



Substitute Senate Bill No. 450

Public Act No. 22-45

AN ACT CONCERNING CONNECTICUT VALLEY AND WHITING FORENSIC HOSPITALS.

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

Section 1. (*Effective from passage*) (a) The Department of Mental Health and Addiction Services shall develop a plan for the construction of a new facility for Whiting Forensic Hospital, within available appropriations, in consultation with the patients of said hospital, the legal guardians and family members of such patients, staff of said hospital, community providers of health care and mental health care services to such patients, the Commissioner of Correction and any other relevant stakeholders, as determined by the Commissioner of Mental Health and Addiction Services. In developing such plan, the department shall:

(1) Conduct a comprehensive assessment of the needs of all patients of said hospital, including, but not limited to, the safety, recovery and standard of care for treatment of such patients while in the new facility and a pathway toward reintegration of such patients into the community;

(2) Consider a facility design that incorporates spaces, as an intrinsic part of the facility, where the patients can engage in self-enrichment,

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creative activities, educational pursuits, vocational training and training in independent living skills to facilitate a safe transition to life in the community; and

(3) Develop an individualized care plan for each patient in the new facility that engages the patient and, if deemed appropriate by the commissioner, the patient's family members or guardian, as active participants in such plan and includes adequate preparation to enable the patient to reintegrate safely and successfully into the community.

(b) Not later than January 1, 2023, the Commissioner of Mental Health and Addiction Services shall submit an interim report, and, not later than January 1, 2024, a comprehensive report, in accordance with the provisions of section 11-4a of the general statutes, regarding the plan developed under subsection (a) of this section to the joint standing committee of the General Assembly having cognizance of matters relating to public health.

Sec. 2. Section 17a-565 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

[There] (a) (1) On and before September 30, 2022, there shall be an advisory board for Whiting Forensic Hospital, constituted as follows: The Commissioner of Mental Health and Addiction Services, three physicians licensed to practice in this state, two of whom shall be psychiatrists, two attorneys of this state, at least one of whom shall be in active practice and have at least five years' experience in the trial of criminal cases, one licensed psychologist with experience in clinical psychology, one licensed clinical social worker, one person actively engaged in business who shall have at least ten years' experience in business management, and two persons with psychiatric disabilities, at least one of whom shall have received inpatient services in a psychiatric hospital. Annually, on October first, the Governor shall appoint a

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member or members to replace those whose terms expire for terms of five years each. The board shall elect a chairman and a secretary, who shall keep full and accurate minutes of its meetings and preserve the same. The board shall meet at the call of the chairman at least quarterly. Members of the board shall receive no compensation for their duties as such but shall be reimbursed for their actual expenses incurred in the course of their duties. [Said]

(2) On and after October 1, 2022, there shall be an oversight board for Whiting Forensic Hospital, constituted as follows: Three physicians licensed under chapter 370, two of whom shall be psychiatrists, two attorneys licensed in this state, at least one of whom shall be in active practice and have at least five years' experience in the trial of criminal cases, one psychologist licensed under chapter 383 with experience in clinical psychology, one clinical social worker licensed under chapter 383b, one person actively engaged in business who shall have at least ten years' experience in business management, and two persons with psychiatric disabilities, at least one of whom shall have received inpatient services in a psychiatric hospital, all of whom shall be appointed by the Governor. Members shall serve for a term of five years and any vacancies on the board shall be filled for the remainder of the term by the Governor. The board shall elect from among its members a chairperson and a secretary, who shall keep full and accurate minutes of its meetings and preserve the same. The board shall meet at the call of the chairperson at least quarterly. Members of the board shall receive no compensation for their duties but shall be reimbursed for necessary expenses incurred in the performance of their duties. The board shall be within the Department of Mental Health and Addiction Services for administrative purposes only.

(b) Such oversight board shall [confer with the staff of the hospital and give general consultative and advisory services on problems and matters relating to its work. On any matter relating to the work of the

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hospital, the board may also confer with the warden or superintendent of the affected Connecticut correctional institution.] perform the following functions:

(1) Oversee the work of Whiting Forensic Hospital and provide consultative and advisory services regarding any problems or concerns identified in such oversight board's review conducted pursuant to subdivision (2) of this subsection;

(2) Review the official report of every investigation conducted pursuant to the general statutes, including, but not limited to, chapter 813, chapter 814c and section 19a-490, as amended by this act, and every investigation conducted by a hospital accrediting organization, of a complaint regarding the conditions of said hospital or the mistreatment or neglect of a patient or staff member of said hospital made by any patient, family member, guardian or legal representative of a patient or staff member of said hospital or any member of the public. As used in this subdivision, "neglect" means the failure, through action or inaction, to provide an individual with the services necessary to maintain such individual's physical and mental health and safety, including, but not limited to, protection against incidents of inappropriate or unwanted sexual contact, harassment, taunting, bullying and discrimination;

(3) Make recommendations to said hospital and the Department of Mental Health and Addiction Services for any actions necessary to improve the work of the staff, conditions of said hospital or treatment of any patient or staff member of said hospital necessary to address any concerns raised or complaints made pursuant to subdivision (1) or (2) of this subsection; and

(4) Request and review any information from said hospital and the Department of Mental Health and Addiction Services that is necessary for the board to perform its functions under this subsection.

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(c) Notwithstanding the provisions of section 52-146e, the superintendent and the relevant state agencies shall provide the official reports described in subdivision (2) of subsection (b) of this section to the oversight board.

(d) On or before January 1, 2023, and annually thereafter, the oversight board for Whiting Forensic Hospital shall report, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to public health regarding the results of any investigation or recommendation made by the board pursuant to subsection (b) of this section.

Sec. 3. Subsection (e) of section 17a-582 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(e) At the hearing, the court shall make a finding as to the mental condition of the acquittee and, considering that its primary [concern is] concerns are the protection of society and the safety and well-being of the acquittee, make one of the following orders:

(1) If the court finds that the acquittee is a person who should be confined or conditionally released, the court shall order the acquittee committed to the jurisdiction of the board and either confined in a hospital for psychiatric disabilities or placed with the Commissioner of Developmental Services, for custody, care and treatment pending a hearing before the board pursuant to section 17a-583; provided (A) the court shall fix a maximum term of commitment, not to exceed the maximum sentence that could have been imposed if the acquittee had been convicted of the offense, and (B) if there is reason to believe that the acquittee is a person who should be conditionally released, the court shall include in the order a recommendation to the board that the acquittee be considered for conditional release pursuant to subdivision

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(2) of section 17a-584, as amended by this act; or

(2) If the court finds that the acquittee is a person who should be discharged, the court shall order the acquittee discharged from custody.

Sec. 4. Section 17a-584 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

At any hearing before the board considering the discharge, conditional release or confinement of the acquittee, except a hearing pursuant to section 17a-592 or subsection (d) of section 17a-593, the board shall make a finding as to the mental condition of the acquittee and, considering that its primary [concern is] concerns are the protection of society and the safety and well-being of the acquittee, shall do one of the following:

(1) If the board finds that the acquittee is a person who should be discharged, it shall recommend such discharge to the court pursuant to section 17a-593, as amended by this act.

(2) If the board finds that the acquittee is a person who should be conditionally released, the board shall order the acquittee conditionally released subject to such conditions as are necessary to prevent the acquittee from constituting a danger to himself or others.

(3) If the board finds that the acquittee is a person who should be confined, the board shall order the person confined in a hospital for psychiatric disabilities or placed with the Commissioner of Developmental Services for custody, care and treatment.

Sec. 5. Subsection (g) of section 17a-593 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(g) The court shall make a finding as to the mental condition of the

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acquittee and, considering that its primary concern is the protection of society and its secondary concern is the safety and well-being of the acquittee, make one of the following orders: (1) If the court finds that the acquittee is not a person who should be discharged, the court shall order the recommendation or application for discharge be dismissed; or (2) if the court finds that the acquittee is a person who should be discharged, the court shall order the acquittee discharged from custody. The court shall send a copy of such finding and order to the board.

Sec. 6. (*Effective from passage*) (a) On or before January 1, 2023, the Commissioner of Mental Health and Addiction Services shall convene a working group to evaluate the Psychiatric Security Review Board established under section 17a-581 of the general statutes. Such evaluation shall include, but need not be limited to, an examination of (1) the recommendations regarding said board that were made by the task force established pursuant to section 1 of public act 18-86 to evaluate Connecticut Valley Hospital and Whiting Forensic Hospital, (2) methods of optimizing the process by which (A) a person is committed to the custody of the Department of Mental Health and Addiction Services after being found not guilty by reason of mental disease or defect pursuant to section 53a-13 of the general statutes, and (B) such person is released or discharged from such custody, including, but not limited to, through a balancing of the protection of society, victims' rights and the health and well-being of such person, (3) processes in place for committing and releasing a person who has been found not guilty by reason of a mental disease or defect in states that do not have a body that is similar to said board, and (4) the processes for notifying a victim of such person when such person is released or discharged from such custody.

(b) The working group convened pursuant to subsection (a) of this section shall include, but need not be limited to, the following members: (1) A person with expertise in public health; (2) two members of the

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judiciary; (3) a defense attorney of the Judicial Department or the Public Defender Services Commission; (4) a state's attorney; (5) a physician specializing in psychiatry and licensed under the provisions of sections 20-9 to 20-12, inclusive, of the general statutes; (6) two acquittees, as defined in section 17a-580 of the general statutes; (7) two victims of an acquittee or two representatives of an organization that advocates on behalf of victims of an acquittee; (8) the Commissioner of Mental Health and Addiction Services; and (9) the Commissioner of Developmental Services. The Commissioner of Mental Health and Addiction Services shall select chairpersons from among the members of the working group. Such chairpersons shall schedule the first meeting of the working group, which shall be held not later than sixty days after the effective date of this section.

(c) Not later than January 1, 2024, the chairpersons of the working group shall report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to public health and the judiciary regarding the findings of the working group.

Sec. 7. Section 17a-587 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) If at any time after the confinement of an acquittee in a hospital for psychiatric disabilities or the placement of an acquittee with the Commissioner of Developmental Services pursuant to order of the board, the superintendent of such hospital or said commissioner is of the opinion that the acquittee's psychiatric supervision and treatment would be advanced by permitting the acquittee to leave such hospital or the custody of said commissioner temporarily, the superintendent or said commissioner shall apply to the board for an order authorizing temporary leaves. The application shall include a statement of reasons in support thereof. The board shall send a copy of the application to the state's attorney. The board may order a hearing on the application and

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shall order such a hearing if the state's attorney files with the board a request therefor within ten days of his receipt of the application. The board shall grant the application, subject to such conditions and supervision as the board may set in the order for temporary leave, if it concludes that the acquittee's temporary leave, under the conditions specified, would not constitute a danger to [himself] the acquittee or others. If the board grants such application, [is granted,] (1) the acquittee may be permitted to leave such hospital or the custody of said commissioner temporarily, under the charge of his guardian, relatives or friends, or by himself or herself, at such times and under such conditions as the superintendent or said commissioner deems appropriate, unless the order of the board provides otherwise, [. The provisions of section 17a-521 not inconsistent with this section shall be applicable to temporary leaves authorized by this section] and (2) the board shall notify the victim, as defined in section 17a-601, of the acquittee regarding such temporary leave.

(b) At any time after the confinement of an acquittee in a hospital for psychiatric disabilities or the placement of an acquittee with the Commissioner of Developmental Services, the acquittee, or another person acting on the acquittee's behalf, may apply to the board for an order of temporary leave. On receipt of the application, the board shall request that the superintendent of the hospital or said commissioner report on whether such superintendent or said commissioner is of the opinion that the acquittee should be granted temporary leave. The report shall include facts supporting such opinion. An application for temporary leave under this subsection shall not be filed more frequently than once every six months from the date of the initial hearing held by the board pursuant to section 17a-583. The board shall not be required to hold a hearing on the first application made by an acquittee under this subsection any earlier than ninety days after the date of such initial hearing. Any hearing resulting from any subsequent application of the acquittee shall be held not less than thirty days but not more than ninety

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days after the date of the filing of such application. If the board grants an application made under this subsection, (1) the acquittee may be permitted to leave such hospital or the custody of said commissioner temporarily, under the charge of his guardian, relatives or friends, or by himself or herself, at such times and under such conditions as the superintendent or said commissioner deems appropriate, unless the order of the board provides otherwise, and (2) the board shall notify the victim, as defined in section 17a-601, regarding such temporary leave.

[(b)] (c) The board may designate any capable person or appropriate public or private agency to supervise the acquittee on temporary leave pursuant to subsection (a) or (b) of this section. Prior to any designation, the board shall notify the person or agency that the board contemplates designating to supervise the acquittee's temporary leave and provide the person or agency with an opportunity to be heard before the board. Any person or agency designated by the board to supervise the acquittee's temporary leave shall comply with such conditions as the board sets in the order for temporary leave.

Sec. 8. Section 17a-599 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) At any time the court or the board determines that the acquittee is a person who should be confined, it shall make a further determination of whether the acquittee is so violent as to require confinement under conditions of maximum security. Any acquittee found so violent as to require confinement under conditions of maximum security shall not be confined in any hospital for psychiatric disabilities or placed with the Commissioner of Developmental Services unless such hospital or said commissioner has the trained and equipped staff, facilities or security to accommodate such acquittee.

(b) The Commissioner of Mental Health and Addiction Services may transfer any acquittee who requires (1) confinement under conditions of

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maximum security pursuant to subsection (a) of this section, and (2) medical treatment that is unavailable in the maximum security environment or would constitute a safety hazard to the acquittee or others due to the use of certain medical equipment or material, to a facility that can provide such medical treatment, provided (A) the commissioner ensures that the conditions of custody of the acquittee at such facility are and remain equivalent to conditions of maximum security, (B) the commissioner [provides immediate written justification to the board upon such transfer] consults with a licensed health care provider who has evaluated the acquittee regarding such transfer and the licensed health care provider approves of such transfer, and (C) transfer of the acquittee back to the maximum security setting occurs upon completion of the medical treatment. The commissioner shall provide the board with notice of such transfer at the most reasonable time determined by the superintendent, but not later than forty-eight hours after such transfer.

(c) Each hospital for psychiatric disabilities treating acquittees under secure conditions shall establish a risk management review committee comprised of licensed clinical professionals and administrators of the hospital to review requests to transfer an acquittee from a maximum security division of the hospital to a lower security division of the hospital for the reason described in this subsection. If at any time after the confinement of an acquittee in a hospital for psychiatric disabilities under conditions of maximum security, the superintendent of such hospital is of the opinion, after consultation with the hospital's risk management review committee, that the acquittee's psychiatric supervision and treatment would be safely advanced by permitting the acquittee to transfer to a lower security division of the hospital, the superintendent may effectuate the transfer. The superintendent shall provide the board with at least forty-eight hours advance notice of the transfer. The board shall notify each victim, as defined in section 17a-601, of the acquittee regarding the transfer.

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Sec. 9. (*Effective from passage*) (a) The Department of Mental Health and Addiction Services, in collaboration with the Department of Administrative Services, shall evaluate the classifications in state service for all physicians and senior level clinicians employed by Whiting Forensic Hospital to determine if such classifications are in the appropriate compensation plans necessary to attract and retain experienced and competent employees of said hospital.

(b) Not later than January 1, 2023, the Commissioners of Mental Health and Addiction Services and Administrative Services shall jointly report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to public health regarding such evaluation.