



General Assembly

**Amendment**

February Session, 2022

LCO No. 5474



Offered by:

SEN. ANWAR, 3<sup>rd</sup> Dist.

SEN. SOMERS, 18<sup>th</sup> Dist.

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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.

336 Sec. 10. Subsection (a) of section 19a-490 of the 2022 supplement to  
337 the general statutes, as amended by section 29 of public act 21-2 of the  
338 June special session, is repealed and the following is substituted in lieu  
339 thereof (*Effective October 1, 2022*):

340 (a) "Institution" means a hospital, short-term hospital special hospice,  
 341 hospice inpatient facility, residential care home, nursing home facility,  
 342 home health care agency, home health aide agency, behavioral health  
 343 facility, assisted living services agency, substance abuse treatment  
 344 facility, outpatient surgical facility, outpatient clinic, an infirmary  
 345 operated by an educational institution for the care of students enrolled  
 346 in, and faculty and employees of, such institution; a facility engaged in  
 347 providing services for the prevention, diagnosis, treatment or care of  
 348 human health conditions, including facilities operated and maintained  
 349 by any state agency; and a residential facility for persons with  
 350 intellectual disability licensed pursuant to section 17a-227 and certified  
 351 to participate in the Title XIX Medicaid program as an intermediate care  
 352 facility for individuals with intellectual disability; [ "Institution" does  
 353 not include any facility for the care and treatment of persons with  
 354 mental illness or substance use disorder operated or maintained by any  
 355 state agency, except Whiting Forensic Hospital and the hospital and  
 356 psychiatric residential treatment facility units of the Albert J. Solnit  
 357 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-599
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>October 1, 2022</i>	19a-490(a)