



General Assembly

Amendment

February Session, 2022

LCO No. 5549



Offered by:

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To: Subst. Senate Bill No. 450

File No. 522

Cal. No. 385

"AN ACT CONCERNING CONNECTICUT VALLEY AND WHITING FORENSIC HOSPITALS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

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

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

28 (b) Not later than January 1, 2023, the Commissioner of Mental Health
29 and Addiction Services shall submit an interim report, and, not later
30 than January 1, 2024, a comprehensive report, in accordance with the
31 provisions of section 11-4a of the general statutes, regarding the plan
32 developed under subsection (a) of this section to the joint standing
33 committee of the General Assembly having cognizance of matters
34 relating to public health.

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

38 [There] (a) (1) On and before September 30, 2022, there shall be an
39 advisory board for Whiting Forensic Hospital, constituted as follows:
40 The Commissioner of Mental Health and Addiction Services, three
41 physicians licensed to practice in this state, two of whom shall be
42 psychiatrists, two attorneys of this state, at least one of whom shall be
43 in active practice and have at least five years' experience in the trial of
44 criminal cases, one licensed psychologist with experience in clinical

45 psychology, one licensed clinical social worker, one person actively
46 engaged in business who shall have at least ten years' experience in
47 business management, and two persons with psychiatric disabilities, at
48 least one of whom shall have received inpatient services in a psychiatric
49 hospital. Annually, on October first, the Governor shall appoint a
50 member or members to replace those whose terms expire for terms of
51 five years each. The board shall elect a chairman and a secretary, who
52 shall keep full and accurate minutes of its meetings and preserve the
53 same. The board shall meet at the call of the chairman at least quarterly.
54 Members of the board shall receive no compensation for their duties as
55 such but shall be reimbursed for their actual expenses incurred in the
56 course of their duties. [Said]

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

78 (b) Such oversight board shall [confer with the staff of the hospital

79 and give general consultative and advisory services on problems and
80 matters relating to its work. On any matter relating to the work of the
81 hospital, the board may also confer with the warden or superintendent
82 of the affected Connecticut correctional institution.] perform the
83 following functions:

84 (1) Oversee the work of Whiting Forensic Hospital and provide
85 consultative and advisory services regarding any problems or concerns
86 identified in such oversight board's review conducted pursuant to
87 subdivision (2) of this subsection;

88 (2) Review the official report of every investigation conducted
89 pursuant to the general statutes, including, but not limited to, chapter
90 813, chapter 814c and section 19a-490, as amended by this act, and every
91 investigation conducted by a hospital accrediting organization, of a
92 complaint regarding the conditions of said hospital or the mistreatment
93 or neglect of a patient or staff member of said hospital made by any
94 patient, family member, guardian or legal representative of a patient or
95 staff member of said hospital or any member of the public. As used in
96 this subdivision, "neglect" means the failure, through action or inaction,
97 to provide an individual with the services necessary to maintain such
98 individual's physical and mental health and safety, including, but not
99 limited to, protection against incidents of inappropriate or unwanted
100 sexual contact, harassment, taunting, bullying and discrimination;

101 (3) Make recommendations to said hospital and the Department of
102 Mental Health and Addiction Services for any actions necessary to
103 improve the work of the staff, conditions of said hospital or treatment
104 of any patient or staff member of said hospital necessary to address any
105 concerns raised or complaints made pursuant to subdivision (1) or (2) of
106 this subsection; and

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

110 (c) Notwithstanding the provisions of section 52-146e, the

111 superintendent and the relevant state agencies shall provide the official
112 reports described in subdivision (2) of subsection (b) of this section to
113 the oversight board.

114 (d) On or before January 1, 2023, and annually thereafter, the
115 oversight board for Whiting Forensic Hospital shall report, in
116 accordance with the provisions of section 11-4a, to the joint standing
117 committee of the General Assembly having cognizance of matters
118 relating to public health regarding the results of any investigation or
119 recommendation made by the board pursuant to subsection (b) of this
120 section.

121 Sec. 3. Subsection (e) of section 17a-582 of the general statutes is
122 repealed and the following is substituted in lieu thereof (*Effective October*
123 *1, 2022*):

124 (e) At the hearing, the court shall make a finding as to the mental
125 condition of the acquittee and, considering that its primary [concern is]
126 concerns are the protection of society and the safety and well-being of
127 the acquittee, make one of the following orders:

128 (1) If the court finds that the acquittee is a person who should be
129 confined or conditionally released, the court shall order the acquittee
130 committed to the jurisdiction of the board and either confined in a
131 hospital for psychiatric disabilities or placed with the Commissioner of
132 Developmental Services, for custody, care and treatment pending a
133 hearing before the board pursuant to section 17a-583; provided (A) the
134 court shall fix a maximum term of commitment, not to exceed the
135 maximum sentence that could have been imposed if the acquittee had
136 been convicted of the offense, and (B) if there is reason to believe that
137 the acquittee is a person who should be conditionally released, the court
138 shall include in the order a recommendation to the board that the
139 acquittee be considered for conditional release pursuant to subdivision
140 (2) of section 17a-584, as amended by this act; or

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

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

145 At any hearing before the board considering the discharge,
146 conditional release or confinement of the acquittee, except a hearing
147 pursuant to section 17a-592 or subsection (d) of section 17a-593, the
148 board shall make a finding as to the mental condition of the acquittee
149 and, considering that its primary [concern is] concerns are the protection
150 of society and the safety and well-being of the acquittee, shall do one of
151 the following:

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

155 (2) If the board finds that the acquittee is a person who should be
156 conditionally released, the board shall order the acquittee conditionally
157 released subject to such conditions as are necessary to prevent the
158 acquittee from constituting a danger to himself or others.

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

163 Sec. 5. Subsection (g) of section 17a-593 of the general statutes is
164 repealed and the following is substituted in lieu thereof (*Effective October*
165 *1, 2022*):

166 (g) The court shall make a finding as to the mental condition of the
167 acquittee and, considering that its primary concern is the protection of
168 society and its secondary concern is the safety and well-being of the
169 acquittee, make one of the following orders: (1) If the court finds that the
170 acquittee is not a person who should be discharged, the court shall order
171 the recommendation or application for discharge be dismissed; or (2) if
172 the court finds that the acquittee is a person who should be discharged,
173 the court shall order the acquittee discharged from custody. The court

174 shall send a copy of such finding and order to the board.

175 Sec. 6. (*Effective from passage*) (a) On or before January 1, 2023, the
176 Commissioner of Mental Health and Addiction Services shall convene a
177 working group to evaluate the Psychiatric Security Review Board
178 established under section 17a-581 of the general statutes. Such
179 evaluation shall include, but need not be limited to, an examination of
180 (1) the recommendations regarding said board that were made by the
181 task force established pursuant to section 1 of public act 18-86 to
182 evaluate Connecticut Valley Hospital and Whiting Forensic Hospital, (2)
183 methods of optimizing the process by which (A) a person is committed
184 to the custody of the Department of Mental Health and Addiction
185 Services after being found not guilty by reason of mental disease or
186 defect pursuant to section 53a-13 of the general statutes, and (B) such
187 person is released or discharged from such custody, including, but not
188 limited to, through a balancing of the protection of society, victims'
189 rights and the health and well-being of such person, (3) processes in
190 place for committing and releasing a person who has been found not
191 guilty by reason of a mental disease or defect in states that do not have
192 a body that is similar to said board, and (4) the processes for notifying a
193 victim of such person when such person is released or discharged from
194 such custody.

195 (b) The working group convened pursuant to subsection (a) of this
196 section shall include, but need not be limited to, the following members:
197 (1) A person with expertise in public health; (2) two members of the
198 judiciary; (3) a defense attorney of the Judicial Department or the Public
199 Defender Services Commission; (4) a state's attorney; (5) a physician
200 specializing in psychiatry and licensed under the provisions of sections
201 20-9 to 20-12, inclusive, of the general statutes; (6) two acquittees, as
202 defined in section 17a-580 of the general statutes; (7) two victims of an
203 acquittee or two representatives of an organization that advocates on
204 behalf of victims of an acquittee; (8) the Commissioner of Mental Health
205 and Addiction Services; and (9) the Commissioner of Developmental
206 Services. The Commissioner of Mental Health and Addiction Services
207 shall select chairpersons from among the members of the working

208 group. Such chairpersons shall schedule the first meeting of the working
209 group, which shall be held not later than sixty days after the effective
210 date of this section.

211 (c) Not later than January 1, 2024, the chairpersons of the working
212 group shall report, in accordance with the provisions of section 11-4a of
213 the general statutes, to the joint standing committees of the General
214 Assembly having cognizance of matters relating to public health and the
215 judiciary regarding the findings of the working group.

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

218 (a) If at any time after the confinement of an acquittee in a hospital
219 for psychiatric disabilities or the placement of an acquittee with the
220 Commissioner of Developmental Services pursuant to order of the
221 board, the superintendent of such hospital or said commissioner is of
222 the opinion that the acquittee's psychiatric supervision and treatment
223 would be advanced by permitting the acquittee to leave such hospital
224 or the custody of said commissioner temporarily, the superintendent or
225 said commissioner shall apply to the board for an order authorizing
226 temporary leaves. The application shall include a statement of reasons
227 in support thereof. The board shall send a copy of the application to the
228 state's attorney. The board may order a hearing on the application and
229 shall order such a hearing if the state's attorney files with the board a
230 request therefor within ten days of his receipt of the application. The
231 board shall grant the application, subject to such conditions and
232 supervision as the board may set in the order for temporary leave, if it
233 concludes that the acquittee's temporary leave, under the conditions
234 specified, would not constitute a danger to [himself] the acquittee or
235 others. If the board grants such application, [is granted,] (1) the acquittee
236 may be permitted to leave such hospital or the custody of said
237 commissioner temporarily, under the charge of his guardian, relatives
238 or friends, or by himself or herself, at such times and under such
239 conditions as the superintendent or said commissioner deems
240 appropriate, unless the order of the board provides otherwise, [. The

241 provisions of section 17a-521 not inconsistent with this section shall be
242 applicable to temporary leaves authorized by this section] and (2) the
243 board shall notify the victim, as defined in section 17a-601, of the
244 acquittee regarding such temporary leave.

245 (b) At any time after the confinement of an acquittee in a hospital for
246 psychiatric disabilities or the placement of an acquittee with the
247 Commissioner of Developmental Services, the acquittee, or another
248 person acting on the acquittee's behalf, may apply to the board for an
249 order of temporary leave. On receipt of the application, the board shall
250 request that the superintendent of the hospital or said commissioner
251 report on whether such superintendent or said commissioner is of the
252 opinion that the acquittee should be granted temporary leave. The
253 report shall include facts supporting such opinion. An application for
254 temporary leave under this subsection shall not be filed more frequently
255 than once every six months from the date of the initial hearing held by
256 the board pursuant to section 17a-583. The board shall not be required
257 to hold a hearing on the first application made by an acquittee under
258 this subsection any earlier than ninety days after the date of such initial
259 hearing. Any hearing resulting from any subsequent application of the
260 acquittee shall be held not less than thirty days but not more than ninety
261 days after the date of the filing of such application. If the board grants
262 an application made under this subsection, (1) the acquittee may be
263 permitted to leave such hospital or the custody of said commissioner
264 temporarily, under the charge of his guardian, relatives or friends, or by
265 himself or herself, at such times and under such conditions as the
266 superintendent or said commissioner deems appropriate, unless the
267 order of the board provides otherwise, and (2) the board shall notify the
268 victim, as defined in section 17a-601, regarding such temporary leave.

269 [(b)] (c) The board may designate any capable person or appropriate
270 public or private agency to supervise the acquittee on temporary leave
271 pursuant to subsection (a) or (b) of this section. Prior to any designation,
272 the board shall notify the person or agency that the board contemplates
273 designating to supervise the acquittee's temporary leave and provide
274 the person or agency with an opportunity to be heard before the board.

275 Any person or agency designated by the board to supervise the
276 acquittee's temporary leave shall comply with such conditions as the
277 board sets in the order for temporary leave.

278 Sec. 8. Section 17a-599 of the general statutes is repealed and the
279 following is substituted in lieu thereof (*Effective October 1, 2022*):

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

289 (b) The Commissioner of Mental Health and Addiction Services may
290 transfer any acquittee who requires (1) confinement under conditions of
291 maximum security pursuant to subsection (a) of this section, and (2)
292 medical treatment that is unavailable in the maximum security
293 environment or would constitute a safety hazard to the acquittee or
294 others due to the use of certain medical equipment or material, to a
295 facility that can provide such medical treatment, provided (A) the
296 commissioner ensures that the conditions of custody of the acquittee at
297 such facility are and remain equivalent to conditions of maximum
298 security, (B) the commissioner [provides immediate written justification
299 to the board upon such transfer] consults with a licensed health care
300 provider who has evaluated the acquittee regarding such transfer and
301 the licensed health care provider approves of such transfer, and (C)
302 transfer of the acquittee back to the maximum security setting occurs
303 upon completion of the medical treatment. The commissioner shall
304 provide the board with notice of such transfer at the most reasonable
305 time determined by the superintendent, but not later than forty-eight
306 hours after such transfer.

307 (c) Each hospital for psychiatric disabilities treating acquirtees under
 308 secure conditions shall establish a risk management review committee
 309 comprised of licensed clinical professionals and administrators of the
 310 hospital to review requests to transfer an acquirtee from a maximum
 311 security division of the hospital to a lower security division of the
 312 hospital for the reason described in this subsection. If at any time after
 313 the confinement of an acquirtee in a hospital for psychiatric disabilities
 314 under conditions of maximum security, the superintendent of such
 315 hospital is of the opinion, after consultation with the hospital's risk
 316 management review committee, that the acquirtee's psychiatric
 317 supervision and treatment would be safely advanced by permitting the
 318 acquirtee to transfer to a lower security division of the hospital, the
 319 superintendent may effectuate the transfer. The superintendent shall
 320 provide the board with at least forty-eight hours advance notice of the
 321 transfer. The board shall notify each victim, as defined in section 17a-
 322 601, of the acquirtee regarding the transfer.

323 Sec. 9. (*Effective from passage*) (a) The Department of Mental Health
 324 and Addiction Services, in collaboration with the Department of
 325 Administrative Services, shall evaluate the classifications in state service
 326 for all physicians and senior level clinicians employed by Whiting
 327 Forensic Hospital to determine if such classifications are in the
 328 appropriate compensation plans necessary to attract and retain
 329 experienced and competent employees of said hospital.

330 (b) Not later than January 1, 2023, the Commissioners of Mental
 331 Health and Addiction Services and Administrative Services shall jointly
 332 report, in accordance with the provisions of section 11-4a of the general
 333 statutes, to the joint standing committee of the General Assembly
 334 having cognizance of matters relating to public health regarding such
 335 evaluation."

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|---|---------------------|-------------|
| 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-599 |
| Sec. 9 | <i>from passage</i> | New section |