, one person actively engaged in business who shall have at least  
61 ten years' experience in business management, and two persons with  
62 psychiatric disabilities, at least one of whom shall have received  
63 inpatient services in a psychiatric hospital, all of whom shall be  
64 appointed by the Governor. Members shall serve for a term of five years  
65 and any vacancies on the board shall be filled for the remainder of the  
66 term by the Governor. The board shall elect from among its members a  
67 chairperson and a secretary, who shall keep full and accurate minutes  
68 of its meetings and preserve the same. The board shall meet at the call  
69 of the chairperson at least quarterly. Members of the board shall receive  
70 no compensation for their duties but shall be reimbursed for necessary  
71 expenses incurred in the performance of their duties.

72 (b) Such oversight board shall [confer with the staff of the hospital  
73 and give general consultative and advisory services on problems and  
74 matters relating to its work. On any matter relating to the work of the  
75 hospital, the board may also confer with the warden or superintendent  
76 of the affected Connecticut correctional institution.] perform the  
77 following functions:

78 (1) Oversee the work of the staff of Whiting Forensic Hospital and  
79 provide consultative and advisory services regarding any problems or  
80 concerns raised by the staff in relation to such work;

81 (2) Investigate any complaint regarding the conditions of said  
82 hospital or the mistreatment or neglect of a patient or staff member of  
83 said hospital made by any patient, family member, guardian or legal  
84 representative of a patient or staff member of said hospital or any  
85 member of the public. As used in this subdivision, "neglect" means the  
86 failure, through action or inaction, to provide an individual with the  
87 services necessary to maintain such individual's physical and mental  
88 health and safety, including, but not limited to, protection against  
89 incidents of inappropriate or unwanted sexual contact, harassment,  
90 taunting, bullying and discrimination;

91 (3) Make recommendations to said hospital and the Department of  
92 Mental Health and Addiction Services for any actions necessary to  
93 improve the work of the staff, conditions of said hospital or treatment  
94 of any patient or staff member of said hospital necessary to address any  
95 concerns raised or complaints made pursuant to subdivision (1) or (2) of  
96 this subsection; and

97 (4) Request and review any information from said hospital and the  
98 Department of Mental Health and Addiction Services that is necessary  
99 for the board to perform its functions under this subsection.

100 (c) On or before January 1, 2023, and annually thereafter, the  
101 oversight board for Whiting Forensic Hospital shall report, in  
102 accordance with the provisions of section 11-4a, to the joint standing  
103 committee of the General Assembly having cognizance of matters  
104 relating to public health regarding the results of any investigation or  
105 recommendation made by the board pursuant to subsection (b) of this  
106 section.

107 Sec. 3. Subsection (e) of section 17a-582 of the general statutes is  
108 repealed and the following is substituted in lieu thereof (*Effective October*  
109 *1, 2022*):

110 (e) At the hearing, the court shall make a finding as to the mental  
111 condition of the acquittee and, considering that its primary [concern is]  
112 concerns are the protection of society and the safety and well-being of

113 the acquittee, make one of the following orders:

114 (1) If the court finds that the acquittee is a person who should be  
115 confined or conditionally released, the court shall order the acquittee  
116 committed to the jurisdiction of the board and either confined in a  
117 hospital for psychiatric disabilities or placed with the Commissioner of  
118 Developmental Services, for custody, care and treatment pending a  
119 hearing before the board pursuant to section 17a-583; provided (A) the  
120 court shall fix a maximum term of commitment, not to exceed the  
121 maximum sentence that could have been imposed if the acquittee had  
122 been convicted of the offense, and (B) if there is reason to believe that  
123 the acquittee is a person who should be conditionally released, the court  
124 shall include in the order a recommendation to the board that the  
125 acquittee be considered for conditional release pursuant to subdivision  
126 (2) of section 17a-584, as amended by this act; or

127 (2) If the court finds that the acquittee is a person who should be  
128 discharged, the court shall order the acquittee discharged from custody.

129 Sec. 4. Section 17a-584 of the general statutes is repealed and the  
130 following is substituted in lieu thereof (*Effective October 1, 2022*):

131 At any hearing before the board considering the discharge,  
132 conditional release or confinement of the acquittee, except a hearing  
133 pursuant to section 17a-592 or subsection (d) of section 17a-593, the  
134 board shall make a finding as to the mental condition of the acquittee  
135 and, considering that its primary [concern is] concerns are the protection  
136 of society and the safety and well-being of the acquittee, shall do one of  
137 the following:

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

141 (2) If the board finds that the acquittee is a person who should be  
142 conditionally released, the board shall order the acquittee conditionally  
143 released subject to such conditions as are necessary to prevent the

144 acquittee from constituting a danger to himself or others.

145 (3) If the board finds that the acquittee is a person who should be  
146 confined, the board shall order the person confined in a hospital for  
147 psychiatric disabilities or placed with the Commissioner of  
148 Developmental Services for custody, care and treatment.

149 Sec. 5. Subsection (g) of section 17a-593 of the general statutes is  
150 repealed and the following is substituted in lieu thereof (*Effective October*  
151 *1, 2022*):

152 (g) The court shall make a finding as to the mental condition of the  
153 acquittee and, considering that its primary [concern is] concerns are the  
154 protection of society and the safety and well-being of the acquittee,  
155 make one of the following orders: (1) If the court finds that the acquittee  
156 is not a person who should be discharged, the court shall order the  
157 recommendation or application for discharge be dismissed; or (2) if the  
158 court finds that the acquittee is a person who should be discharged, the  
159 court shall order the acquittee discharged from custody. The court shall  
160 send a copy of such finding and order to the board.

161 Sec. 6. (*Effective from passage*) (a) On or before January 1, 2023, the  
162 Commissioner of Mental Health and Addiction Services shall convene a  
163 working group to evaluate the Psychiatric Security Review Board  
164 established under section 17a-581 of the general statutes. Such  
165 evaluation shall include, but need not be limited to, an examination of  
166 (1) the recommendations regarding said board that were made by the  
167 task force established pursuant to section 1 of public act 18-86 to  
168 evaluate Connecticut Valley Hospital and Whiting Forensic Hospital, (2)  
169 methods of modernizing the process by which (A) a person is  
170 committed to the custody of the Department of Mental Health and  
171 Addiction Services after being found not guilty by reason of mental  
172 disease or defect pursuant to section 53a-13 of the general statutes, and  
173 (B) such person is released or discharged from such custody, including,  
174 but not limited to, through a balancing of the protection of society,  
175 victims' rights and the health and well-being of such person, (3)  
176 processes in place for committing and releasing a person who has been

177 found not guilty by reason of a mental disease or defect in states that do  
178 not have a body that is similar to said board, and (4) the processes for  
179 notifying a victim of such person when such person is released or  
180 discharged from such custody.

181 (b) The working group convened pursuant to subsection (a) of this  
182 section shall include, but need not be limited to, the following members:  
183 (1) A person with expertise in public health; (2) two members of the  
184 judiciary; (3) a defense attorney of the Judicial Department or the Public  
185 Defender Services Commission; (4) a state's attorney; (5) a physician  
186 specializing in psychiatry and licensed under the provisions of sections  
187 20-9 to 20-12, inclusive, of the general statutes; (6) two acquittees, as  
188 defined in section 17a-580 of the general statutes; (7) two victims of an  
189 acquittee or two representatives of an organization that advocates on  
190 behalf of victims of an acquittee; (8) the Commissioner of Mental Health  
191 and Addiction Services; and (9) the Commissioner of Developmental  
192 Services. The Commissioner of Mental Health and Addiction Services  
193 shall select chairpersons from among the members of the working  
194 group. Such chairpersons shall schedule the first meeting of the working  
195 group, which shall be held not later than sixty days after the effective  
196 date of this section.

197 (c) Not later than January 1, 2024, the chairpersons of the working  
198 group shall report, in accordance with the provisions of section 11-4a of  
199 the general statutes, to the joint standing committee of the General  
200 Assembly having cognizance of matters relating to public health and the  
201 judiciary regarding the findings of the working group.

202 Sec. 7. Section 17a-587 of the general statutes is repealed and the  
203 following is substituted in lieu thereof (*Effective October 1, 2022*):

204 (a) If at any time after [the confinement of an acquittee in a hospital  
205 for psychiatric disabilities or] the placement of an acquittee with the  
206 Commissioner of Developmental Services pursuant to order of the  
207 board, [the superintendent of such hospital or] said commissioner is of  
208 the opinion that the acquittee's psychiatric supervision and treatment  
209 would be advanced by permitting the acquittee to leave [such hospital

210 or] the custody of said commissioner temporarily, [the superintendent  
211 or] said commissioner shall apply to the board for an order authorizing  
212 temporary leaves. The application shall include a statement of reasons  
213 in support thereof. The board shall send a copy of the application to the  
214 state's attorney. The board may order a hearing on the application and  
215 shall order such a hearing if the state's attorney files with the board a  
216 request therefor within ten days of his receipt of the application. The  
217 board shall grant the application, subject to such conditions and  
218 supervision as the board may set in the order for temporary leave, if it  
219 concludes that the acquittee's temporary leave, under the conditions  
220 specified, would not constitute a danger to [himself] the acquittee or  
221 others. If such application is granted, the acquittee may be permitted to  
222 leave [such hospital or] the custody of said commissioner temporarily,  
223 under the charge of his guardian, relatives or friends, or by himself or  
224 herself, at such times and under such conditions as [the superintendent  
225 or] said commissioner deems appropriate, unless the order of the board  
226 provides otherwise. [The provisions of section 17a-521 not inconsistent  
227 with this section shall be applicable to temporary leaves authorized by  
228 this section.]

229 (b) If at any time after the confinement of an acquittee in a hospital  
230 for psychiatric disabilities pursuant to order of the board, the  
231 superintendent of such hospital is of the opinion that the acquittee's  
232 psychiatric supervision and treatment would be advanced by  
233 permitting the acquittee to leave such hospital temporarily, the  
234 superintendent may issue an order authorizing a temporary leave in  
235 accordance with the provisions of section 17a-521, as amended by this  
236 act.

237 [(b)] (c) The board may designate any capable person or appropriate  
238 public or private agency to supervise the acquittee on temporary leave  
239 pursuant to subsection (a) of this section. Prior to any designation, the  
240 board shall notify the person or agency that the board contemplates  
241 designating to supervise the acquittee's temporary leave and provide  
242 the person or agency with an opportunity to be heard before the board.  
243 Any person or agency designated by the board to supervise the

244 acquittee's temporary leave shall comply with such conditions as the  
245 board sets in the order for temporary leave.

246 Sec. 8. Section 17a-521 of the general statutes is repealed and the  
247 following is substituted in lieu thereof (*Effective October 1, 2022*):

248 Except as otherwise provided in this section, the superintendent of  
249 any institution used wholly or in part for the care of persons with  
250 psychiatric disabilities or the director of the Whiting Forensic Hospital  
251 may, under such provisions or agreements as the director deems  
252 advisable for psychiatric supervision, permit any patient of the  
253 institution under the director's charge, including, but not limited to, a  
254 person confined to such institution or said hospital under the provisions  
255 of section 17a-584, as amended by this act, temporarily to leave such  
256 institution, in charge of his guardian, relatives or friends, or by himself  
257 or herself. [A person confined to a hospital for psychiatric disabilities  
258 under the provisions of section 17a-584 may leave the hospital  
259 temporarily as provided under the provisions of section 17a-587.] In the  
260 case of committed persons, the original order of commitment shall  
261 remain in force and effect during absence from the institution either on  
262 authorized or unauthorized leave until such patient is officially  
263 discharged by the authorities of such institution or such order is  
264 superseded by a court of competent jurisdiction. In the case of a patient  
265 on authorized leave, if it appears to be for the best interest of the public  
266 or for the interest and benefit of such patient, the patient may return or  
267 be returned by the patient's guardian, relatives or friends or the patient  
268 may be recalled by the authorities of such institution, at any time during  
269 such temporary absence and prior to the patient's official discharge.  
270 With respect both to patients on authorized and unauthorized leave,  
271 state or local police shall, on the request of the authorities of any such  
272 institution, assist in the rehospitalization of any patient on temporary  
273 leave or of any other patient committed to such institution by a court of  
274 competent jurisdiction or any person who is a patient under the  
275 provisions of section 17a-502, if, in the opinion of such authorities, the  
276 patient's condition warrants such assistance. The expense, if any, of such  
277 recall or return shall, in the case of an indigent, be paid by those

278 responsible for the patient's support or, in the case of a pauper, by the  
279 state. Leave under this section shall not be available to any person who  
280 is under a term of imprisonment or who has not met the requirements  
281 of the condition of release set to provide reasonable assurance of such  
282 person's appearance in court.

283 Sec. 9. Section 17a-599 of the general statutes is repealed and the  
284 following is substituted in lieu thereof (*Effective October 1, 2022*):

285 (a) At any time the court or the board determines that the acquittee is  
286 a person who should be confined, it shall make a further determination  
287 of whether the acquittee is so violent as to require confinement under  
288 conditions of maximum security. Any acquittee found so violent as to  
289 require confinement under conditions of maximum security shall not be  
290 confined in any hospital for psychiatric disabilities or placed with the  
291 Commissioner of Developmental Services unless such hospital or said  
292 commissioner has the trained and equipped staff, facilities or security to  
293 accommodate such acquittee.

294 (b) The Commissioner of Mental Health and Addiction Services may  
295 transfer any acquittee who requires (1) confinement under conditions of  
296 maximum security pursuant to subsection (a) of this section, and (2)  
297 medical treatment that is unavailable in the maximum security  
298 environment or would constitute a safety hazard to the acquittee or  
299 others due to the use of certain medical equipment or material, to a  
300 facility that can provide such medical treatment, provided (A) the  
301 commissioner ensures that the conditions of custody of the acquittee at  
302 such facility are and remain equivalent to conditions of maximum  
303 security, (B) the commissioner [provides immediate written justification  
304 to the board upon such transfer] consults with a licensed health care  
305 provider who has evaluated the acquittee regarding such transfer and  
306 the licensed health care provider approves of such transfer, and (C)  
307 transfer of the acquittee back to the maximum security setting occurs  
308 upon completion of the medical treatment.

309 Sec. 10. (*Effective from passage*) (a) The Department of Mental Health  
310 and Addiction Services, in collaboration with the Department of

311 Administrative Services, shall evaluate the classifications in state service  
312 for all physicians and senior level clinicians employed by Whiting  
313 Forensic Hospital to determine if such classifications are in the  
314 appropriate compensation plans necessary to attract and retain  
315 experienced and competent employees of said hospital.

316 (b) Not later than January 1, 2023, the Commissioners of Mental  
317 Health and Addiction Services and Administrative Services shall jointly  
318 report, in accordance with the provisions of section 11-4a of the general  
319 statutes, to the joint standing committee of the General Assembly  
320 having cognizance of matters relating to public health regarding such  
321 evaluation.

322 Sec. 11. Subsection (b) of section 17a-582 of the general statutes is  
323 repealed and the following is substituted in lieu thereof (*Effective October*  
324 *1, 2022*):

325 (b) Not later than sixty days after the order of commitment pursuant  
326 to subsection (a) of this section, the superintendent of such hospital or  
327 the Commissioner of Developmental Services shall cause the acquittee  
328 to be examined, provided the examination of an acquittee committed to  
329 the Department of Mental Health and Addiction Services shall not be  
330 performed by any employee of any of the state hospitals for psychiatric  
331 disabilities, and file a report of the examination with the court, and shall  
332 send a copy thereof to the state's attorney and counsel for the acquittee,  
333 setting forth the superintendent's or said commissioner's findings and  
334 conclusions as to whether the acquittee is a person who should be  
335 discharged. The report shall indicate whether the acquittee submitted  
336 or refused to submit to the taking of a blood or other biological sample  
337 pursuant to subsection (c) of section 54-102g.

338 Sec. 12. Subsection (a) of section 19a-490 of the 2022 supplement to  
339 the general statutes, as amended by section 29 of public act 21-2 of the  
340 June special session, is repealed and the following is substituted in lieu  
341 thereof (*Effective October 1, 2022*):

342 (a) "Institution" means a hospital, short-term hospital special hospice,

343 hospice inpatient facility, residential care home, nursing home facility,  
 344 home health care agency, home health aide agency, behavioral health  
 345 facility, assisted living services agency, substance abuse treatment  
 346 facility, outpatient surgical facility, outpatient clinic, an infirmary  
 347 operated by an educational institution for the care of students enrolled  
 348 in, and faculty and employees of, such institution; a facility engaged in  
 349 providing services for the prevention, diagnosis, treatment or care of  
 350 human health conditions, including facilities operated and maintained  
 351 by any state agency; and a residential facility for persons with  
 352 intellectual disability licensed pursuant to section 17a-227 and certified  
 353 to participate in the Title XIX Medicaid program as an intermediate care  
 354 facility for individuals with intellectual disability; [. "Institution" does  
 355 not include any facility for the care and treatment of persons with  
 356 mental illness or substance use disorder operated or maintained by any  
 357 state agency, except Whiting Forensic Hospital and the hospital and  
 358 psychiatric residential treatment facility units of the Albert J. Solnit  
 359 Children's Center;]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17a-565
Sec. 3	<i>October 1, 2022</i>	17a-582(e)
Sec. 4	<i>October 1, 2022</i>	17a-584
Sec. 5	<i>October 1, 2022</i>	17a-593(g)
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>October 1, 2022</i>	17a-587
Sec. 8	<i>October 1, 2022</i>	17a-521
Sec. 9	<i>October 1, 2022</i>	17a-599
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>October 1, 2022</i>	17a-582(b)
Sec. 12	<i>October 1, 2022</i>	19a-490(a)

**PH** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Mental Health & Addiction Serv., Dept.	GF - Cost	150,000	150,000
Public Health, Dept.	GF - Cost	350,000	350,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	136,200	136,200

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a cost to the Department of Mental Health and Addiction Services (DMHAS) of approximately \$150,000 annually associated with contracted costs for the initial mental health examination conducted on an acquittee committed to DMHAS custody. The bill prohibits such examinations from being performed by any employee of a state psychiatric hospital.

The bill results in a cost of approximately \$350,000 annually to the Department of Public Health (DPH) to license, inspect and investigate complaints at state behavioral health and psychiatric facilities, including Connecticut Valley Hospital (CVH), Southwest Connecticut Mental Health System, Connecticut Mental Health Center, and Capitol Region Mental Health Center. DPH costs reflect support for three Nurse Consultants, a part-time Nurse Consultant Supervisor and a part-time

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

Building and Fire Safety Inspector (with associated fringe totaling \$136,200 annually) to meet the requirements of the bill.

The bill could also result in a cost associated with board activities. The bill replaces the current advisory board for Whiting Forensic Hospital with an oversight board beginning October 2022. While board members cannot receive compensation for their duties, they must be reimbursed for necessary expenses incurred in the performance of their duties. It is assumed that DMHAS would be responsible for these costs.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 450*****AN ACT CONCERNING CONNECTICUT VALLEY AND WHITING FORENSIC HOSPITALS.*****SUMMARY**

This bill makes various changes in the laws affecting Whiting Forensic Hospital and Connecticut Valley Hospital. Specifically, it does the following:

1. requires the Department of Mental Health and Addiction Services (DMHAS) to develop a plan to construct a new facility for Whiting Forensic Hospital and report on the plan to the Public Health Committee by January 1, 2023 (§ 1);
2. starting October 1, 2022, reestablishes Whiting Forensic Hospital's 11-member advisory board as an oversight board, removes the DMHAS commissioner from the board's membership, and expands the board's duties (§ 2);
3. requires the Superior Court and the Psychiatric Security Review Board (PSRB), when holding hearings on the initial commitment, confinement, conditional release, or discharge of an acquittee (i.e., a person found not guilty of a crime due to a mental disease or defect), to primarily consider the acquittee's safety and well-being, in addition to the protection of society as under current law (§§ 3-5);
4. requires DMHAS, by January 1, 2023, to convene a working group to evaluate the PSRB and report its findings to the Public Health and Judiciary committees by January 1, 2024 (§ 6);
5. allows Whiting Forensic Hospital and Connecticut Valley Hospital to directly authorize an acquittee's temporary leave

without having to apply to the PSRB for approval as under current law (§§ 7 & 8);

6. requires DMHAS, before transferring an acquittee from maximum security confinement to another facility for medical treatment, to consult with a licensed health care provider who evaluated and approved the transfer and eliminates the requirement that the department provide immediate written justification of the transfer to the PSRB (§ 9).
7. requires DMHAS, in collaboration with the Department of Administrative Services (DAS), to evaluate state service classifications for physicians and senior level clinicians employed by Whiting Forensic Hospital (§ 10);
8. prohibits state psychiatric hospital employees from performing an initial mental health examination on an acquittee committed to DMHAS custody (§ 11); and
9. adds to the statutory definition of “health care institution” state behavioral health and psychiatric facilities, subjecting these facilities (e.g., Connecticut Valley Hospital) to DPH licensure, inspection, and complaint investigation requirements (§ 12).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2022, except provisions on the Whiting Forensic Hospital new facility plan, oversight board, PSRB working group, and state service job classifications take effect upon passage.

### **§ 1 — NEW WHITING FORENSIC HOSPITAL FACILITY**

The bill requires DMHAS to develop a plan to construct a new facility for Whiting Forensic Hospital. When doing so, it requires the department to do the following:

1. consult with hospital patients and their legal guardians and family members, hospital staff, community mental health and health care providers that serve the patients, the Department of

Correction commissioner, and any other relevant stakeholders the DMHAS commissioner determines;

2. conduct a comprehensive assessment of patients' needs, including the safety, recovery, and standard of care for treating patients in the new facility and a pathway to reintegrate patients into the community;
3. consider a facility design that incorporates, as an intrinsic part of the facility, spaces where patients can engage in self-enrichment, creative activities, educational pursuits, vocational training, and training in independent living skills to facilitate a safe transition into the community; and
4. develop an individualized care plan for each patient in the new facility that (a) engages the patient and, if deemed appropriate by the commissioner, the patient's family members or guardian as active participants in the care plan and (b) includes adequate preparation to enable the patient to reintegrate safely and successfully into the community.

The bill requires the DMHAS commissioner to report on the plan to the Public Health Committee by January 1, 2023.

## **§ 2 — WHITING FORENSIC HOSPITAL OVERSIGHT BOARD**

Starting October 1, 2022, the bill reestablishes Whiting Forensic Hospital's 11-member advisory board as an oversight board and removes the DMHAS commissioner from the board's membership. It maintains the qualifications required for the other 10 members, who, under current law and the bill, are appointed by the governor.

Similar to current law, the bill requires the oversight board to oversee the work of Whiting Forensic Hospital staff and consult and advise them on any work-related concerns the staff raise. Additionally, it expands the board's duties to also include the following:

1. investigating complaints on hospital conditions or the

mistreatment or neglect of patients or staff made by patients or their family members, guardians, or legal representatives; staff; or members of the public;

2. making recommendations to the hospital and DMHAS on necessary actions to improve staff work, hospital conditions, or patient or staff treatment needed to address any complaints or staff concerns; and
3. beginning January 1, 2023, reporting annually to the Public Health Committee on any investigation results or recommendations.

The bill requires the board to request and review any necessary information from the hospital and DMHAS. The bill also makes related minor, technical, and conforming changes.

Under the bill “neglect” means the failure, through action or inaction, to provide a person with services necessary to maintain his or her physical and mental health and safety, including protection against incidents or inappropriate or unwanted sexual contact, harassment, taunting, bullying, and discrimination.

### **§§ 3-5 — COMMITMENT AND DISCHARGE HEARINGS FOR ACQUITTEES**

Current law requires the Superior Court and PSRB, when holding hearings on an acquittee’s initial commitment, confinement, conditional release, or discharge to primarily consider the protection of society. The bill requires the court and PSRB to primarily consider both the protection of society and the acquittee’s safety and well-being.

By law, the Superior Court must hold an initial hearing to determine whether to discharge an acquittee or commit him or her to PSRB custody. Once the board takes jurisdiction over an acquittee, it must hold a hearing and decide (1) whether to commit the acquittee to the Department of Developmental Services (DDS) (if the person has intellectual disability) or a state psychiatric hospital (i.e., Connecticut

Valley Hospital or Whiting Forensic Hospital) and (2) what level of supervision and treatment the acquittee requires. An acquittee's commitment to the PSRB continues until discharged by a court order.

## **§ 6 — PSYCHIATRIC SECURITY REVIEW BOARD WORKING GROUP**

### ***Duties***

The bill requires the DMHAS commissioner, by January 1, 2023, to convene a working group to evaluate the PSRB. The evaluation must examine the following:

1. recommendations about the PSRB made by the CVH Whiting Forensic Hospital Task Force established under PA 18-86;
2. methods to modernize the process by which someone is (a) committed to DMHAS custody after being found not guilty by reason of mental disease or defect (an "acquittee") and (b) released or discharged from custody, including through balancing society's protection, victims' rights, and the acquittee's health and well-being;
3. processes in place for committing and releasing an acquittee in states that do not have a body similar to the PSRB; and
4. the processes for notifying a victim when an acquittee is released or discharged from custody.

### ***Members***

Under the bill, working group members must, at a minimum, include the following individuals:

1. a public health expert,
2. two members of the judiciary,
3. a defense attorney from the Judicial Department or Public Defender Services Commission,

4. the state's attorney,
5. a licensed physician specializing in psychiatry,
6. two acquittees,
7. two victims of an acquittee or two representatives of an organization that advocates their behalf, and
8. the DMHAS and DDS commissioners.

The bill requires the DMHAS commissioner to select the working group's chairpersons from among its members. The chairpersons must schedule the working group's first meeting within 60 days after the bill takes effect.

### **Report**

The bill requires the working group chairpersons to report the group's findings to the Judiciary and Public Health committees by January 1, 2024.

### **§§ 7 & 8 — TEMPORARY LEAVES FOR ACQUITTEES**

The bill allows the Connecticut Valley Hospital superintendent or Whiting Forensic Hospital director to directly grant an acquittee temporary leave without applying to the PSRB for approval as current law requires. The bill also eliminates provisions allowing PSRB to designate someone to supervise the acquittee during a temporary leave.

In practice, temporary leave orders are generally used to help certain acquittees begin the transition process back into the community. They may include visits to community facilities for treatment or services or short visits with family members and friends, among other things. Conditions may be set for the temporary leave, including assigning a family member, friend, or guardian to supervise the acquittee and permitting the hospital, acquittee, or acquittee's supervisor to return the acquittee to the hospital if doing so is in the acquittee's or public's best interest.

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**§ 9 — MAXIMUM SECURITY CONFINEMENT OF ACQUITTEES**

Existing law authorizes DMHAS to transfer an acquittee from maximum security confinement to another facility (e.g., hospital or emergency department) for medical treatment if the treatment is unavailable in the maximum-security setting or would pose a safety hazard due to the use of certain medical equipment or material.

Before doing so, the bill requires DMHAS to consult with a licensed health care provider who evaluated and approved the acquittee's transfer and eliminates current law's requirement that the department provide immediate written justification to the PSRB.

As under current law, DMHAS must also (1) ensure that the acquittee's custody conditions at the other facility are equivalent to those of maximum-security confinement and (2) transfer the acquittee back to the maximum-security setting after the medical treatment is complete.

**§ 10 — STATE SERVICE CLASSIFICATIONS FOR WHITING FORENSIC HOSPITAL CLINICIANS**

The bill requires DMHAS, in collaboration with DAS, to evaluate state service classifications for physicians and senior level clinicians employed by Whiting Forensic Hospital. Specifically, the department must determine whether these classifications are in the appropriate compensation plans needed to attract and retain experienced and competent hospital employees. Under the bill, the DMHAS and DAS commissioners must jointly report on their evaluation to the Public Health Committee by January 1, 2023.

**§ 11 — INITIAL EXAMINATION OF ACQUITTEES**

The bill prohibits any employee of a state psychiatric hospital from performing the initial mental health examination conducted on an acquittee committed to DMHAS custody .

By law, at the time of an acquittee's initial commitment, DMHAS takes custody of the acquittee and orders his or her confinement to (1) a psychiatric hospital (e.g., Connecticut Valley Hospital or Whiting

Forensic Hospital) or (2) DDS custody (if he or she has an intellectual disability). Within 60 days, DDS or the psychiatric hospital must examine the acquittee’s mental health status and recommend to the Superior Court whether he or she should be discharged. The court then determines whether to discharge the acquittee or commit him or her to the PSRB.

**§ 12 — DEFINITION OF “HEALTH CARE INSTITUTION”**

The bill adds to the statutory definition of “health care institution” state behavioral health and psychiatric facilities. In doing so, it subjects these facilities (e.g., Connecticut Valley Hospital) to DPH hospital licensure, inspection, and complaint investigation requirements. Under current law, these facilities (except for Whiting Forensic Hospital and Albert J. Solnit Children’s Center) are exempt from DPH regulation and are instead regulated by DMHAS.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/30/2022)