



General Assembly

**Substitute Bill No. 1231**

January Session, 2023



**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 Section 54-56d of the general statutes is repealed and the  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  
5 defendant is not competent if the defendant is unable to understand  
6 the proceedings against him or her or to assist in his or her own  
7 defense.

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

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

18 (d) If the court finds that the request for an examination is justified  
19 and that, in accordance with procedures established by the judges of  
20 the Superior Court, there is probable cause to believe that the  
21 defendant has committed the crime for which the defendant is  
22 charged, the court shall order an examination of the defendant as to his  
23 or her competency. The court may (1) appoint one or more physicians  
24 specializing in psychiatry to examine the defendant, or (2) order the  
25 Commissioner of Mental Health and Addiction Services to conduct the  
26 examination either (A) by a clinical team consisting of a physician  
27 specializing in psychiatry, a clinical psychologist and one of the  
28 following: A clinical social worker licensed pursuant to chapter 383b or  
29 a psychiatric nurse clinical specialist holding a master's degree in  
30 nursing, or (B) by one or more physicians specializing in psychiatry,  
31 except that no employee of the Department of Mental Health and  
32 Addiction Services who has served as a member of a clinical team in  
33 the course of such employment for at least five years prior to October  
34 1, 1995, shall be precluded from being appointed as a member of a  
35 clinical team. If the Commissioner of Mental Health and Addiction  
36 Services is ordered to conduct the examination, the commissioner shall  
37 select the members of the clinical team or the physician or physicians.  
38 When performing an examination under this section, the examiners  
39 shall have 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  
57 under this section, the examiners shall then determine whether the  
58 defendant appears to be eligible for civil commitment to a hospital for  
59 psychiatric disabilities pursuant to subsection (m) of this section and  
60 make a recommendation to the court regarding the appropriateness of  
61 such civil commitment. The court may authorize a physician  
62 specializing in psychiatry, a clinical psychologist, a clinical social  
63 worker licensed pursuant to chapter 383b or a psychiatric nurse  
64 clinical specialist holding a master's degree in nursing selected by the  
65 defendant to observe the examination. Counsel for the defendant may  
66 observe the examination. The examination shall be completed within  
67 fifteen business days from the date it was ordered and the examiners  
68 shall prepare and sign, without notarization, a written report and file  
69 such report with the court within twenty-one business days of the date  
70 of the order. On receipt of the written report, the clerk of the court  
71 shall cause copies to be delivered immediately to the state's attorney  
72 and to counsel 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  
79 of treatment episodes may be included in the written report or  
80 introduced at the hearing unless the defendant released the treatment  
81 information pursuant to subsection (d) of this section. If the written  
82 report is introduced, at least one of the examiners shall be present to  
83 testify as to the determinations in the report, unless the examiner's  
84 presence is waived by the defendant and the state. Any member of the  
85 clinical team shall be considered competent to testify as to the team's  
86 determinations. A defendant and the defendant's counsel may waive

87 the court hearing only if the examiners, in the written report,  
88 determine without qualification that the defendant is competent.  
89 Nothing in this subsection shall limit any other release or use of  
90 information from said database 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  
93 the court finds that the defendant is not competent, the court shall also  
94 find whether there is a substantial probability that the defendant, if  
95 provided with a course of treatment, will regain competency within  
96 the maximum period of any placement order permitted under this  
97 section.

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

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

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

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

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

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

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

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

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

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



255 of subdivision (2) of subsection (h) of this section which indicates that  
256 (i) the application for civil commitment of the defendant has been  
257 denied or has not been pursued by the Commissioner of Mental Health  
258 and Addiction Services, or (ii) the defendant is unwilling or unable to  
259 comply with a treatment plan despite reasonable efforts of the  
260 treatment facility to encourage the defendant's compliance, the court  
261 shall set the matter for a hearing not later than ten days after the report  
262 is received. The hearing may be waived by the defendant only if the  
263 report indicates that the defendant is competent. With respect to a  
264 defendant who is in the custody of the Commissioner of Correction  
265 pursuant to subsection (p) of this section, the Commissioner of Mental  
266 Health and Addiction Services shall retain responsibility for providing  
267 testimony at any hearing under this subsection. The court shall  
268 determine whether the defendant is competent or is making progress  
269 toward attaining competency within the period covered by the  
270 placement order. If the court finds that the defendant is competent, the  
271 defendant shall be returned to the custody of the Commissioner of  
272 Correction or released, if the defendant has met the conditions for  
273 release, and the court shall continue with the criminal proceedings. If  
274 the court finds that the defendant is still not competent but that the  
275 defendant is making progress toward attaining competency, the court  
276 may continue or modify the placement order. If the court finds that the  
277 defendant is still not competent but that the defendant is making  
278 progress toward attaining competency and inpatient placement is no  
279 longer the least restrictive placement appropriate and available to  
280 restore competency, the court shall consider whether the availability of  
281 such less restrictive placement is a sufficient basis on which to release  
282 the defendant on a promise to appear, conditions of release, cash bail  
283 or bond and may order continued treatment to restore competency on  
284 an outpatient basis. If the court finds that the defendant is still not  
285 competent and will not attain competency within the remainder of the  
286 period covered by the placement order absent administration of  
287 psychiatric medication for which the defendant is unwilling or unable  
288 to provide consent, the court shall proceed as provided in subdivisions  
289 (2), (3) and (4) of this subsection. If the court finds that the defendant is

290 eligible for civil commitment, the court may order placement of the  
291 defendant at a treatment facility pending civil commitment  
292 proceedings pursuant to subdivision (2) of subsection (h) of this  
293 section.

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

311 (3) (A) If the court finds that the defendant is unwilling or unable to  
312 provide consent for the administration of psychiatric medication, and  
313 prior to deciding whether to order the involuntary medication of the  
314 defendant under subdivision (2) of this subsection, the court shall  
315 appoint a health care guardian who shall be a licensed health care  
316 provider with specialized training in the treatment of persons with  
317 psychiatric disabilities to represent the health care interests of the  
318 defendant before the court. Notwithstanding the provisions of section  
319 52-146e, such health care guardian shall have access to the psychiatric  
320 records of the defendant. Such health care guardian shall file a report  
321 with the court not later than thirty days after his or her appointment.  
322 The report shall set forth such health care guardian's findings and

323 recommendations concerning the administration of psychiatric  
324 medication to the defendant, including the risks and benefits of such  
325 medication, the likelihood and seriousness of any adverse side effects  
326 and the prognosis with and without such medication. The court shall  
327 hold a hearing on the matter not later than ten days after receipt of  
328 such health care guardian's report and shall, in deciding whether to  
329 order the involuntary medication of the defendant, take into account  
330 such health care guardian's opinion concerning the health care  
331 interests of the defendant.

332 (B) The court, in anticipation of considering continued involuntary  
333 medication of the defendant under subdivision (4) of this subsection,  
334 shall order the health care guardian to file a supplemental report  
335 updating the findings and recommendations contained in the health  
336 care guardian's report filed under subparagraph (A) of this  
337 subdivision.

338 (4) If, after the defendant has been found to have attained  
339 competency by means of involuntary medication ordered under  
340 subdivision (2) of this subsection, the court determines by clear and  
341 convincing evidence that the defendant will not remain competent  
342 absent the continued administration of psychiatric medication for  
343 which the defendant is unable to provide consent, and after any  
344 hearing held pursuant to subdivision (3) of this subsection and  
345 consideration of the supplemental report of the health care guardian,  
346 the court may order continued involuntary medication of the  
347 defendant if the court finds by clear and convincing evidence that: (A)  
348 To a reasonable degree of medical certainty, continued involuntary  
349 medication of the defendant will maintain the defendant's competency  
350 to stand trial, (B) an adjudication of guilt or innocence cannot be had  
351 using less intrusive means, (C) the proposed treatment plan is  
352 narrowly tailored to minimize intrusion on the defendant's liberty and  
353 privacy interests, (D) the proposed drug regimen will not cause an  
354 unnecessary risk to the defendant's health, and (E) the seriousness of  
355 the alleged crime is such that the criminal law enforcement interest of

356 the state in fairly and accurately determining the defendant's guilt or  
357 innocence overrides the defendant's interest in self-determination.  
358 Continued involuntary medication ordered under this subdivision  
359 may be administered to the defendant while the criminal charges  
360 against the defendant are pending and the defendant is in the custody  
361 of the Commissioner of Correction or the Commissioner of Mental  
362 Health and Addiction Services. An order for continued involuntary  
363 medication of the defendant under this subdivision shall be reviewed  
364 by the court every one hundred eighty days while such order remains  
365 in effect. The court shall order the health care guardian to file a  
366 supplemental report for each such review. After any hearing held  
367 pursuant to subdivision (3) of this subsection and consideration of the  
368 supplemental report of the health care guardian, the court may  
369 continue such order if the court finds, by clear and convincing  
370 evidence, that the criteria enumerated in subparagraphs (A) to (E),  
371 inclusive, of this subdivision are met.

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

384 (l) If a defendant who has been ordered placed for treatment on an  
385 inpatient basis at a mental health facility or a facility for persons with  
386 intellectual disability is released from such facility on a furlough or for  
387 work, therapy or any other reason and fails to return to the facility in  
388 accordance with the terms and conditions of the defendant's release,

389 the person in charge of the facility, or such person's designee, shall,  
390 within twenty-four hours of the defendant's failure to return, report  
391 such failure to the prosecuting authority for the court location which  
392 ordered the placement of the defendant. Upon receipt of such a report,  
393 the prosecuting authority shall, within available resources, make  
394 reasonable efforts to notify any victim or victims of the crime for which  
395 the defendant is charged of such defendant's failure to return to the  
396 facility. No civil liability shall be incurred by the state or the  
397 prosecuting authority for failure to notify any victim or victims in  
398 accordance with this subsection. The failure of a defendant to return to  
399 the facility in which the defendant has been placed may constitute  
400 sufficient cause for the defendant's rearrest upon order by the court.

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

423 commissioner, or the commissioner's designee, to provide services to  
424 the defendant in a less restrictive setting, provided the examiners have  
425 determined in the written report filed pursuant to subsection (d) of this  
426 section or have testified pursuant to subsection (e) of this section that  
427 such services are available and appropriate. If the court orders the  
428 defendant placed in the custody of the Commissioner of Mental Health  
429 and Addiction Services and orders the commissioner to apply for civil  
430 commitment pursuant to this subsection, the court [may] shall order  
431 the commissioner to give the court notice when the defendant is  
432 released from the commissioner's custody if such release is prior to the  
433 expiration of the time within which the defendant may be prosecuted  
434 for the crime with which the defendant is charged [, provided] and  
435 such order [indicates] shall indicate when such time expires. Upon  
436 receipt of such notice by the court, the clerk shall docket the matter  
437 which will result in any victim of the crime who has requested  
438 notification through the state-wide automated victim information and  
439 notification system being informed of case activity in the criminal  
440 proceeding through such system. If the court orders the defendant  
441 placed in the custody of the Commissioner of Developmental Services  
442 for purposes of commitment under any provision of sections 17a-270  
443 to 17a-282, inclusive, the court [may] shall order the Commissioner of  
444 Developmental Services to give the court notice when the defendant's  
445 commitment is terminated if such termination is prior to the expiration  
446 of the time within which the defendant may be prosecuted for the  
447 crime with which the defendant is charged [, provided] and such order  
448 [indicates] shall indicate when such time expires. Upon receipt of such  
449 notice by the court, the clerk shall docket the matter which will result  
450 in any victim of the crime who has requested notification through the  
451 state-wide automated victim information and notification system  
452 being informed of case activity in the criminal proceeding through  
453 such system. For purposes of this section, "victim" has the same  
454 meaning as provided in section 1-1k.

455 (2) The court shall hear arguments as to whether the defendant  
456 should be released or should be placed in the custody of the

457 Commissioner of Mental Health and Addiction Services, the  
458 Commissioner of Children and Families or the Commissioner of  
459 Developmental Services.

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

491 revised to January 1, 2019, or subdivision (2) of subsection (a) of  
492 section 53-21, subdivision (2) of subsection (a) of section 53a-60 or  
493 section 53a-60a, 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b, a state's  
494 attorney may move for and the court may order an independent  
495 evaluation of such defendant prior to the release from custody of such  
496 defendant.

497 (4) Upon receipt of the written report as provided in subsection (d)  
498 of this section, the court shall, upon the request of either party filed not  
499 later than thirty days after the court receives such report, conduct a  
500 hearing as provided in subsection (e) of this section. Such hearing shall  
501 be held not later than ninety days after the court receives such report.  
502 If the court finds that the defendant has attained competency, the  
503 defendant shall be returned to the custody of the Commissioner of  
504 Correction or released, if the defendant has met the conditions for  
505 release, and the court shall continue with the criminal proceedings.

506 (5) The court shall dismiss, with or without prejudice, any charges  
507 for which a nolle prosequi is not entered when the time within which  
508 the defendant may be prosecuted for the crime with which the  
509 defendant is charged, as provided in section 54-193, has expired.  
510 Notwithstanding the record erasure provisions of section 54-142a,  
511 police and court records and records of any state's attorney pertaining  
512 to a charge which is nolle or dismissed without prejudice while the  
513 defendant is not competent shall not be erased until the time for the  
514 prosecution of the defendant expires under section 54-193. A  
515 defendant who is not civilly committed as a result of an application  
516 made by the Commissioner of Mental Health and Addiction Services,  
517 the Commissioner of Children and Families or the Commissioner of  
518 Developmental Services pursuant to this section shall be released. A  
519 defendant who is civilly committed pursuant to such an application  
520 shall be treated in the same manner as any other civilly committed  
521 person.

522 (n) The cost of the examination effected by the Commissioner of  
523 Mental Health and Addiction Services and of testimony of persons



524 conducting the examination effected by the commissioner shall be paid  
525 by the Department of Mental Health and Addiction Services. The cost  
526 of the examination and testimony by physicians appointed by the  
527 court shall be paid by the Judicial Department. If the defendant is  
528 indigent, the fee of the person selected by the defendant to observe the  
529 examination and to testify on the defendant's behalf shall be paid by  
530 the Public Defender Services Commission. The expense of treating a  
531 defendant placed in the custody of the Commissioner of Mental Health  
532 and Addiction Services, the Commissioner of Children and Families or  
533 the Commissioner of Developmental Services pursuant to subdivision  
534 (2) of subsection (h) of this section or subsection (i) of this section shall  
535 be computed and paid for in the same manner as is provided for  
536 persons committed by a probate court under the provisions of sections  
537 17b-122, 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive,  
538 17b-194 to 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-263,  
539 17b-340 to 17b-350, inclusive, 17b-689b and 17b-743 to 17b-747,  
540 inclusive.

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

545 (p) (1) This section shall not be construed to require the  
546 Commissioner of Mental Health and Addiction Services to place any  
547 defendant who presents a significant security, safety or medical risk in  
548 a hospital for psychiatric disabilities which does not have the trained  
549 staff, facilities or security to accommodate such a person, as  
550 determined by the Commissioner of Mental Health and Addiction  
551 Services in consultation with the Commissioner of Correction.

552 (2) If a defendant is placed for treatment with the Commissioner of  
553 Mental Health and Addiction Services pursuant to subsection (i) of this  
554 section and such defendant is not placed in a hospital for psychiatric  
555 disabilities pursuant to a determination made by the Commissioner of  
556 Mental Health and Addiction Services under subdivision (1) of this

557 subsection, the defendant shall remain in the custody of the  
558 Commissioner of Correction. The Commissioner of Correction shall be  
559 responsible for the medical and psychiatric care of the defendant, and  
560 the Commissioner of Mental Health and Addiction Services shall  
561 remain responsible to provide other appropriate services to restore  
562 competency.

563 (3) If a defendant remains in the custody of the Commissioner of  
564 Correction pursuant to subdivision (2) of this subsection and the court  
565 finds that the defendant is still not competent and will not attain  
566 competency within the remainder of the period covered by the  
567 placement order absent administration of psychiatric medication for  
568 which the defendant is unwilling or unable to provide consent, the  
569 court shall proceed as provided in subdivisions (2), (3) and (4) of  
570 subsection (k) of this section. Nothing in this subdivision shall prevent  
571 the court from making any other finding or order set forth in  
572 subsection (k) of this section.

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

576 (r) Actual time spent in confinement on an inpatient basis pursuant  
577 to this section shall be credited against any sentence imposed on the  
578 defendant in the pending criminal case or in any other case arising out  
579 of the same conduct in the same manner as time is credited for time  
580 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.*