



# Senate

General Assembly

**File No. 526**

January Session, 2023

Substitute Senate Bill No. 1231

*Senate, April 12, 2023*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING A DEFENDANT'S COMPETENCY TO STAND TRIAL AND EARLY RELEASE INTO THE COMMUNITY.***

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

1 Section 1. Section 54-56d of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) A defendant shall not be tried, convicted or sentenced while the  
4 defendant is not competent. For the purposes of this section, a defendant  
5 is not competent if the defendant is unable to understand the  
6 proceedings against him or her or to assist in his or her own defense.

7 (b) A defendant is presumed to be competent. The burden of proving  
8 that the defendant is not competent by a preponderance of the evidence  
9 and the burden of going forward with the evidence are on the party  
10 raising the issue. The burden of going forward with the evidence shall  
11 be on the state if the court raises the issue. The court may call its own  
12 witnesses and conduct its own inquiry.

13 (c) If, at any time during a criminal proceeding, it appears that the  
14 defendant is not competent, counsel for the defendant or for the state,  
15 or the court, on its own motion, may request an examination to  
16 determine the defendant's competency.

17 (d) If the court finds that the request for an examination is justified  
18 and that, in accordance with procedures established by the judges of the  
19 Superior Court, there is probable cause to believe that the defendant has  
20 committed the crime for which the defendant is charged, the court shall  
21 order an examination of the defendant as to his or her competency. The  
22 court may (1) appoint one or more physicians specializing in psychiatry  
23 to examine the defendant, or (2) order the Commissioner of Mental  
24 Health and Addiction Services to conduct the examination either (A) by  
25 a clinical team consisting of a physician specializing in psychiatry, a  
26 clinical psychologist and one of the following: A clinical social worker  
27 licensed pursuant to chapter 383b or a psychiatric nurse clinical  
28 specialist holding a master's degree in nursing, or (B) by one or more  
29 physicians specializing in psychiatry, except that no employee of the  
30 Department of Mental Health and Addiction Services who has served  
31 as a member of a clinical team in the course of such employment for at  
32 least five years prior to October 1, 1995, shall be precluded from being  
33 appointed as a member of a clinical team. If the Commissioner of Mental  
34 Health and Addiction Services is ordered to conduct the examination,  
35 the commissioner shall select the members of the clinical team or the  
36 physician or physicians. When performing an examination under this  
37 section, the examiners shall have access to information on treatment  
38 dates and locations in the defendant's treatment history contained in the  
39 Department of Mental Health and Addiction Services' database of  
40 treatment episodes for the purpose of requesting a release of treatment  
41 information from the defendant. If the examiners determine that the  
42 defendant is not competent, the examiners shall then determine whether  
43 there is a substantial probability that the defendant, if provided with a  
44 course of treatment, will regain competency within the maximum  
45 period of any placement order under this section. If the examiners  
46 determine that there is a substantial probability that the defendant, if  
47 provided with a course of treatment, will regain competency within the

48 maximum period of any placement order under this section, the  
49 examiners shall then determine whether the defendant appears to be  
50 eligible for civil commitment, with monitoring by the Court Support  
51 Services Division, pursuant to subdivision (2) of subsection (h) of this  
52 section. If the examiners determine that there is not a substantial  
53 probability that the defendant, if provided with a course of treatment,  
54 will regain competency within the maximum period of any placement  
55 order under this section, the examiners shall then determine whether  
56 the defendant appears to be eligible for civil commitment to a hospital  
57 for psychiatric disabilities pursuant to subsection (m) of this section and  
58 make a recommendation to the court regarding the appropriateness of  
59 such civil commitment. The court may authorize a physician  
60 specializing in psychiatry, a clinical psychologist, a clinical social  
61 worker licensed pursuant to chapter 383b or a psychiatric nurse clinical  
62 specialist holding a master's degree in nursing selected by the defendant  
63 to observe the examination. Counsel for the defendant may observe the  
64 examination. The examination shall be completed within fifteen  
65 business days from the date it was ordered and the examiners shall  
66 prepare and sign, without notarization, a written report and file such  
67 report with the court within twenty-one business days of the date of the  
68 order. On receipt of the written report, the clerk of the court shall cause  
69 copies to be delivered immediately to the state's attorney and to counsel  
70 for the defendant.

71 (e) The court shall hold a hearing as to the competency of the  
72 defendant not later than ten days after the court receives the written  
73 report. Any evidence regarding the defendant's competency, including  
74 the written report, may be introduced at the hearing by either the  
75 defendant or the state, except that no treatment information contained  
76 in the Department of Mental Health and Addiction Services' database of  
77 treatment episodes may be included in the written report or introduced  
78 at the hearing unless the defendant released the treatment information  
79 pursuant to subsection (d) of this section. If the written report is  
80 introduced, at least one of the examiners shall be present to testify as to  
81 the determinations in the report, unless the examiner's presence is  
82 waived by the defendant and the state. Any member of the clinical team

83 shall be considered competent to testify as to the team's determinations.  
84 A defendant and the defendant's counsel may waive the court hearing  
85 only if the examiners, in the written report, determine without  
86 qualification that the defendant is competent. Nothing in this subsection  
87 shall limit any other release or use of information from said database  
88 permitted by law.

89 (f) If the court, after the hearing, finds that the defendant is  
90 competent, the court shall continue with the criminal proceedings. If the  
91 court finds that the defendant is not competent, the court shall also find  
92 whether there is a substantial probability that the defendant, if provided  
93 with a course of treatment, will regain competency within the maximum  
94 period of any placement order permitted under this section.

95 (g) If, at the hearing, the court finds that there is not a substantial  
96 probability that the defendant, if provided with a course of treatment,  
97 will regain competency within the period of any placement order under  
98 this section, the court shall follow the procedure set forth in subsection  
99 (m) of this section.

100 (h) (1) If, at the hearing, the court finds that there is a substantial  
101 probability that the defendant, if provided with a course of treatment,  
102 will regain competency within the period of any placement order under  
103 this section, the court shall either (A) order placement of the defendant  
104 for treatment for the purpose of rendering the defendant competent, or  
105 (B) order placement of the defendant at a treatment facility pending civil  
106 commitment proceedings pursuant to subdivision (2) of this subsection.

107 (2) (A) Except as provided in subparagraph (B) of this subdivision, if  
108 the court makes a finding pursuant to subdivision (1) of this subsection  
109 and does not order placement pursuant to subparagraph (A) of said  
110 subdivision, the court shall, on its own motion or on motion of the state  
111 or the defendant, order placement of the defendant in the custody of the  
112 Commissioner of Mental Health and Addiction Services at a treatment  
113 facility pending civil commitment proceedings. The treatment facility  
114 shall be determined by the Commissioner of Mental Health and  
115 Addiction Services. Such order shall: (i) Include an authorization for the

116 Commissioner of Mental Health and Addiction Services to apply for  
117 civil commitment of such defendant pursuant to sections 17a-495 to 17a-  
118 528, inclusive; (ii) permit the defendant to agree to request voluntarily  
119 to be admitted under section 17a-506 and participate voluntarily in a  
120 treatment plan prepared by the Commissioner of Mental Health and  
121 Addiction Services, and require that the defendant comply with such  
122 treatment plan; and (iii) provide that if the application for civil  
123 commitment is denied or not pursued by the Commissioner of Mental  
124 Health and Addiction Services, or if the defendant is unwilling or  
125 unable to comply with a treatment plan despite reasonable efforts of the  
126 treatment facility to encourage the defendant's compliance, the person  
127 in charge of the treatment facility, or such person's designee, shall  
128 submit a written progress report to the court and the defendant shall be  
129 returned to the court for a hearing pursuant to subsection (k) of this  
130 section. Such written progress report shall include the status of any civil  
131 commitment proceedings concerning the defendant, the defendant's  
132 compliance with the treatment plan, an opinion regarding the  
133 defendant's current competency to stand trial, the clinical findings of the  
134 person submitting the report and the facts upon which the findings are  
135 based, and any other information concerning the defendant requested  
136 by the court, including, but not limited to, the method of treatment or  
137 the type, dosage and effect of any medication the defendant is receiving.  
138 The Court Support Services Division shall monitor the defendant's  
139 compliance with any applicable provisions of such order. The period of  
140 placement and monitoring under such order shall not exceed the period  
141 of the maximum sentence which the defendant could receive on  
142 conviction of the charges against such defendant, or eighteen months,  
143 whichever is less. If the defendant has complied with such treatment  
144 plan and any applicable provisions of such order, at the end of the  
145 period of placement and monitoring, the court shall approve the entry  
146 of a nolle prosequi to the charges against the defendant or shall dismiss  
147 such charges.

148 (B) This subdivision shall not apply: (i) To any person charged with  
149 a class A felony, a class B felony, except a violation of section 53a-122  
150 that does not involve the use, attempted use or threatened use of

151 physical force against another person, or a violation of section 53a-70b  
152 of the general statutes, revision of 1958, revised to January 1, 2019, or  
153 section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of  
154 section 14-227n, subdivision (2) of subsection (a) of section 53-21 or  
155 section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b; (ii)  
156 to any person charged with a crime or motor vehicle violation who, as a  
157 result of the commission of such crime or motor vehicle violation, causes  
158 the death of another person; or (iii) unless good cause is shown, to any  
159 person charged with a class C felony.

160 (i) The placement of the defendant for treatment for the purpose of  
161 rendering the defendant competent shall comply with the following  
162 conditions: (1) The period of placement under the order or combination  
163 of orders shall not exceed the period of the maximum sentence which  
164 the defendant could receive on conviction of the charges against the  
165 defendant or [eighteen] twenty-four months, whichever is less; (2) the  
166 placement shall be either (A) in the custody of the Commissioner of  
167 Mental Health and Addiction Services, the Commissioner of Children  
168 and Families or the Commissioner of Developmental Services, except  
169 that any defendant placed for treatment with the Commissioner of  
170 Mental Health and Addiction Services may remain in the custody of the  
171 Department of Correction pursuant to subsection (p) of this section; or,  
172 (B) if the defendant or the appropriate commissioner agrees to provide  
173 payment, in the custody of any appropriate mental health facility or  
174 treatment program which agrees to provide treatment to the defendant  
175 and to adhere to the requirements of this section; and (3) the court shall  
176 order the placement, on either an inpatient or an outpatient basis, which  
177 the court finds is the least restrictive placement appropriate and  
178 available to restore competency. If outpatient treatment is the least  
179 restrictive placement for a defendant who has not yet been released  
180 from a correctional facility, the court shall consider whether the  
181 availability of such treatment is a sufficient basis on which to release the  
182 defendant on a promise to appear, conditions of release, cash bail or  
183 bond. If the court determines that the defendant may not be so released,  
184 the court shall order treatment of the defendant on an inpatient basis at  
185 a mental health facility or facility for persons with intellectual disability.

186 Not later than twenty-four hours after the court orders placement of the  
187 defendant for treatment for the purpose of rendering the defendant  
188 competent, the examiners shall transmit information obtained about the  
189 defendant during the course of an examination pursuant to subsection  
190 (d) of this section to the health care provider named in the court's order.

191 (j) The person in charge of the treatment facility, or such person's  
192 designee, or the Commissioner of Mental Health and Addiction Services  
193 with respect to any defendant who is in the custody of the  
194 Commissioner of Correction pursuant to subsection (p) of this section,  
195 shall submit a written progress report to the court (1) at least seven days  
196 prior to the date of any hearing on the issue of the defendant's  
197 competency; (2) whenever he or she believes that the defendant has  
198 attained competency; (3) whenever he or she believes that there is not a  
199 substantial probability that the defendant will attain competency within  
200 the period covered by the placement order; (4) whenever, within the  
201 first one hundred twenty days of the period covered by the placement  
202 order, he or she believes that the defendant would be eligible for civil  
203 commitment pursuant to subdivision (2) of subsection (h) of this section;  
204 or (5) whenever he or she believes that the defendant is still not  
205 competent but has improved sufficiently such that continued inpatient  
206 commitment is no longer the least restrictive placement appropriate and  
207 available to restore competency. The progress report shall contain: (A)  
208 The clinical findings of the person submitting the report and the facts on  
209 which the findings are based; (B) the opinion of the person submitting  
210 the report as to whether the defendant has attained competency or as to  
211 whether the defendant is making progress, under treatment, toward  
212 attaining competency within the period covered by the placement order;  
213 (C) the opinion of the person submitting the report as to whether the  
214 defendant appears to be eligible for civil commitment to a hospital for  
215 psychiatric disabilities pursuant to subsection (m) of this section and the  
216 appropriateness of such civil commitment, if there is not a substantial  
217 probability that the defendant will attain competency within the period  
218 covered by the placement order; and (D) any other information  
219 concerning the defendant requested by the court, including, but not  
220 limited to, the method of treatment or the type, dosage and effect of any

221 medication the defendant is receiving. Not later than five business days  
222 after the court finds either that the defendant will not attain competency  
223 within the period of any placement order under this section or that the  
224 defendant has regained competency, the person in charge of the  
225 treatment facility, or such person's designee, or the Commissioner of  
226 Mental Health and Addiction Services with respect to any defendant  
227 who is in the custody of the Commissioner of Correction pursuant to  
228 subsection (p) of this section, shall provide a copy of the written  
229 progress report to the examiners who examined the defendant pursuant  
230 to subsection (d) of this section.

231 (k) (1) Whenever any placement order for treatment is rendered or  
232 continued, the court shall set a date for a hearing, to be held within  
233 ninety days, for reconsideration of the issue of the defendant's  
234 competency. Whenever the court (A) receives a report pursuant to  
235 subsection (j) of this section which indicates that (i) the defendant has  
236 attained competency, (ii) the defendant will not attain competency  
237 within the remainder of the period covered by the placement order, (iii)  
238 the defendant will not attain competency within the remainder of the  
239 period covered by the placement order absent administration of  
240 psychiatric medication for which the defendant is unwilling or unable  
241 to provide consent, (iv) the defendant would be eligible for civil  
242 commitment pursuant to subdivision (2) of subsection (h) of this section,  
243 or (v) the defendant is still not competent but has improved sufficiently  
244 such that continued inpatient commitment is no longer the least  
245 restrictive placement appropriate and available to restore competency,  
246 or (B) receives a report pursuant to subparagraph (A)(iii) of subdivision  
247 (2) of subsection (h) of this section which indicates that (i) the  
248 application for civil commitment of the defendant has been denied or  
249 has not been pursued by the Commissioner of Mental Health and  
250 Addiction Services, or (ii) the defendant is unwilling or unable to  
251 comply with a treatment plan despite reasonable efforts of the treatment  
252 facility to encourage the defendant's compliance, the court shall set the  
253 matter for a hearing not later than ten days after the report is received.  
254 The hearing may be waived by the defendant only if the report indicates  
255 that the defendant is competent. With respect to a defendant who is in



256 the custody of the Commissioner of Correction pursuant to subsection  
257 (p) of this section, the Commissioner of Mental Health and Addiction  
258 Services shall retain responsibility for providing testimony at any  
259 hearing under this subsection. The court shall determine whether the  
260 defendant is competent or is making progress toward attaining  
261 competency within the period covered by the placement order. If the  
262 court finds that the defendant is competent, the defendant shall be  
263 returned to the custody of the Commissioner of Correction or released,  
264 if the defendant has met the conditions for release, and the court shall  
265 continue with the criminal proceedings. If the court finds that the  
266 defendant is still not competent but that the defendant is making  
267 progress toward attaining competency, the court may continue or  
268 modify the placement order. If the court finds that the defendant is still  
269 not competent but that the defendant is making progress toward  
270 attaining competency and inpatient placement is no longer the least  
271 restrictive placement appropriate and available to restore competency,  
272 the court shall consider whether the availability of such less restrictive  
273 placement is a sufficient basis on which to release the defendant on a  
274 promise to appear, conditions of release, cash bail or bond and may  
275 order continued treatment to restore competency on an outpatient basis.  
276 If the court finds that the defendant is still not competent and will not  
277 attain competency within the remainder of the period covered by the  
278 placement order absent administration of psychiatric medication for  
279 which the defendant is unwilling or unable to provide consent, the court  
280 shall proceed as provided in subdivisions (2), (3) and (4) of this  
281 subsection. If the court finds that the defendant is eligible for civil  
282 commitment, the court may order placement of the defendant at a  
283 treatment facility pending civil commitment proceedings pursuant to  
284 subdivision (2) of subsection (h) of this section.

285 (2) If the court finds that the defendant will not attain competency  
286 within the remainder of the period covered by the placement order  
287 absent administration of psychiatric medication for which the defendant  
288 is unwilling or unable to provide consent, and after any hearing held  
289 pursuant to subdivision (3) of this subsection, the court may order the  
290 involuntary medication of the defendant if the court finds by clear and

291 convincing evidence that: (A) To a reasonable degree of medical  
292 certainty, involuntary medication of the defendant will render the  
293 defendant competent to stand trial, (B) an adjudication of guilt or  
294 innocence cannot be had using less intrusive means, (C) the proposed  
295 treatment plan is narrowly tailored to minimize intrusion on the  
296 defendant's liberty and privacy interests, (D) the proposed drug  
297 regimen will not cause an unnecessary risk to the defendant's health,  
298 and (E) the seriousness of the alleged crime is such that the criminal law  
299 enforcement interest of the state in fairly and accurately determining the  
300 defendant's guilt or innocence overrides the defendant's interest in self-  
301 determination.

302 (3) (A) If the court finds that the defendant is unwilling or unable to  
303 provide consent for the administration of psychiatric medication, and  
304 prior to deciding whether to order the involuntary medication of the  
305 defendant under subdivision (2) of this subsection, the court shall  
306 appoint a health care guardian who shall be a licensed health care  
307 provider with specialized training in the treatment of persons with  
308 psychiatric disabilities to represent the health care interests of the  
309 defendant before the court. Notwithstanding the provisions of section  
310 52-146e, such health care guardian shall have access to the psychiatric  
311 records of the defendant. Such health care guardian shall file a report  
312 with the court not later than thirty days after his or her appointment.  
313 The report shall set forth such health care guardian's findings and  
314 recommendations concerning the administration of psychiatric  
315 medication to the defendant, including the risks and benefits of such  
316 medication, the likelihood and seriousness of any adverse side effects  
317 and the prognosis with and without such medication. The court shall  
318 hold a hearing on the matter not later than ten days after receipt of such  
319 health care guardian's report and shall, in deciding whether to order the  
320 involuntary medication of the defendant, take into account such health  
321 care guardian's opinion concerning the health care interests of the  
322 defendant.

323 (B) The court, in anticipation of considering continued involuntary  
324 medication of the defendant under subdivision (4) of this subsection,

325 shall order the health care guardian to file a supplemental report  
326 updating the findings and recommendations contained in the health  
327 care guardian's report filed under subparagraph (A) of this subdivision.

328 (4) If, after the defendant has been found to have attained competency  
329 by means of involuntary medication ordered under subdivision (2) of  
330 this subsection, the court determines by clear and convincing evidence  
331 that the defendant will not remain competent absent the continued  
332 administration of psychiatric medication for which the defendant is  
333 unable to provide consent, and after any hearing held pursuant to  
334 subdivision (3) of this subsection and consideration of the supplemental  
335 report of the health care guardian, the court may order continued  
336 involuntary medication of the defendant if the court finds by clear and  
337 convincing evidence that: (A) To a reasonable degree of medical  
338 certainty, continued involuntary medication of the defendant will  
339 maintain the defendant's competency to stand trial, (B) an adjudication  
340 of guilt or innocence cannot be had using less intrusive means, (C) the  
341 proposed treatment plan is narrowly tailored to minimize intrusion on  
342 the defendant's liberty and privacy interests, (D) the proposed drug  
343 regimen will not cause an unnecessary risk to the defendant's health,  
344 and (E) the seriousness of the alleged crime is such that the criminal law  
345 enforcement interest of the state in fairly and accurately determining the  
346 defendant's guilt or innocence overrides the defendant's interest in self-  
347 determination. Continued involuntary medication ordered under this  
348 subdivision may be administered to the defendant while the criminal  
349 charges against the defendant are pending and the defendant is in the  
350 custody of the Commissioner of Correction or the Commissioner of  
351 Mental Health and Addiction Services. An order for continued  
352 involuntary medication of the defendant under this subdivision shall be  
353 reviewed by the court every one hundred eighty days while such order  
354 remains in effect. The court shall order the health care guardian to file a  
355 supplemental report for each such review. After any hearing held  
356 pursuant to subdivision (3) of this subsection and consideration of the  
357 supplemental report of the health care guardian, the court may continue  
358 such order if the court finds, by clear and convincing evidence, that the  
359 criteria enumerated in subparagraphs (A) to (E), inclusive, of this

360 subdivision are met.

361 (5) The state shall hold harmless and indemnify any health care  
362 guardian appointed by the court pursuant to subdivision (3) of this  
363 subsection from financial loss and expense arising out of any claim,  
364 demand, suit or judgment by reason of such health care guardian's  
365 alleged negligence or alleged deprivation of any person's civil rights or  
366 other act or omission resulting in damage or injury, provided the health  
367 care guardian is found to have been acting in the discharge of his or her  
368 duties pursuant to said subdivision and such act or omission is found  
369 not to have been wanton, reckless or malicious. The provisions of  
370 subsections (b), (c) and (d) of section 5-141d shall apply to such health  
371 care guardian. The provisions of chapter 53 shall not apply to a claim  
372 against such health care guardian.

373 (l) If a defendant who has been ordered placed for treatment on an  
374 inpatient basis at a mental health facility or a facility for persons with  
375 intellectual disability is released from such facility on a furlough or for  
376 work, therapy or any other reason and fails to return to the facility in  
377 accordance with the terms and conditions of the defendant's release, the  
378 person in charge of the facility, or such person's designee, shall, within  
379 twenty-four hours of the defendant's failure to return, report such  
380 failure to the prosecuting authority for the court location which ordered  
381 the placement of the defendant. Upon receipt of such a report, the  
382 prosecuting authority shall, within available resources, make  
383 reasonable efforts to notify any victim or victims of the crime for which  
384 the defendant is charged of such defendant's failure to return to the  
385 facility. No civil liability shall be incurred by the state or the prosecuting  
386 authority for failure to notify any victim or victims in accordance with  
387 this subsection. The failure of a defendant to return to the facility in  
388 which the defendant has been placed may constitute sufficient cause for  
389 the defendant's rearrest upon order by the court.

390 (m) (1) If at any time the court determines that there is not a  
391 substantial probability that the defendant will attain competency within  
392 the period of treatment allowed by this section, or if at the end of such

393 period the court finds that the defendant is still not competent, the court  
394 shall consider any recommendation made by the examiners pursuant to  
395 subsection (d) of this section and any opinion submitted by the  
396 treatment facility pursuant to subparagraph (C) of subsection (j) of this  
397 section regarding eligibility for, and the appropriateness of, civil  
398 commitment to a hospital for psychiatric disabilities and shall either  
399 release the defendant from custody or order the defendant placed in the  
400 custody of the Commissioner of Mental Health and Addiction Services,  
401 the Commissioner of Children and Families or the Commissioner of  
402 Developmental Services. If the court orders the defendant placed in the  
403 custody of the Commissioner of Children and Families or the  
404 Commissioner of Developmental Services, the commissioner given  
405 custody, or the commissioner's designee, shall then apply for civil  
406 commitment in accordance with sections 17a-75 to 17a-83, inclusive, or  
407 17a-270 to 17a-282, inclusive. If the court orders the defendant placed in  
408 the custody of the Commissioner of Mental Health and Addiction  
409 Services, the court may order the commissioner, or the commissioner's  
410 designee, to apply for civil commitment in accordance with sections 17a-  
411 495 to 17a-528, inclusive, or order the commissioner, or the  
412 commissioner's designee, to provide services to the defendant in a less  
413 restrictive setting, provided the examiners have determined in the  
414 written report filed pursuant to subsection (d) of this section or have  
415 testified pursuant to subsection (e) of this section that such services are  
416 available and appropriate. If the court orders the defendant placed in  
417 the custody of the Commissioner of Mental Health and Addiction  
418 Services and orders the commissioner to apply for civil commitment  
419 pursuant to this subsection, the court [may] shall order the  
420 commissioner to give the court notice when the defendant is released  
421 from the commissioner's custody if such release is prior to the expiration  
422 of the time within which the defendant may be prosecuted for the crime  
423 with which the defendant is charged [, provided] and such order  
424 [indicates] shall indicate when such time expires. Upon receipt of such  
425 notice by the court, the clerk shall docket the matter which will result in  
426 any victim of the crime who has requested notification through the  
427 state-wide automated victim information and notification system being

428 informed of case activity in the criminal proceeding through such  
429 system. If the court orders the defendant placed in the custody of the  
430 Commissioner of Developmental Services for purposes of commitment  
431 under any provision of sections 17a-270 to 17a-282, inclusive, the court  
432 [~~may~~] shall order the Commissioner of Developmental Services to give  
433 the court notice when the defendant's commitment is terminated if such  
434 termination is prior to the expiration of the time within which the  
435 defendant may be prosecuted for the crime with which the defendant is  
436 charged [, provided] and such order [indicates] shall indicate when such  
437 time expires. Upon receipt of such notice by the court, the clerk shall  
438 docket the matter which will result in any victim of the crime who has  
439 requested notification through the state-wide automated victim  
440 information and notification system being informed of case activity in  
441 the criminal proceeding through such system. For purposes of this  
442 section, "victim" has the same meaning as provided in section 1-1k.

443 (2) The court shall hear arguments as to whether the defendant  
444 should be released or should be placed in the custody of the  
445 Commissioner of Mental Health and Addiction Services, the  
446 Commissioner of Children and Families or the Commissioner of  
447 Developmental Services.

448 (3) If the court orders the release of a defendant charged with the  
449 commission of a crime that resulted in the death or serious physical  
450 injury, as defined in section 53a-3, of another person, or with a violation  
451 of section 53a-70b of the general statutes, revision of 1958, revised to  
452 January 1, 2019, or subdivision (2) of subsection (a) of section 53-21,  
453 subdivision (2) of subsection (a) of section 53a-60 or section 53a-60a, 53a-  
454 70, 53a-70a, 53a-71, 53a-72a or 53a-72b, or orders the placement of such  
455 defendant in the custody of the Commissioner of Mental Health and  
456 Addiction Services or the Commissioner of Developmental Services, the  
457 court may, on its own motion or on motion of the prosecuting authority,  
458 order, as a condition of such release or placement, periodic  
459 examinations of the defendant as to the defendant's competency at  
460 intervals of not less than six months. If, at any time after the initial  
461 periodic examination, the court finds again, based upon an examiner's

462 recommendation, that there is a substantial probability that the  
463 defendant, if provided with a course of treatment, will never regain  
464 competency, then any subsequent periodic examination of the  
465 defendant as to the defendant's competency shall be at intervals of not  
466 less than eighteen months. Such an examination shall be conducted in  
467 accordance with subsection (d) of this section. Periodic examinations  
468 ordered by the court under this subsection shall continue until the court  
469 finds that the defendant has attained competency or until the time  
470 within which the defendant may be prosecuted for the crime with which  
471 the defendant is charged, as provided in section 54-193, has expired,  
472 whichever occurs first. At any point that the Commissioner of Mental  
473 Health and Addiction Services or the Commissioner of Developmental  
474 Services, as applicable, intends to release from such commissioner's  
475 custody a defendant charged with the commission of a crime that  
476 resulted in the death or serious physical injury, as defined in section 53a-  
477 3, of another person, or with a violation of section 53a-70b of the general  
478 statutes, revision of 1958, revised to January 1, 2019, or subdivision (2)  
479 of subsection (a) of section 53-21, subdivision (2) of subsection (a) of  
480 section 53a-60 or section 53a-60a, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-  
481 72b, a state's attorney may move for and the court may order an  
482 independent evaluation of such defendant prior to the release from  
483 custody of such defendant.

484 (4) Upon receipt of the written report as provided in subsection (d) of  
485 this section, the court shall, upon the request of either party filed not  
486 later than thirty days after the court receives such report, conduct a  
487 hearing as provided in subsection (e) of this section. Such hearing shall  
488 be held not later than ninety days after the court receives such report. If  
489 the court finds that the defendant has attained competency, the  
490 defendant shall be returned to the custody of the Commissioner of  
491 Correction or released, if the defendant has met the conditions for  
492 release, and the court shall continue with the criminal proceedings.

493 (5) The court shall dismiss, with or without prejudice, any charges for  
494 which a nolle prosequi is not entered when the time within which the  
495 defendant may be prosecuted for the crime with which the defendant is

496 charged, as provided in section 54-193, has expired. Notwithstanding  
497 the record erasure provisions of section 54-142a, police and court  
498 records and records of any state's attorney pertaining to a charge which  
499 is nolleed or dismissed without prejudice while the defendant is not  
500 competent shall not be erased until the time for the prosecution of the  
501 defendant expires under section 54-193. A defendant who is not civilly  
502 committed as a result of an application made by the Commissioner of  
503 Mental Health and Addiction Services, the Commissioner of Children  
504 and Families or the Commissioner of Developmental Services pursuant  
505 to this section shall be released. A defendant who is civilly committed  
506 pursuant to such an application shall be treated in the same manner as  
507 any other civilly committed person.

508 (n) The cost of the examination effected by the Commissioner of  
509 Mental Health and Addiction Services and of testimony of persons  
510 conducting the examination effected by the commissioner shall be paid  
511 by the Department of Mental Health and Addiction Services. The cost  
512 of the examination and testimony by physicians appointed by the court  
513 shall be paid by the Judicial Department. If the defendant is indigent,  
514 the fee of the person selected by the defendant to observe the  
515 examination and to testify on the defendant's behalf shall be paid by the  
516 Public Defender Services Commission. The expense of treating a  
517 defendant placed in the custody of the Commissioner of Mental Health  
518 and Addiction Services, the Commissioner of Children and Families or  
519 the Commissioner of Developmental Services pursuant to subdivision  
520 (2) of subsection (h) of this section or subsection (i) of this section shall  
521 be computed and paid for in the same manner as is provided for persons  
522 committed by a probate court under the provisions of sections 17b-122,  
523 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive, 17b-194 to  
524 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-263, 17b-340 to 17b-  
525 350, inclusive, 17b-689b and 17b-743 to 17b-747, inclusive.

526 (o) Until the hearing is held, the defendant, if not released on a  
527 promise to appear, conditions of release, cash bail or bond, shall remain  
528 in the custody of the Commissioner of Correction unless hospitalized as  
529 provided in sections 17a-512 to 17a-517, inclusive.



530 (p) (1) This section shall not be construed to require the  
531 Commissioner of Mental Health and Addiction Services to place any  
532 defendant who presents a significant security, safety or medical risk in  
533 a hospital for psychiatric disabilities which does not have the trained  
534 staff, facilities or security to accommodate such a person, as determined  
535 by the Commissioner of Mental Health and Addiction Services in  
536 consultation with the Commissioner of Correction.

537 (2) If a defendant is placed for treatment with the Commissioner of  
538 Mental Health and Addiction Services pursuant to subsection (i) of this  
539 section and such defendant is not placed in a hospital for psychiatric  
540 disabilities pursuant to a determination made by the Commissioner of  
541 Mental Health and Addiction Services under subdivision (1) of this  
542 subsection, the defendant shall remain in the custody of the  
543 Commissioner of Correction. The Commissioner of Correction shall be  
544 responsible for the medical and psychiatric care of the defendant, and  
545 the Commissioner of Mental Health and Addiction Services shall  
546 remain responsible to provide other appropriate services to restore  
547 competency.

548 (3) If a defendant remains in the custody of the Commissioner of  
549 Correction pursuant to subdivision (2) of this subsection and the court  
550 finds that the defendant is still not competent and will not attain  
551 competency within the remainder of the period covered by the  
552 placement order absent administration of psychiatric medication for  
553 which the defendant is unwilling or unable to provide consent, the court  
554 shall proceed as provided in subdivisions (2), (3) and (4) of subsection  
555 (k) of this section. Nothing in this subdivision shall prevent the court  
556 from making any other finding or order set forth in subsection (k) of this  
557 section.

558 (q) This section shall not prevent counsel for the defendant from  
559 raising, prior to trial and while the defendant is not competent, any issue  
560 susceptible of fair determination.

561 (r) Actual time spent in confinement on an inpatient basis pursuant  
562 to this section shall be credited against any sentence imposed on the

563 defendant in the pending criminal case or in any other case arising out  
564 of the same conduct in the same manner as time is credited for time  
565 spent in a correctional facility awaiting trial.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	54-56d

**JUD**      *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 24 \$	FY 25 \$
Mental Health & Addiction Serv., Dept.; Correction, Dept.; Developmental Services, Dept.; Children & Families, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in potential costs to the Departments of Mental Health and Addiction Services (DMHAS), Children and Families (DCF), Correction (DOC), and Developmental Services (DDS) associated with increasing, from 18- to 24-months, the maximum length of treatment of defendants for the purpose of rendering them competent to stand trial. The bill also allows for the independent evaluation of certain defendants prior to their release from DMHAS or DDS custody. These provisions may increase the lengths of stays of placements in various agency facilities, resulting in associated increased costs, which vary by state facility.

The bill also requires the court to docket matters when they are notified of a defendant's release from a treatment period, so that a notification can be issued through CT SAVIN. This is not anticipated to have a material impact on court operations.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of qualifying defendants.

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**OLR Bill Analysis****sSB 1231*****AN ACT CONCERNING A DEFENDANT'S COMPETENCY TO STAND TRIAL AND EARLY RELEASE INTO THE COMMUNITY.*****SUMMARY**

This bill makes several changes in laws governing defendants who are not competent to stand trial (i.e., who are deemed unable to understand the proceedings against them or assist in their own defense). Under current law, a defendant may be placed into treatment to render him or her competent so long as, among other things, the placement period does not exceed the maximum sentence for the pending criminal charges or 18 months, whichever is shorter. The bill extends the latter period by six months (i.e., to 24 months).

Under current law, if the court orders the defendant be placed in the custody of the Department of Mental Health and Addiction Services (DMHAS) or Department of Developmental Services (DDS) after a treatment period, it may order the respective commissioner to notify the court when the defendant is released from custody if the release is before the expiration of the time that the defendant could be prosecuted for the alleged crime, so long as the order indicates when that time expires. The bill eliminates this discretion and requires courts to issue these orders and include the above time expiration. The bill further requires that when a court receives this notification about a defendant's release, the clerk must docket the matter so that any "victim" (see below) who requested notification through the state-wide automated victim information and notification (i.e., "CT SAVIN") system will be informed about the case activity.

Relatedly, the bill authorizes state’s attorneys to move for, and courts to order, independent evaluations of certain defendants any time the DMHAS or DDS commissioners intend to release them from their custody. This authorization applies to defendants charged with certain sex offenses or crimes that resulted in death or serious physical injury. It requires the evaluations be done before the defendants are released from DMHAS or DDS custody.

EFFECTIVE DATE: October 1, 2023

**NOTIFYING VICTIMS**

By law and under the bill, a “victim” is someone who suffers direct or threatened physical, emotional, or financial harm because of a crime and includes (1) immediate family members of a minor, incompetent individual, or homicide victim and (2) a homicide victim’s designated decision maker (CGS §§ 1-1k & 1-56r).

The bill extends this definition of victim to a current requirement that prosecuting authorities, when they receive a report that certain defendants have failed to return to specific facilities for treatment, make reasonable efforts to notify any victims of the defendant’s charged crime about the failure. By law, the state and prosecuting authorities are not civilly liable for failing to provide this notice.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 37 Nay 0 (03/30/2023)