



**PA 22-45**—sSB 450  
*Public Health Committee*

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

**SUMMARY:** This act 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, within available appropriations, to construct a new facility for Whiting Forensic Hospital and submit reports on the plan to the Public Health Committee (§ 1);
2. starting October 1, 2022, reestablishes Whiting Forensic Hospital’s 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, or conditional release of an acquittee (i.e., a person found not guilty of a crime due to a mental disease or defect), to consider the acquittee’s safety and well-being in addition to the protection of society as under existing law (§§ 3-5);
4. requires DMHAS to convene a working group to evaluate PSRB, which must report its findings to the Judiciary and Public Health committees by January 1, 2024 (§ 6);
5. allows an acquittee, or someone acting on the acquittee’s behalf, to apply to PSRB for a temporary leave order (§ 7);
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 approves the transfer, and eliminates the requirement that DMHAS give immediate written justification of the transfer to PSRB (§ 8);
7. requires Whiting Forensic Hospital to establish a risk management review committee to review requests to transfer an acquittee from maximum-security confinement to a lower security division in the hospital for medical treatment (§ 8); and
8. requires DMHAS, in collaboration with the Department of Administrative Services (DAS), to evaluate the state service classifications for physicians and senior level clinicians employed by Whiting Forensic Hospital (§ 9).

The act also makes technical and conforming changes.

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

## OLR PUBLIC ACT SUMMARY

### § 1 — NEW WHITING FORENSIC HOSPITAL FACILITY

The act requires DMHAS to develop a plan, within available appropriations, to construct a new facility for Whiting Forensic Hospital. When developing the plan, the department must 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 the commissioner deems appropriate, 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 DMHAS commissioner must submit an interim report on the plan to the Public Health Committee by January 1, 2023, and a comprehensive report by January 1, 2024.

### § 2 — WHITING FORENSIC HOSPITAL OVERSIGHT BOARD

Starting October 1, 2022, the act 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 prior law and the act, are appointed by the governor. The board is within DMHAS for administrative purposes only.

Similar to prior law, the act requires the oversight board to oversee the work of Whiting Forensic Hospital and consult and advise on any problems or concerns identified during its review of investigations as described below. The act expands the board's duties to also include the following:

1. reviewing the official report of every investigation conducted under state law, or by a hospital accrediting organization, of complaints on the hospital's conditions or the mistreatment or neglect of patients or staff made by (a) patients or their family members, guardians, or legal representatives; (b) staff; or (c) 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 by January 1, 2023, reporting annually to the Public Health Committee on the investigation results or recommendations.

## OLR PUBLIC ACT SUMMARY

The act requires the board to request and review any necessary information from the hospital and DMHAS. It also requires Whiting Forensic Hospital's superintendent and relevant state agencies, regardless of state law on psychiatric records' confidentiality, to give the oversight board the official investigation reports as described above.

Under the act, "neglect" is failing, 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 of inappropriate or unwanted sexual contact, harassment, taunting, bullying, and discrimination.

### §§ 3-5 — COMMITMENT AND DISCHARGE HEARINGS

Prior law required the Superior Court and PSRB, when holding hearings on an acquittee's initial commitment, confinement, or conditional release, to primarily consider the protection of society. The act requires the court and PSRB to primarily consider both the protection of society and the acquittee's safety and well-being. For hearings on an acquittee's discharge from custody, the act requires the court to consider the protection of society as its primary concern and the acquittee's safety and well-being as its secondary concern.

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 an intellectual disability) or a state psychiatric hospital (i.e., Connecticut Valley Hospital or Whiting Forensic Hospital) and (2) what level of supervision and treatment is needed. An acquittee's commitment to PSRB continues until discharged by a court order.

### § 6 — PSRB WORKING GROUP

#### *Duties*

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

1. recommendations about PSRB made by the CVH Whiting Forensic Hospital Task Force established under PA 18-86;
2. methods to optimize the process by which someone (an "acquittee") is (a) committed to DMHAS custody and (b) released or discharged from custody, including by 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 without a body similar to PSRB; and
4. the processes for notifying a victim when an acquittee is released or discharged from custody.

#### *Members*

## OLR PUBLIC ACT SUMMARY

Under the act, 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. a 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 on their behalf, and
8. the DMHAS and DDS commissioners.

The DMHAS commissioner must select the working group's chairpersons from among its members. The chairpersons must schedule the working group's first meeting so that it will occur by July 15, 2022.

### *Report*

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

### § 7 — TEMPORARY LEAVES

Under existing law, the Connecticut Valley Hospital's or Whiting Forensic Hospital's superintendent or DDS commissioner may apply to PSRB for an order granting an acquittee temporary leave. If PSRB grants the order, the act requires it to notify the victim of the acquittee's temporary leave.

The act also allows an acquittee, or someone acting on the acquittee's behalf, to also apply to PSRB for a temporary leave order. Applications may be submitted no more than once every six months from the date of the acquittee's initial commitment hearing.

Upon receiving an application, the act requires the board to request the DDS commissioner or hospital superintendent to report on whether they believe the temporary leave should be granted, including facts supporting the opinion. PSRB is not required to hold a hearing on an acquittee's first temporary leave application any earlier than 90 days after the acquittee's initial commitment hearing. If the board holds a hearing on a subsequent application for temporary leave, it must occur within 30 to 90 days after the application is filed.

If the board grants the application, the acquittee may be permitted to temporarily leave the hospital or DDS custody, either by him- or herself or under the charge of a guardian, relative, or friend. The leave may be limited to certain times and conditions, as the superintendent or DDS commissioner deems appropriate, unless the temporary leave order provides otherwise. PSRB must notify the victim of the acquittee's 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

## OLR PUBLIC ACT SUMMARY

community facilities for treatment or services or short visits with family members and friends, among other things. Conditions may be set for the leave, including (1) assigning a family member, friend, or guardian to supervise the acquittee and (2) 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.

### § 8 — MAXIMUM-SECURITY CONFINEMENT

Existing law authorizes DMHAS, under certain circumstances, 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.

The act (1) requires DMHAS, before doing so, to consult with a licensed health care provider who evaluated the acquittee and approves of the transfer and (2) eliminates prior law's requirement that the department give immediate written justification to PSRB. It instead requires DMHAS to notify PSRB of the transfer at the most reasonable time, as the hospital superintendent determines, but no later than 48 hours after it occurs.

As under prior 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.

Additionally, the act requires Whiting Forensic Hospital to establish a risk management review committee comprised of its licensed clinical professionals and administrators to review requests to transfer an acquittee from maximum-security confinement to a lower security division in the hospital for medical treatment. If the hospital's superintendent believes after consulting with the committee that an acquittee's transfer would safely advance his or her supervision and treatment, then he or she may effectuate it. The act requires the superintendent to notify PSRB of the transfer at least 48 hours in advance, and the board must then notify each of the acquittee's victims.

### § 9 — STATE SERVICE CLASSIFICATIONS FOR WHITING FORENSIC HOSPITAL CLINICIANS

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