



General Assembly

January Session, 2023

***Raised Bill No. 1231***

LCO No. 6129



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***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 Section 54-56d of the general statutes is repealed and the  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  
23 psychiatry to examine the defendant, [or (2) order the Commissioner of  
24 Mental Health and Addiction Services to conduct the examination either  
25 (A) by a clinical team consisting of a physician specializing in  
26 psychiatry, a clinical psychologist and one of the following: A clinical  
27 social worker licensed pursuant to chapter 383b or a psychiatric nurse  
28 clinical specialist holding a master's degree in nursing, or (B) by one or  
29 more physicians specializing in psychiatry, except that no employee of  
30 the Department of Mental Health and Addiction Services who has  
31 served as a member of a clinical team in the course of such employment  
32 for at least five years prior to October 1, 1995, shall be precluded from  
33 being appointed as a member of a clinical team. If the Commissioner of  
34 Mental Health and Addiction Services is ordered to conduct the  
35 examination, the commissioner shall select the members of the clinical  
36 team or the physician or physicians] which may include any such  
37 physician, as recommended by the prosecuting authority. When  
38 performing an examination under this section, the examiners shall have  
39 access to information on treatment dates and locations in the  
40 defendant's treatment history contained in the Department of Mental  
41 Health and Addiction Services' database of treatment episodes for the  
42 purpose of requesting a release of treatment information from the  
43 defendant. If the examiners determine that the defendant is not  
44 competent, the examiners shall then determine whether there is a  
45 substantial probability that the defendant, if provided with a course of  
46 treatment, will regain competency within the maximum period of any  
47 placement order under this section. If the examiners determine that

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

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

82 introduced, at least one of the examiners shall be present to testify as to  
83 the determinations in the report, unless the examiner's presence is  
84 waived by the defendant and the state. Any member of the clinical team  
85 shall be considered competent to testify as to the team's determinations.  
86 A defendant and the defendant's counsel may waive the court hearing  
87 only if the examiners, in the written report, determine without  
88 qualification that the defendant is competent. Nothing in this subsection  
89 shall limit any other release or use of information from said database  
90 permitted by law.

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

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

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

109 (2) (A) Except as provided in subparagraph (B) of this subdivision, if  
110 the court makes a finding pursuant to subdivision (1) of this subsection  
111 and does not order placement pursuant to subparagraph (A) of said  
112 subdivision, the court shall, on its own motion or on motion of the state  
113 or the defendant, order placement of the defendant in the custody of the

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

149 dismiss such charges.

150 (B) This subdivision shall not apply: (i) To any person charged with  
151 a class A felony, a class B felony, except a violation of section 53a-122  
152 that does not involve the use, attempted use or threatened use of  
153 physical force against another person, or a violation of section 53a-70b  
154 of the general statutes, revision of 1958, revised to January 1, 2019, or  
155 section 14-227a or 14-227m, subdivision (1) or (2) of subsection (a) of  
156 section 14-227n, subdivision (2) of subsection (a) of section 53-21 or  
157 section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b; (ii)  
158 to any person charged with a crime or motor vehicle violation who, as a  
159 result of the commission of such crime or motor vehicle violation, causes  
160 the death of another person; or (iii) unless good cause is shown, to any  
161 person charged with a class C felony.

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

183 such treatment is a sufficient basis on which to release the defendant on  
184 a promise to appear, conditions of release, cash bail or bond. If the court  
185 determines that the defendant may not be so released, the court shall  
186 order treatment of the defendant on an inpatient basis at a mental health  
187 facility or facility for persons with intellectual disability. Not later than  
188 twenty-four hours after the court orders placement of the defendant for  
189 treatment for the purpose of rendering the defendant competent, the  
190 examiners shall transmit information obtained about the defendant  
191 during the course of an examination pursuant to subsection (d) of this  
192 section to the health care provider named in the court's order.

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

217 psychiatric disabilities pursuant to subsection (m) of this section and the  
218 appropriateness of such civil commitment, if there is not a substantial  
219 probability that the defendant will attain competency within the period  
220 covered by the placement order; and (D) any other information  
221 concerning the defendant requested by the court, including, but not  
222 limited to, the method of treatment or the type, dosage and effect of any  
223 medication the defendant is receiving. Not later than five business days  
224 after the court finds either that the defendant will not attain competency  
225 within the period of any placement order under this section or that the  
226 defendant has regained competency, the person in charge of the  
227 treatment facility, or such person's designee, or the Commissioner of  
228 Mental Health and Addiction Services with respect to any defendant  
229 who is in the custody of the Commissioner of Correction pursuant to  
230 subsection (p) of this section, shall provide a copy of the written  
231 progress report to the examiners who examined the defendant pursuant  
232 to subsection (d) of this section.

233 (k) (1) Whenever any placement order for treatment is rendered or  
234 continued, the court shall set a date for a hearing, to be held within  
235 ninety days, for reconsideration of the issue of the defendant's  
236 competency. Whenever the court (A) receives a report pursuant to  
237 subsection (j) of this section which indicates that (i) the defendant has  
238 attained competency, (ii) the defendant will not attain competency  
239 within the remainder of the period covered by the placement order, (iii)  
240 the defendant will not attain competency within the remainder of the  
241 period covered by the placement order absent administration of  
242 psychiatric medication for which the defendant is unwilling or unable  
243 to provide consent, (iv) the defendant would be eligible for civil  
244 commitment pursuant to subdivision (2) of subsection (h) of this section,  
245 or (v) the defendant is still not competent but has improved sufficiently  
246 such that continued inpatient commitment is no longer the least  
247 restrictive placement appropriate and available to restore competency,  
248 or (B) receives a report pursuant to subparagraph (A)(iii) of subdivision  
249 (2) of subsection (h) of this section which indicates that (i) the  
250 application for civil commitment of the defendant has been denied or



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

286 subdivision (2) of subsection (h) of this section.

287 (2) If the court finds that the defendant will not attain competency  
288 within the remainder of the period covered by the placement order  
289 absent administration of psychiatric medication for which the defendant  
290 is unwilling or unable to provide consent, and after any hearing held  
291 pursuant to subdivision (3) of this subsection, the court may order the  
292 involuntary medication of the defendant if the court finds by clear and  
293 convincing evidence that: (A) To a reasonable degree of medical  
294 certainty, involuntary medication of the defendant will render the  
295 defendant competent to stand trial, (B) an adjudication of guilt or  
296 innocence cannot be had using less intrusive means, (C) the proposed  
297 treatment plan is narrowly tailored to minimize intrusion on the  
298 defendant's liberty and privacy interests, (D) the proposed drug  
299 regimen will not cause an unnecessary risk to the defendant's health,  
300 and (E) the seriousness of the alleged crime is such that the criminal law  
301 enforcement interest of the state in fairly and accurately determining the  
302 defendant's guilt or innocence overrides the defendant's interest in self-  
303 determination.

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

320 hold a hearing on the matter not later than ten days after receipt of such  
321 health care guardian's report and shall, in deciding whether to order the  
322 involuntary medication of the defendant, take into account such health  
323 care guardian's opinion concerning the health care interests of the  
324 defendant.

325 (B) The court, in anticipation of considering continued involuntary  
326 medication of the defendant under subdivision (4) of this subsection,  
327 shall order the health care guardian to file a supplemental report  
328 updating the findings and recommendations contained in the health  
329 care guardian's report filed under subparagraph (A) of this subdivision.

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

354 involuntary medication of the defendant under this subdivision shall be  
355 reviewed by the court every one hundred eighty days while such order  
356 remains in effect. The court shall order the health care guardian to file a  
357 supplemental report for each such review. After any hearing held  
358 pursuant to subdivision (3) of this subsection and consideration of the  
359 supplemental report of the health care guardian, the court may continue  
360 such order if the court finds, by clear and convincing evidence, that the  
361 criteria enumerated in subparagraphs (A) to (E), inclusive, of this  
362 subdivision are met.

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

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

388 authority for failure to notify any victim or victims in accordance with  
389 this subsection. The failure of a defendant to return to the facility in  
390 which the defendant has been placed may constitute sufficient cause for  
391 the defendant's rearrest upon order by the court.

392 (m) (1) If at any time the court determines that there is not a  
393 substantial probability that the defendant will attain competency within  
394 the period of treatment allowed by this section, or if at the end of such  
395 period the court finds that the defendant is still not competent, the court  
396 shall consider any recommendation made by the examiners pursuant to  
397 subsection (d) of this section and any opinion submitted by the  
398 treatment facility pursuant to subparagraph (C) of subsection (j) of this  
399 section regarding eligibility for, and the appropriateness of, civil  
400 commitment to a hospital for psychiatric disabilities and shall either  
401 release the defendant from custody or order the defendant placed in the  
402 custody of the Commissioner of Mental Health and Addiction Services,  
403 the Commissioner of Children and Families or the Commissioner of  
404 Developmental Services. If the court orders the defendant placed in the  
405 custody of the Commissioner of Children and Families or the  
406 Commissioner of Developmental Services, the commissioner given  
407 custody, or the commissioner's designee, shall then apply for civil  
408 commitment in accordance with sections 17a-75 to 17a-83, inclusive, or  
409 17a-270 to 17a-282, inclusive. If the court orders the defendant placed in  
410 the custody of the Commissioner of Mental Health and Addiction  
411 Services, the court may order the commissioner, or the commissioner's  
412 designee, to apply for civil commitment in accordance with sections 17a-  
413 495 to 17a-528, inclusive, or order the commissioner, or the  
414 commissioner's designee, to provide services to the defendant in a less  
415 restrictive setting, provided the examiners have determined in the  
416 written report filed pursuant to subsection (d) of this section or have  
417 testified pursuant to subsection (e) of this section that such services are  
418 available and appropriate. If the court orders the defendant placed in  
419 the custody of the Commissioner of Mental Health and Addiction  
420 Services and orders the commissioner to apply for civil commitment  
421 pursuant to this subsection, the court [may] shall order the

422 commissioner to give the court and any victim of the crime with which  
423 the defendant is charged who is registered with the Office of Victim  
424 Services within the Judicial Department notice when the defendant is  
425 released from the commissioner's custody if such release is prior to the  
426 expiration of the time within which the defendant may be prosecuted  
427 for the crime with which the defendant is charged [, provided] and such  
428 order [indicates] shall indicate when such time expires. If the court  
429 orders the defendant placed in the custody of the Commissioner of  
430 Developmental Services for purposes of commitment under any  
431 provision of sections 17a-270 to 17a-282, inclusive, the court [may] shall  
432 order the Commissioner of Developmental Services to give the court  
433 and any victim of the crime with which the defendant is charged who is  
434 registered with the Office of Victim Services within the Judicial  
435 Department notice when the defendant's commitment is terminated if  
436 such termination is prior to the expiration of the time within which the  
437 defendant may be prosecuted for the crime with which the defendant is  
438 charged [, provided] and such order [indicates] shall indicate when such  
439 time expires. For purposes of this section, "victim" has the same meaning  
440 as provided in section 1-1k.

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

446 (3) If the court orders the release of a defendant charged with the  
447 commission of a crime that resulted in the death or serious physical  
448 injury, as defined in section 53a-3, of another person, or with a violation  
449 of section 53a-70b of the general statutes, revision of 1958, revised to  
450 January 1, 2019, or subdivision (2) of subsection (a) of section 53-21,  
451 subdivision (2) of subsection (a) of section 53a-60 or section 53a-60a, 53a-  
452 70, 53a-70a, 53a-71, 53a-72a or 53a-72b, or orders the placement of such  
453 defendant in the custody of the Commissioner of Mental Health and  
454 Addiction Services or the Commissioner of Developmental Services, the  
455 court may, on its own motion or on motion of the prosecuting authority,

456 order, as a condition of such release or placement, periodic  
457 examinations of the defendant as to the defendant's competency at  
458 intervals of not less than six months. If, at any time after the initial  
459 periodic examination, the court finds again, based upon an examiner's  
460 recommendation, that there is a substantial probability that the  
461 defendant, if provided with a course of treatment, will never regain  
462 competency, then any subsequent periodic examination of the  
463 defendant as to the defendant's competency shall be at intervals of not  
464 less than eighteen months. Such an examination shall be conducted in  
465 accordance with subsection (d) of this section. Periodic examinations  
466 ordered by the court under this subsection shall continue until the court  
467 finds that the defendant has attained competency or until the time  
468 within which the defendant may be prosecuted for the crime with which  
469 the defendant is charged, as provided in section 54-193, has expired,  
470 whichever occurs first. At no point may the Commissioner of Mental  
471 Health and Addiction Services or the Commissioner of Developmental  
472 Services, as applicable, release from such commissioner's custody a  
473 defendant charged with the commission of a crime that resulted in the  
474 death or serious physical injury, as defined in section 53a-3, of another  
475 person, or with a violation of section 53a-70b of the general statutes,  
476 revision of 1958, revised to January 1, 2019, or subdivision (2) of  
477 subsection (a) of section 53-21, subdivision (2) of subsection (a) of section  
478 53a-60 or section 53a-60a, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b,  
479 without a final examination conducted in accordance with the  
480 provisions of this section.

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

490 (5) The court shall dismiss, with or without prejudice, any charges for  
491 which a nolle prosequi is not entered when the time within which the  
492 defendant may be prosecuted for the crime with which the defendant is  
493 charged, as provided in section 54-193, has expired. Notwithstanding  
494 the record erasure provisions of section 54-142a, police and court  
495 records and records of any state's attorney pertaining to a charge which  
496 is nolleed or dismissed without prejudice while the defendant is not  
497 competent shall not be erased until the time for the prosecution of the  
498 defendant expires under section 54-193. A defendant who is not civilly  
499 committed as a result of an application made by the Commissioner of  
500 Mental Health and Addiction Services, the Commissioner of Children  
501 and Families or the Commissioner of Developmental Services pursuant  
502 to this section shall be released. A defendant who is civilly committed  
503 pursuant to such an application shall be treated in the same manner as  
504 any other civilly committed person.

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

523 (o) Until the hearing is held, the defendant, if not released on a



524 promise to appear, conditions of release, cash bail or bond, shall remain  
525 in the custody of the Commissioner of Correction unless hospitalized as  
526 provided in sections 17a-512 to 17a-517, inclusive.

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

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

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

555 (q) This section shall not prevent counsel for the defendant from

556 raising, prior to trial and while the defendant is not competent, any issue  
557 susceptible of fair determination.

558 (r) Actual time spent in confinement on an inpatient basis pursuant  
559 to this section shall be credited against any sentence imposed on the  
560 defendant in the pending criminal case or in any other case arising out  
561 of the same conduct in the same manner as time is credited for time  
562 spent in a correctional facility awaiting trial.

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

**Statement of Purpose:**

To revise laws concerning defendants who are found not competent to stand trial and their early release into the community by providing for (1) better notice to victims and their families, (2) independent examinations, (3) an extension of the period of placement and monitoring under a placement order, and (4) one final exam before release.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*