

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-450
AN ACT CONCERNING CONNECTICUT VALLEY AND WHITING FORENSIC
Title: HOSPITALS.
Vote Date: 3/30/2022
Vote Action: Joint Favorable Substitute
PH Date: 3/28/2022
File No.:

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SPONSORS OF BILL:

The Public Health Committee

REASONS FOR BILL:

This bill is based on recommendations made from the Connecticut Valley Hospital (CVH) Task Force established following the discovery of abuse involving a long-time resident at Whiting Forensic Hospital (WFH). This bill makes several changes to both WFH and CVH. Beginning on October 1, 2022, the bill would replace the current WFH's advisory board with a 10-member oversight board charged with overseeing staff work and investigating complaints. The board would also be required to request and review information from the hospital and the Department of Mental Health and Addiction Services (DMHAS) and annually report to the Public Health Committee the results of these investigations and recommendations.

Regarding initial or discharge hearings, the court would be responsible to consider the safety and well-being of an individual as well as protecting society.

In addition, the bill would require DHMAS, by January 1, 2023, to establish a working group to specifically evaluate the Psychiatric Security Review Board (PSRB) and to report its findings to the Public Health and Judiciary committees by January 1, 2024.

Currently, the law requires hospitals to apply to the PSRB to approve any temporary leaves. This bill would permit both WFH and CVH to directly authorize these leaves if it is believed this action would advance the individual's care.

Also, under certain conditions, the bill allows patients to temporarily leave the hospital either by themselves or under the care of a guardian, relative or friend.

Finally, the bill requires DHMAS, in collaboration with various stakeholders and the Department of Corrections (DOC), to develop a plan to construct a new facility for WFH. The results of this plan must be reported to the Public Health Committee by January 1, 2023.

RESPONSE FROM ADMINISTRATION/AGENCY:

Nancy Navarretta, MA, LPC, NCC, Commissioner, DHMAS

DMHAS and the Legislature were outraged by the abuse uncovered by a long-time resident at Whiting Forensic Hospital (WFH) that prompted the establishment of the CVH Whiting Task Force through PA 18-86. It should be noted that as a result, in 2018, WFH became a separate hospital, licensed by the Department of Public Health and is currently pursuing accreditation from the Joint Commission on Accreditation of Healthcare Organization (JCAHO).

DMHAS has already implemented significant changes in hospital operations to ensure the highest quality patient care and staff safety:

- appointed a Chief Executive Officer who reports directly to the DMHAS Commissioner.
- installed a 24-hour high-definition monitoring system in patient areas at CVH and Whiting that is monitored by an outside contractor.
- utilized camera footage to enhance staff education and training, policies and practices in the areas of restraints and seclusion, and reporting timelines for patient abuse, neglect, or exploitation.
- survey and focus groups to address hospital culture.
- implemented of a management system to promote a "recovery-orientated" model.
- hired additional staff for discharge planning.

The Governor's proposed FY 23 adjusted budget includes \$2.5 million for 26 additional community placements and \$1.9 million to expand from 3 to 15 beds the pilot program for community competency evaluation and restoration for offenders of misdemeanor-only crimes. Also, there is \$3 million on the March 31st bond agenda for the planning and designing of a new WFH building.

There are some provisions of SB 450 that should be modified to address practical and operational issues and DMHAS is available to work with the committee to accommodate the contracts, regulations, stipulated agreements, case law, human resource practice, and federal and state statutes.

State of CT Division of Criminal Justice:

The Division of Criminal Justice takes no position on most of this bill but respectfully opposes Section 6 and Lines 236-243 to establish a task force to evaluate the continued existence of the Psychiatric Security Review Board (PSRB). The Division believes that the PRSB should remain in existence.

The PSRB was established following a report from the Law Revision Commission that found many individuals who had been committed to the state hospital were released without oversight or assurances that these individuals would continue their treatment. The board's mandate includes both inpatient and outpatient supervision. Currently, Connecticut' civil commitment does not include outpatient supervision. There is the need for the board to have the authority for outpatient supervision. The elimination of the PSRB would remove this needed supervision. Consistency in supervision is critical. The PSRB receives reports of each acquitee every six months and sees everyone at least every two years. It should be

noted that it is the defendant who makes the choice to plead to an insanity defense. There are mechanisms in place for an individual to request release from commitment. The system is balanced.

Finally, the Division opposes Lines 236-243 which would allow a superintendent to approve a temporary leave of a patient. We believe that authority should be left to the PSRB which often places modifications on the leave. The Division recommends this bill be voted out of Committee with the above requests.

Monty Radler, Public Defender, Connecticut Valley Hospital, Office of Chief Public Defender

The Office of Chief Public Defender strongly supports SB 450 as it would provide acquittees under the supervision of the PSRB the rights to due process and protection for their safety. The PSRB's lengthy commitments seem to be a mechanism to reassure the public that acquittees will never get out of an institution and this practice goes against the principle of recovery and criminal justice.

It should be noted that the CVH Whiting Task Force Final Report recommended by a 6-1 majority vote that abolishment of the PSRB should be a consideration, or its mission should be amended to balance the protection of society with those of a patient' rights.

Jordan Scheff, Commissioner, Department of Developmental Services (DDS)

The Department of Developmental Services (DDS) is concerned with the language in sections 3, 4, and 5 which will shift the court's primary concerns from "the protection of society" to "the safety and well-being of acquittees."

The term "well-being" is vague, has no statutory definition, and the funding and services necessary to implement this expanded standard of care are unknown. The "unknown" could result in a liability issue for DDS, our qualified providers, and employees, if we are unable to provide acquittees with the appropriate services for their well-being. It is also unclear how large an impact this change would have on the established system of services and provider network in DDS.

Rep. Mary Mushinsky

Submitted testimony in opposition to sections of the bill that removes protections afforded victims and family members and reduces public safety.

Section 6 of the bill will eliminate decades of work by the Psychiatric Security Review Board (PSRB) safeguarding and protecting the public. If acquittee evaluation and risk assessment for temporary release is transferred to hospital administrator, this would allow acquittees to be in the community without supervision. Approval of these proposed changes are frightening to Wallingford residents who still remember the 1989 slaying of an innocent 9-year-old girl by an unsupervised release from Connecticut Valley Hospital. This individual was subsequently sent to Whiting Forensic Hospital which holds the most violent persons with mental illness.

Without supervision there is no way to ensure the acquittee is following their treatment plan and no longer a danger to society. I strongly urges the Committee to keep public safety upmost in line 154, strike Section 6 regarding the PSRB, and remove or amend lines 236-243 in the bill.

NATURE AND SOURCES OF SUPPORT:

James Welsh, Lead Investigator, Disability Rights Connecticut (DRCT)

DRCT investigated the 2017 incident of abuse and issued a comprehensive report of its findings and recommendations to the CVH Whiting Task Force in November of 2019. This bill reflects the findings of the task force and those who have been working to improve operations at Whiting Forensic Hospital (WFH) and safeguarding the civil rights of persons with disabilities who are committed to the Psychiatric Security Review Board (PSRB) and other individuals confined to WFH.

These five elements of the bill will be beneficial to people with disabilities: 1) Converting the Advisory Board to an Oversight Board; 2) Removing PSRB interference with clinical decisions about patient movement within and outside the hospital; 3) Requiring the initial examination of an acquttee committed to DMHAS be conducted by an independent provider; 4) Constructing of a new WFH; and 5) Expanding the capacity of the forensic community mental health provider system to ensure persons with disabilities can timely transition from WFH to live in a more integrated setting.

DRCT believes SB 450 does not comport with key provisions of the Americans with Disabilities Act (ADA) and we would like to work with Public Health Committee's Leadership to make the necessary changes

Kathy Flaherty, Executive Director, Connecticut Legal Rights Project (CLRP)

SB 450 is a good first step but does not represent everything needed to reform the State's forensic mental health system, nor does it reflect all the recommendations outlined in the CVH Whiting Task Force Final Report. To better understand the experience of being a patient in a mental health system, I recommend reading a series of articles on Mad in America website. The article by Sean Gunderson depicts stories from CLRP clients residing at Whiting and Dutcher.

The task force voted 6-1 for the abolishment of the Psychiatric Security Review Board (PSRB) and DRCT is asking the Committee to consider establishing a working group to determine how to work towards abolition and that more than one person with direct lived experience be appointed. We support the proposed oversight board and recommend a mechanism be added for reporting and investigating abuse and neglect at all DMHAS-operated facilities. Additionally, we asked that the Patients' Bill of Rights be amended to reflect the 21st century communication methods

Nancy Alisberg

Ms. Alsiberg strongly supports this bill and welcomes the efforts of the Committee to incorporate the recommendations of the CVH Task Force into an enforceable bill. However, she has questions regarding certain sections of the bill. She objects to the establishment of another task force to study the existence of the Psychiatric Security Review Board (PSRB) since the 2018 CVH Whiting Task Force report clearly concluded that the PSRB should be abolished. I do not believe there should be different standards for temporary leave for acquttees served by the Department of Developmental Services (DDS) and those who are placed in Whiting. Therefore, subsection (a) of Section 7 should be deleted.

Section 10 addresses the complex issue of the Department of Mental Health and Addiction Services (DMHAS) and contract with Yale. I believe DMHAS should investigate and report on the inability of Yale to recruit and retain staff. Section 11 implies an acquittee's initial examination would be conducted by Yale and I cannot understand the rationale for this provision since the CVH Whiting Task Force recommended the elimination of the Yale contract.

The definition of institutions in Section 12 of the bill is unclear. Federal law excludes large institutions over a certain size from this definition to ensure they don't qualify for federal Medicaid reimbursements. The language in this section suggests the Committee believes that this exclusion will no longer apply and goes against the task force recommendation to provide care in the community. Despite these comments, I believe this bill is a reasonable step to implement the recommendations of the Task Force.

Jordan Fairchild, Coordinator and Community Organizer, Keep the Promise Coalition (KTP).

The focus of mental health treatment should be on recovery and living conditions at CVH and Whiting Forensic Hospitals are not conducive to recovery. KTP supports the recommendation to abolish the PSRB and asks that at least 3 persons with lived experience be appointed to the proposed working group. The practices of the PSRB have resulted in the effective incarceration of individuals who have not been convicted of a crime. In addition, serious attention must be given to the need for significant investments in community-based treatment options which focus on recovery and well-being of the client to ensure people with psychiatric disabilities have access to the appropriate treatment.

Thomas Burr, Community and Affiliates Relations Manager, CT NAMI

The provisions in SB 450 are a good start but NAMI would like to recommend the following: 1) change the proposed task force to examine the abolition of Psychiatric Security Review Board (PSRB) to a working group; and 2) include 3 members with lived experience as patients or former patients at Whiting.

NAMI will support SB 450 with the suggested changes.

Christopher DeAngelo, Current Patient at WFH:

Mr. DeAngelo supports this entire piece of legislation and in particular the section addressing the PSRB. In his testimony, Mr. DeAngelo shares his experience with the PSRB and his belief that is being treated unfairly. This unfair treatment has resulted in his stay at Whiting being far longer than his original sentence.

Mr. Vincent Ardizzone, Current Resident at (CVH):

In his testimony, Mr. Ardizzone shares his experience concerning his treatment by the PSRB, which he believes has been unfair. He contends that his request for leave should be honored based on evidence submitted by Andrew. Meisler, PhD, professor of Psychiatry at Yale and Marc Hillbrands, PhD, Forensic Psychology.

James Armstrong, Current Patient, WFH:

Mr. Whiting supports this bill.

NATURE AND SOURCES OF OPPOSITION:

Lucy Nolan, Director, Policy and Public Relations, Connecticut Alliance to End Sexual Violence

Adding the "safety and well-being of acquittees as a primary concern" will change the focus from the protection of society when considering the discharge and conditional release of acquittees. This language could ignore safety risk and result in harm to victims.

The proposed task force to evaluate the role of the Psychiatric Security Review Board (PSRB) consists of several members of the judiciary community and others but there is no representation for victims who should have a voice and the security in knowing that the PRSB will continue to keep them in mind.

Switching the approval for temporary leave for acquittees from the PSRB to the hospital superintendent will remove all consideration for victim notification. The overarching factor in these decisions should not only be about the acquittee's therapeutic advancement, but also the safety of the community and victims who continue to live with lifelong trauma. The PSRB should be part of decision-making process for acquittees.

Victims of individuals incarcerated in the Department of Corrections following the commission of a violent crime are afforded the rights to notification and this should not change for a victim of persons at Whiting Forensic Hospital.

Liza Andrews, Director of Public Policy & Communications, CT Coalition Against Domestic Violence, (CCADV)

CCADV has concerns with Sections 6 and 7 of SB 450. Several acquittees under the jurisdiction of the Psychiatric Security Review Board (PSRB) have committed violent acts against family members or persons they know. It is the position of CCADV that victims of these heinous crimes should be given physical and emotional safety to help them heal and to minimize the risk of additional attack by unsupervised acquittees.

It is important that victims be notified and given an opportunity to have their voices heard when changes are considered to supervision of acquittees. The PSRB ensures the voices of victims are heard. Yet, the proposed task force in Section 6 of the bill does not include a victim advocate. We strongly recommend the inclusion of a victim advocate on the task force.

Currently, the PSRB approves temporary leave for patients under the PSRB and Section 7 propose changing this process by giving this authority to the superintendent of Whiting Forensic Hospital. This change will undermine the public safety provision currently provided under the PSRB.

Ken Girardin, Director of Policy & Research Yankee Institute

SB 450 does not address one of the most troubling revelations that led to the establishment of the CVH Whiting Task Force, and that is, Whiting Forensic Hospital had been forced to rehire employees who had been fired for abusing patients.

In March 2018, Yankee Institute revealed that unelected arbitrators repeatedly overturned abuse-related termination of employees at Whiting Forensic Hospital under union contract terms. This was not addressed by the CVH Whiting Task Force and, is not in SB 450.

Although arbitration is an effective tool for weighing evidence, it should never be the last word in personnel decision that allows employees to continue working with vulnerable population.

State agencies should proactively disclose records related to employee discipline, including the disposition, whenever the underlying charges are sustained. The recommendations of the Task Force to establish the Office of the Inspector General and detailed reporting on investigations and mitigation of complaints are not reflected in SB 450. Building a new facility and establishing an oversight board will not change how the state's own labor practices contribute to the "systemic issues" at state hospitals,

After a 2011 New York Times report revealed systemic patient abuse by state employees, the State of New York took action to ensure terminations were upheld and they created a new watchdog entity. This Legislature is doing neither.

Ingrid Justin, MD

I am the mother of Johanna Justin-Jinich, who was 21 years old when she was shot point blank as she served coffee at the Wesleyan College café. The perpetrator is currently housed at Whiting Forensic Hospital.

Although New York City police had intervened, the perpetrator continued to stalk Johanna for several years before killing her. His journal contained threats against Wesleyan students, Jews in general and Johanna's father. Although physicians try to determine what is most helpful to their patients' recovery, we are unable to predict if a patient might kill themselves or others.

This bill directly questions the role and need for the Psychiatric Security Review Board (PSRB) to make decisions on patient release and fails to recognize or even mention family members of both victim and perpetrator and the community who have suffered grievous harm. There is no provision in SB 450 for victim notification or the opportunity to provide their input on impending release or transition off acquirtees. The PSRB is a known and tested entity that should not be replaced.

Michele Voigt, Co-founder, Violent Crime Survivors (VCS)

VCS strongly opposes sections of SB 450. The rights of crime victims include the right to protection, notification, to attend proceedings, communicate with the prosecution, address the court at plea and sentencing, restitution, and to information about the criminal case and the offender. A mechanism must remain in place to achieve and protect these rights. This bill is in direct violation of victims' state constitutional rights and the proposed oversight board must include representation of victims, victims' advocates, or the Office of Victims Advocate.

The proposed change to temporary leave is reckless and irresponsible. The Psychiatric Security Review Board (PSRB) must retain its role and their primary concern should be the protection of society and victims' rights. These rights must not be compromised. The continued existence and effectiveness of the PSRB is supported by data that shows low recidivism rate of persons under PSRB jurisdiction.

Catherine Kidik, Retired/ Injured Hartford Police Officer:

Ms. Kidik shared her horrific experience being assaulted by an individual who currently resides at Whiting Forensic Hospital. She nearly lost her life. Her testimony focused on the

section of 450 which seeks to replace the PSRB. The idea that the PSRB be removed from the process regarding temporary leave makes her "nauseous". She asks, if an acquittee on leave inflicts any harm on another person, is the superintendent, or commissioner or director personally responsible for that? This proposed change to temporary leave is reckless and irresponsible. This "Task Force" must have the responsibility to ensure that any and all changes made are thoroughly investigated and consider how this change effects EVERYONE and makes clear who is responsible when things go wrong.

Susan Blair, Former Member of the (PSRB):

Ms. Blair served on the board for 24 years before retiring. She is proud to have been a member of a state board (the only one of three in the country) that cares for its mentally ill with compassion and the best treatment available. The board is comprised of a lawyer, a psychiatrist, a psychologist, a probation expert, a victim advocate, and a member at large covering all facets of treatment.

She is opposed to the provision in the bill concerning the abolishment of the PSRB and concludes "don't try to fix something that is not broken".

Wendy Tagan Conroy, Former WFH Employee:

Although she supports the creation of a task force that will provide oversight of staff, she finds it very troubling that this bill seeks to eliminate the PSRB.

Additional Sources of Opposition to Removing the PSRB Include:

- Gary Cardella, Lifetime Resident of Middletown, personally affected by the Jessica Short killing.
- David Gedraitis, Resident of CVH

Reported by: Beverley Henry

Date: 4/8/2022