

Judiciary Committee

JOINT FAVORABLE REPORT

Bill No.: SB-1231

AN ACT CONCERNING A DEFENDANT'S COMPETENCY TO STAND TRIAL

Title: AND EARLY RELEASE INTO THE COMMUNITY.

Vote Date: 3/30/2023

Vote Action: Joint Favorable Substitute

PH Date: 3/22/2023

File No.:

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SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

This bill attempts to address issues about a defendant's competency to stand trial and be released into the community at large. However, this bill's goal is to strengthen extensive community mental health treatment and resources for defendants that are not fit to stand trial (e.g., those who cannot understand or comprehend the criminal proceedings against them) due to the existing general statutes not providing enough provision to defendants with disabilities while simultaneously being unaccommodated for equitably.

SUBSTITUTE LANGUAGE:

Lines 424-429 and 437-441 were amended to include that a clerk shall docket matters which would result in any victim of the crime to be notified through the state-wide automated victim information system to give victims a sense of transparency and warning of their release of mental health services. In lines 481-483, the final examination was omitted as there is no clear definition of what a final examination is and how it would occur, and a defendant could be committed indefinitely. Additionally, the raised bill was amended to extend the time of commitment and treatment from eighteen months to twenty-four months to increase the quality of community mental health resources. In lines 433-435, the court will only receive notification of a defendant's release from commitment, not the Office of Victim Services (OVS) due to testimony stating it was inappropriate for victims to have notification as they would not have their information.

RESPONSE FROM ADMINISTRATION/AGENCY:

External Affairs Division, State of Connecticut Judicial Branch: They have many concerns relating to SB 1231 as drafted. Their first concern is the requirement for the Commissioners of the Department of Mental Health and Addiction Services (DMHAS) and the Department of Developmental Services (DDS) to inform any victim who has registered with the Office of Victim Services (OVS) that a defendant has been released from custody. This is a concern because they feel that it would be inappropriate for commissioners to notify victims as they would not have the victim's information. Additionally, they are concerned with "the language in lines 23-36 amending section 54-56d of the Connecticut General Statutes" as it is ambiguous who would maintain a list of authorized physicians and what cost would be associated with them.

Nancy Navarretta, Commissioner Department of Mental Health and Addiction Services: The testimony states that DMHAS works to "promote recovery and prevent or mitigate criminal justice system involvement to the extent possible." DMHAS has many concerns regarding the bill including the removal of the Office of Forensic Evaluation team from the competency evaluation process. They state that the issue is that removing the most qualified individuals to do the work would make the criminal justice system unable to progress with legal processes in conjunction with their competence. Additionally, lines 470-480 prohibit an individual from leaving a DMHAS hospital until a "final examination" occurs. Without additional language about how a "final examination" could occur, a DMHAS defendant could be committed to a DMHAS hospital for years without review.

Natasha M. Pierre, ESQ., State Victim Advocate, State of Connecticut Office of the Victim Advocate: The Office of the Victim Advocate (OVA) suggests an amendment to "strengthen notification laws for crime victims when a defendant cannot be restored to competency and the court orders the defendant placed in the custody of the Commissioner of Mental Health and Addiction Services" as there are two agencies that provide notifications to victims. The OVA is requesting to amend the proposal to include both agencies responsible for notifications.

NATURE AND SOURCES OF SUPPORT:

None expressed.

NATURE AND SOURCES OF OPPOSITION:

Jess Zaccagnino, Policy Counsel, American Civil Liberties Union (ACLU): They testified in opposition to the bill as it prohibits patients from being discharged from a hospital if that patient has been charged with a certain crime. Therefore, this bill is likely to violate the Americans with Disabilities Amendments Act and the Rehabilitation Act that requires discharge from a state hospital and provide mental health services. Additionally, this bill allows the "prosecuting authority" the right to nominate a psychiatrist for the initial competency evaluation and the periodic competency valuations, rather than the Superior Court" as under current Connecticut General Statutes it is the law to appoint one or more neutral psychiatrists to conduct examinations. Lastly, the bill increases maximum periods of placement and monitoring for certain patients from 18-24 months.

Kirk W. Lowry, Legal Director, Connecticut Legal Rights Project, Inc.: They testified in opposition to the bill as it is unconstitutional to require DMHAS to hold committed persons as not competent and not restorable until competency is restored to stand trial. Additionally, “Permanent competency commitments are unconstitutional. Jackson v. Indiana, 406 U.S. 715 (1972).” They have concerns regarding the language of the current bill that “at no point may the Commissioner’ release the patient from the hospital.” However, under current law, the patient can be released after they no longer need hospital care. They explain that the bill violates the Americans with Disabilities Amendments Act and the Rehabilitation Act. Within the raised bill, there is no clear “final examination” in existing law. The proposed statutory amendment requires the DMHAS “to hold a civilly committed patient who has neither been tried nor convicted until the Superior Court, who has already adjudicated the person as not competent and not restorable after a full due process hearing is incoherent and inconsistent with how competency restoration works.” Additionally, they believe that the bill attempts to criminalize a person’s disability and declines to abide by the constitutional rights of people with disabilities. Finally, the current bill extends competency restoration to 24 months rather than the 18 months provided by the current general statutes and he believes that the legislature should be encouraging this option, not discouraging it with an additional six months of treatment.

Reported by: Gregory Chipchak

Date: April 6, 2023