



## State of Connecticut

### DIVISION OF PUBLIC DEFENDER SERVICES

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### Testimony of the Office of Chief Public Defender William O'Connor III, Supervisory Assistant Public Defender

JUDICIARY COMMITTEE - MARCH 20, 2024

#### Raised Bill No. 5415

### AN ACT CONCERNING THE ISSUANCE OF A STANDING CRIMINAL PROTECTIVE ORDER WHEN A PERSON IS FOUND NOT GUILTY BY REASON OF LACK OF CAPACITY DUE TO MENTAL DISEASE OR DEFECT

The Division of Public Defenders oppose *Raised H.B. 5415, An Act Concerning The Issuance Of A Standing Criminal Protective Order When A Person Is Found Not Guilty By Reason Of Lack Of Capacity Due To Mental Disease Or Defect*, which seeks to amend General Statute §53a-40e to make individuals found not guilty of certain crimes due to mental disease or defect eligible for issuance of a **Standing Criminal Protective Order**.

The current version of the statute applies only to those that have been *convicted* of certain crimes. Persons found *not guilty* due to mental disease or defect obviously have not been convicted of their crime, but instead were found to lack criminal responsibility due to their mental state. Making this class of mentally ill individuals eligible for a Standing Criminal Protective Order nevertheless subjects them to potential criminal sanctions – a felony charge – despite their original lack of capacity and continued mental disability.

Almost all individuals acquitted by reason of mental disease or defect are committed to the supervision of the Psychiatric Security Review Board (PSRB). Currently, the PSRB maintains jurisdiction over approximately 134 such individuals, about 100 of whom reside in a locked hospital setting. Only about forty individuals currently reside at least part time in the community, either on Temporary Leave or Conditional Release status.

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All of those patients with regular community access are subject to strict conditions of release that are ordered and monitored by the PSRB, including a standard condition which **prohibits any contact with a victim or a victim's family**. Any violation or attempted violation of the no contact condition would almost certainly result in the patient returning to the hospital immediately and losing all community access. Fortunately, this standard PSRB condition has proven **quite effective** in preventing unwanted victim contact. **There are no known cases** of a PSRB acquittee in Connecticut attempting to contact a victim, much less attempting to harm their victim.

Further, Standing Criminal Protective Orders are issued with an expiration date that is typically years, or even decades, in the future. Once issued, the order can only be modified by the issuing Court for good cause shown. This legislation therefore could result in victims who are family members of the acquittee, not being allowed to visit or even contact their hospitalized loved one unless they first return to Court seeking to modify the protective order.

In sum, existing PSRB procedures have proven to be very effective preventing any unwanted victim contact. The proposed change to the statute would therefore accomplish very little, other than to criminalize mental illness by subjecting psychiatrically disabled individuals who have been acquitted of their crime to potential felony arrest and prosecution.