



Agency Legislative Proposal - 2015 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): DMHAS 2015 Legislative Proposal

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: DMHAS

Liaison: Doreen Del Bianco

Phone: 860 418 6967

E-mail: Doreen.delbianco@ct.gov

Lead agency division requesting this proposal: DMHAS

Agency Analyst/Drafter of Proposal: Dr. Michel Norko

Title of Proposal;

AAC Management of Individuals Committed to the Psychiatric Security Review Board

Statutory Reference 17a-580, 17a-588

Proposal Summary the proposal

Clarifies the definition of a “Conditional release”

Defines psychiatric disability to be consistent with 53a-13(c)

Allows DOC to monitor acquittee who is released under a “conditional release”

Allows an acquittee who is charged with a criminal offense while in the custody of DMHAS in an inpatient setting to be placed in the custody of the Commissioner of DOC on bond if appropriate

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

Reason for Proposal

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

Recent news articles have highlighted the difficulties of managing violent individuals in a maximum security hospital setting, especially when they no longer meet the criteria for a psychiatric disability. The other patients and staff are vulnerable targets for these individuals. DMHAS believes that in some cases the violent behaviors may be the result of criminogenic factors unrelated to psychiatric disability and that some individuals and offenses are appropriately subject to the criminal justice system, including the potential for serving an imposed sentence in a correctional setting. This language mirrors the definition



of a psychiatric disability as found in 53a-13 (the not guilty by reason of mental disease or defect statute) and allows for the transfer of certain PSRB-committed individuals to DOC.

- **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Psychiatric Security Review Board
Agency Contact (name, title, phone): Ellen La Chance executive director 860-566 1441
Date Contacted: 12-1-14

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments

Some concerns regarding necessity for change

Will there need to be further negotiation? YES NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) no impact

State: no impact

Federal

No impact

Additional notes on fiscal impact



- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Insert fully drafted bill here

Sec. 17a-580. (Formerly Sec. 17-257a). Definitions. As used in sections 17a-581 to 17a-602, inclusive, and this section:

(1) “Acquittee” means any person found not guilty by reason of mental disease or defect pursuant to section 53a-13;

(2) “Board” means the Psychiatric Security Review Board established pursuant to section 17a-581;

(3) “Conditional release” means release **of the** [subject] **acquittee from a hospital for psychiatric disabilities** to the jurisdiction of the board for supervision and treatment [on an outpatient basis] and includes, but is not limited to, the monitoring of mental and physical health treatment;

(4) “Court” means the Superior Court;

(5) “Danger to himself or others” includes danger to the property of others;

(6) “Hospital for [mental illness] **psychiatric disabilities**” means any public or private hospital, retreat, institution, house or place in which a person with psychiatric disabilities or drug-dependent person is received or detained as a patient, but does not include any correctional institution of the state;

(7) “[Mental illness] **Psychiatric disability**” [includes] **means** any mental illness in a state of remission when the illness may, with reasonable medical probability, become active; **and does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct;**



(8) “Intellectual disability” has the same meaning as provided in section 1-1g;

(9) “Person who should be conditionally released” means an acquittee who has psychiatric disabilities or has intellectual disability to the extent that his final discharge would constitute a danger to himself or others but who can be adequately controlled with available supervision and treatment on conditional release;

(10) “Person who should be confined” means an acquittee who has psychiatric disabilities or has intellectual disability to the extent that such acquittee’s discharge or conditional release would constitute a danger to the acquittee or others and who cannot be adequately controlled with available supervision and treatment on conditional release;

(11) “Person who should be discharged” means an acquittee who does not have psychiatric disabilities or does not have intellectual disability to the extent that such acquittee’s discharge would constitute a danger to the acquittee or others;

(12) “Psychiatrist” means a physician specializing in psychiatry and licensed under the provisions of sections 20-9 to 20-12, inclusive;

(13) “Psychologist” means a clinical psychologist licensed under the provisions of sections 20-186 to 20-195, inclusive;

(14) “State’s attorney” means the state’s attorney for the judicial district wherein the acquittee was found not guilty by reason of mental disease or defect pursuant to section 53a-13;

(15) “Superintendent” means any person, body of persons or corporation, or the designee of any such person, body of persons or corporation, which has the immediate supervision, management and control of a hospital for mental illness and the patients therein.

Sec. 17a-588. (Formerly Sec. 17-257i). Conditional release. (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, the superintendent of such hospital or said commissioner is of the opinion that such acquittee is a person who should be conditionally released, the superintendent or said commissioner shall apply to the board for an order of conditional release. The application shall be accompanied by a report setting forth the facts supporting the opinion of the superintendent or said commissioner, and by a conditional release plan. The board shall hold a hearing on the application within sixty, but not less than thirty, days of its receipt. **If an acquittee is concurrently sentenced to the custody of the Commissioner of the Department of Correction for a criminal charge or charges and is conditionally released, the acquittee may be released to the Commissioner of the Department of Correction during the remainder of the sentence period.**



(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 his behalf may apply to the board for an order of conditional release. On receipt of the application, the board shall request the superintendent of the hospital or said commissioner to report whether he is of the opinion that the acquittee is a person who should be conditionally released. The report shall set forth facts supporting the opinion. An application for conditional release under this subsection shall not be filed more often than once every six months from the date of the initial board hearing held pursuant to section 17a-583. The board is not required to hold a hearing on a first application under this subsection any sooner than ninety days after the initial hearing. Hearings resulting from any subsequent requests shall be held within sixty days of the filing of the application.

(c) Not less than thirty days prior to any such hearing, the board shall send copies of the superintendent's or said commissioner's report to the state's attorney and counsel for the acquittee. At any hearing held pursuant to this section, the board shall make a finding and act pursuant to section 17a-584.

NEW Criminal conviction of an acquittee. (a) If an acquittee, while in the custody of the Commissioner of the Department of Mental Health and Addiction Services and confined in a hospital for psychiatric disabilities, is prosecuted for a criminal offense that occurred in such a hospital, the criminal court may impose a bond and place said acquittee in the custody of the Commissioner of Correction pending adjudication of the criminal matter. The court shall make such a determination based on an independent report from the Commissioner of Mental Health and Addiction Services as to the degree to which the acquittee presents an ongoing safety or security risk to the hospital, its patients, staff and visitors, and the ability of the hospital staff to manage such risks within a health care environment pending further court proceedings.

(b) If such an acquittee is convicted and sentenced to the custody of the Commissioner of Correction, the acquittee shall be transferred to the custody of the Commissioner of Correction to serve the sentence. Prior to the conclusion of the sentence, the board shall hold a hearing pursuant to section 17a-585 and take action pursuant to section 17a-584.



STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES
A Healthcare Service Agency

DANNEL P. MALLOY
GOVERNOR

PATRICIA A. REHMER, MSN
COMMISSIONER

Memorandum:

TO: Liz Donohue, Governor's Office
Gian-Carl Casa, Office of Policy and Management
Anne Foley, Office of Policy and Management
Michael Lawlor, Office of Policy and Management
Judy Dowd, Office of Policy and Management
Magdalena Lekarczyk, Office of Policy and Management
Kelly Sinko, Office of Policy and Management

FROM: Doreen Del Bianco, Legislative Program Manager

DATE: October 1, 2014

SUBJECT: DMHAS 2015 Legislative Package

The attached package contains three (3) legislative proposals from DMHAS for the 2015 legislative session.

We are submitting a proposal that makes various technical changes to the current DMHAS statutes, a proposal that makes a technical change to the pretrial drug education program and a proposal that adds "gambling" services to the alternatives to incarceration statute.

We look forward to meeting with you to discuss our legislative proposals in greater detail, and to working with you toward achieving a productive 2015 legislative session.

Attachments: as stated

DMHAS 2015 LEGISLATIVE PACKAGE

Number	Title of Proposal	Priority
DMHAS 15-1	An Act Concerning Various Revisions to the Mental Health and Addiction Statutes	# 1
DMHAS 15-2	An Act Concerning Alternatives to Incarceration	# 2
DMHAS 15-3	An Act Concerning the Pretrial Drug Education Program	# 3

Agency Legislative Proposal - 2015 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 10-1-15 DMHAS Leg. Proposal # 1
An Act Concerning Various Revisions to the Mental Health and Addiction Statutes

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Mental Health and Addiction Services (DMHAS)

Liaison: Doreen Del Bianco
Phone: 860-418-6967
E-mail: Doreen.delbianco@ct.gov

Lead agency division requesting this proposal: DMHAS

Agency Analyst/Drafter of Proposal: Doreen Del Bianco

Title of Proposal: An Act Concerning Various Revisions to the Mental Health and Addiction Statutes

Statutory Reference 17a-541, 17a-452, 17a-667

Proposal Summary : The proposal makes 3 changes to DMHAS statutes

- 1) Gives the Commissioner the authority to designate someone other than her/himself to sign contracts
- 2) Eliminates the deputy commissioner and medical director statutes
- 3) Removes the administrative duties of the Alcohol and Drug Policy Council (ADPC) from OPM

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- Reason for Proposal

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?
- (3) Have certain constituencies called for this action?
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Current statutory language gives the commissioner or the deputy commissioner the authority to sign contracts. The agency does not always have a deputy commissioner. This would provide a backup for the commissioner when the commissioner is away and unable to sign contracts.

The deputy commissioner statutory language as well as the medical director language are no longer relevant to the agency. The deputy commissioner language is inaccurate and restrictive, and the medical director language in Section (b) is hampering our efforts to create a job with similar duties in the classified service. Other CT human service agencies do not have deputy commissioner or medical director language in their statutes. *** please note that I purposefully wrote out 17a-452 as opposed to "Section 17a-452 is repealed" so that our intent is transparent..**

DMHAS is currently managing the administrative duties of the ADPC, so the change reflects current practice.

- **Origin of Proposal** **New Proposal** **Resubmission**

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- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: OPM
Agency Contact (name, title, phone): Anne Foley undersecretary /Kelly Sinko legislative/policy
Date Contacted: 9-26-14

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments: NA

Will there need to be further negotiation? YES NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) NA

State NA

Federal NA

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

17a-451 (v) This change regarding signing of contracts helps move the agencies business along.

17a-452 This language was relevant when the Department of Mental Health and the Connecticut Alcohol and Substance Abuse Commission were merged in 1995. The agency as well as the field has integrated mental health and substance use services. The agency would also no longer have a statutory mandate to have 2 deputy commissioners and the agency can recruit individuals for other jobs that have duties outlined in statute specific to the medical director.

17a-667 This is a reflection of existing practice and would give OPM relief of administrative responsibilities for the Council

Insert fully drafted bill here

Sec. 17a-451. (Formerly Sec. 17-210a). Commissioner of Mental Health and Addiction Services. Duties. Regulations re fair hearing process. Memorandum of understanding. (a) The Commissioner of Mental Health and Addiction Services shall be a qualified person with a masters degree or higher in a health-related field and at least ten years' experience in hospital, health, mental health or substance abuse administration.

(b) The commissioner shall be the executive head of the Department of Mental Health and Addiction Services.

(c) The commissioner shall prepare and issue regulations for the administration and operation of the Department of Mental Health and Addiction Services, and all state-operated facilities and community programs providing care for persons with psychiatric disabilities or persons with substance use disorders, or both.

(d) The commissioner shall coordinate the community programs receiving state funds with programs of state-operated facilities for the treatment of persons with psychiatric disabilities or persons with substance use disorders, or both. In the event of the death of a person with psychiatric disabilities, who is receiving inpatient behavioral health care services from a Department of Mental Health and Addiction Services operated facility, the commissioner shall report such death to the director of the Office of Protection and Advocacy for Persons with Disabilities not later than thirty days after the date of the death of such person.

(e) The commissioner shall collaborate and cooperate with other state agencies providing services for mentally disordered children and adults with psychiatric disabilities or persons with substance use disorders, or both, and shall coordinate the activities of the Department of Mental Health and Addiction Services with the activities of said agencies.

(f) (1) The commissioner shall establish and enforce standards and policies for the care and treatment of persons with psychiatric disabilities or persons with substance use disorders, or both, in public and private facilities that are consistent with other health care standards and may make any inquiry, investigation or examination of records of such facilities as may be necessary for the purpose of investigating the occurrence of any serious injury or unexpected death involving any person who has within one year of such occurrence received services for the care and treatment of such disabilities from a state-operated facility or a community program receiving state funds. (2) The findings of any such inquiry, investigation or examination

of records conducted pursuant to this subsection shall not be subject to disclosure pursuant to section 1-210, nor shall such findings be subject to discovery or introduction into evidence in any civil action arising out of such serious injury or unexpected death. (3) Except as to the finding provided in subdivision (2) of this subsection, nothing in this subsection shall be construed as restricting disclosure of the confidential communications or records upon which such findings are based, where such disclosure is otherwise provided for by law.

(g) The commissioner shall establish and direct research, training, and evaluation programs.

(h) The commissioner shall develop a state-wide plan for the development of mental health services which identifies needs and outlines procedures for meeting these needs.

(i) The commissioner shall be responsible for the coordination of all activities in the state relating to substance use disorders and treatment, including activities of the Departments of Children and Families, Correction, Public Health, Social Services and Veterans' Affairs, the Judicial Branch and any other department or entity providing services to persons with substance use disorders.

(j) The commissioner shall be responsible for developing and implementing the Connecticut comprehensive plan for prevention, treatment and reduction of alcohol and drug abuse problems to be known as the state substance abuse plan. Such plan shall include a mission statement, a vision statement and goals for providing treatment and recovery support services to adults with substance use disorders. The plan shall be developed by July 1, 2010, and thereafter shall be triennially updated by July first of the respective year. The commissioner shall develop such plan, mission statement, a vision statement and goals after consultation with: (1) The Connecticut Alcohol and Drug Policy Council established pursuant to section 17a-667; (2) the Criminal Justice Policy Advisory Commission established pursuant to section 18-87j; (3) the subregional planning and action councils established pursuant to section 17a-671; (4) clients and their families, including those involved with the criminal justice system; (5) treatment providers; and (6) other interested stakeholders. The commissioner shall submit a final draft of the plan to the Connecticut Alcohol and Drug Policy Council for review and comment. The plan shall outline the action steps, time frames and resources needed to meet specified goals and shall minimally address: (A) Access to services, both prior to and following admission to treatment; (B) the provision of comprehensive assessments to those requesting treatment, including individuals with co-occurring conditions; (C) quality of treatment services and promotion of research-based and evidence-based best practices and models; (D) an appropriate array of treatment and recovery services along with a sustained continuum of care; (E) outcome measures of specific treatment and recovery services in the overall system of care; (F) department policies and guidelines concerning recovery oriented care; and (G) provisions of the community reentry strategy concerning substance abuse treatment and recovery services needed by the offender population as developed by the Criminal Justice Policy and Planning Division within the Office of Policy and Management. The plan shall define measures and set benchmarks for the overall treatment system and for each state-operated program. Measures and benchmarks specified in the plan shall include, but not be limited to, the time required to receive substance abuse assessments and treatment services either from state agencies directly or through the private provider network funded by state agencies, the percentage of clients who should receive a treatment episode of ninety days or greater, treatment provision rates

with respect to those requesting treatment, connection to the appropriate level of care rates, treatment completion rates and treatment success rates as measured by improved client outcomes in the areas of substance use, employment, housing and involvement with the criminal justice system.

(k) The commissioner shall prepare a consolidated budget request for the operation of the Department of Mental Health and Addiction Services.

(l) The commissioner shall appoint professional, technical and other personnel necessary for the proper discharge of the commissioner's duties, subject to the provisions of chapter 67.

(m) The commissioner shall from time to time adjust the geographic territory to be served by the facilities and programs under the commissioner's jurisdiction.

(n) The commissioner shall specify uniform methods of keeping statistical information by public and private agencies, organizations and individuals, including a client identifier system, and collect and make available relevant statistical information, including the number of persons treated, demographic and clinical information about such persons, frequency of admission and readmission, frequency and duration of treatment, level or levels of care provided and discharge and referral information. The commissioner shall also require all facilities that provide prevention or treatment of alcohol or drug abuse or dependence that are operated or funded by the state or licensed under sections 19a-490 to 19a-503, inclusive, to implement such methods. The commissioner shall report any licensed facility that fails to report to the licensing authority. The client identifier system shall be subject to the confidentiality requirements set forth in section 17a-688 and regulations adopted thereunder.

(o) The commissioner shall establish uniform policies and procedures for collecting, standardizing, managing and evaluating data related to substance use, abuse and addiction programs administered by state agencies, state-funded community-based programs and the Judicial Branch, including, but not limited to: (1) The use of prevention, education, treatment and criminal justice services related to substance use, abuse and addiction; (2) client demographic and substance use, abuse and addiction information; and (3) the quality and cost effectiveness of substance use, abuse and addiction services. The commissioner shall, in consultation with the Secretary of the Office of Policy and Management, ensure that the Judicial Branch, all state agencies and state-funded community-based programs with substance use, abuse and addiction programs or services comply with such policies and procedures. Notwithstanding any other provision of the general statutes concerning confidentiality, the commissioner, within available appropriations, shall establish and maintain a central repository for such substance use, abuse and addiction program and service data from the Judicial Branch, state agencies and state-funded community-based programs administering substance use, abuse and addiction programs and services. The central repository shall not disclose any data that reveals the personal identification of any individual. The Connecticut Alcohol and Drug Policy Council established pursuant to section 17a-667 shall have access to the central repository for aggregate analysis. The commissioner shall submit a biennial report to the General Assembly, the Office of Policy and Management and the Connecticut Alcohol and Drug Policy Council in accordance with the provisions of section 11-4a. The report shall include, but need not be limited to, a summary of: (A) Client and patient demographic information; (B) trends and risk factors associated with alcohol and drug use, abuse and dependence; (C)

effectiveness of services based on outcome measures; (D) progress made in achieving the measures, benchmarks and goals established in the state substance abuse plan, developed and implemented in accordance with subsection (j) of this section; and (E) a state-wide cost analysis.

(p) The commissioner may contract for services to be provided for the department or by the department for the prevention of mental illness or substance abuse in persons, as well as other mental health or substance abuse services described in section 17a-478 and shall consult with providers of such services in developing methods of service delivery.

(q) (1) The commissioner may make available to municipalities, nonprofit community organizations or self help groups any services, premises and property under the control of the Department of Mental Health and Addiction Services but shall be under no obligation to continue to make such property available in the event the department permanently vacates a facility. Such services, premises and property may be utilized by such municipalities, nonprofit community organizations or self help groups in any manner not inconsistent with the intended purposes for such services, premises and property. The Commissioner of Mental Health and Addiction Services shall submit to the Commissioner of Administrative Services any agreement for provision of services by the Department of Mental Health and Addiction Services to municipalities, nonprofit community organizations or self help groups for approval of such agreement prior to the provision of services pursuant to this subsection.

(2) The municipality, nonprofit community organization or self help group using any premises and property of the department shall be liable for any damage or injury which occurs on the premises and property and shall furnish to the Commissioner of Mental Health and Addiction Services proof of financial responsibility to satisfy claims for damages on account of any physical injury or property damage which may be suffered while the municipality, nonprofit community organization or self help group is using the premises and property of the department in such amount as the commissioner determines to be necessary. The state of Connecticut shall not be liable for any damage or injury sustained on the premises and property of the department while the premises and property are being utilized by any municipality, nonprofit community organization or self help group.

(3) The Commissioner of Mental Health and Addiction Services may adopt regulations, in accordance with chapter 54, to carry out the provisions of this subsection. As used in this subsection, "self help group" means a group of volunteers, approved by the commissioner, who offer peer support to each other in recovering from an addiction.

(r) The commissioner shall prepare an annual report for the Governor.

(s) The commissioner shall perform all other duties which are necessary and proper for the operation of the department.

(t) The commissioner may direct clinical staff at Department of Mental Health and Addiction Services facilities or in crisis intervention programs funded by the department who are providing treatment to a patient to request disclosure, to the extent allowed under state and federal law, of the patient's record of previous treatment in order to accomplish the objectives of diagnosis, treatment or referral of the patient. If the clinical staff in possession of the

requested record determines that disclosure would assist the accomplishment of the objectives of diagnosis, treatment or referral, the record may be disclosed, to the extent allowed under state and federal law, to the requesting clinical staff without patient consent. Records disclosed shall be limited to records maintained at department facilities or crisis intervention programs funded by the department. The Commissioner of Mental Health and Addiction Services shall adopt regulations in accordance with chapter 54 to administer the provisions of this subsection and to ensure maximum safeguards of patient confidentiality.

(u) The commissioner shall adopt regulations to establish a fair hearing process which provides the right to appeal final determinations of the Department of Mental Health and Addiction Services or of its grantee agencies as determined by the commissioner regarding: The nature of denial, involuntary reduction or termination of services. Such hearings shall be conducted in accordance with the provisions of chapter 54, after a person has exhausted the department's established grievance procedure. Any matter which falls within the jurisdiction of the Psychiatric Security Review Board under sections 17a-580 to 17a-603, inclusive, shall not be subject to the provisions of this section. Any person receiving services from a Department of Mental Health and Addiction Services facility or a grantee agency determined by the commissioner to be subject to this subsection and who is aggrieved by a violation of sections 17a-540 to 17a-549, inclusive, may elect to either use the procedure specified in this subsection or file for remedies under section 17a-550.

(v) The commissioner **or the commissioner's designee shall** [may a designate a deputy commissioner to] sign any contract, agreement or settlement on behalf of the Department of Mental Health and Addiction Services.

(w) Notwithstanding the provisions of section 17b-90, chapter 899 and to the extent permitted by federal law, in order to monitor and improve the quality of targeted case management services provided by the Department of Mental Health and Addiction Services and funded by the Medicaid program, the Commissioner of Mental Health and Addiction Services may enter into a memorandum of understanding with the Commissioner of Social Services that allows for the sharing of information concerning admissions to short-term acute care general hospitals and receipt of inpatient services by clients of the Department of Mental Health and Addiction Services who reside and receive services in the community and who receive medical benefits under the Medicaid program.

[Sec. 17a-452. (Formerly Sec. 17-210b). Deputy commissioners. (a) There shall be two deputy commissioners of mental health and addiction services appointed by the commissioner with the advice of the Board of Mental Health and Addiction Services. The deputy commissioner for mental health services shall hold a master's degree or higher, shall have a minimum of ten years' experience in business, hospital, health or mental health administration and shall be responsible for the supervision of medical and other treatment activities of the Division of Mental Health. The deputy commissioner for addiction services shall hold a master's degree or higher, shall have a minimum of ten years' experience in the prevention and treatment of substance abuse and shall be knowledgeable in substance abuse program planning and administration and shall be responsible for the supervision and coordination of all substance abuse activities of the department and with other departments.

(b) There shall be a medical director appointed by the Commissioner of Mental Health and Addiction Services with the advice of the Board of Mental Health and Addiction Services. The medical director shall be a qualified physician licensed to practice medicine in Connecticut and shall have experience in comprehensive health care or human services operations. The medical director shall be responsible for (1) the quality and appropriateness of services by developing policies relating to clinical services regulated by the department and those services delivered in department facilities or under contract to the department; (2) directing a standards and quality assurance program, a utilization review program, a physician recruitment and retention program and a peer review program for physicians and other clinical staff employed by or under contract to the department; and (3) other tasks as directed by the commissioner.]

Sec. 17a-667. Connecticut Alcohol and Drug Policy Council. (a) There is established a Connecticut Alcohol and Drug Policy Council which shall be within the [Office of Policy and Management for administrative purposes only] **Department of Mental Health and Addiction Services.**

(b) The council shall consist of the following members: (1) The Secretary of the Office of Policy and Management, or the secretary's designee; (2) the Commissioners of Children and Families, **Aging**, Consumer Protection, Correction, Education, Higher Education, Mental Health and Addiction Services, Motor Vehicles, Public Health, Emergency Services and Public Protection, Social Services and Transportation and the Insurance Commissioner, or their designees; (3) the Chief Court Administrator, or the Chief Court Administrator's designee; (4) the chairperson of the Board of Pardons and Paroles, or the chairperson's designee; (5) the Chief State's Attorney, or the Chief State's Attorney's designee; (6) the Chief Public Defender, or the Chief Public Defender's designee; and (7) the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to public health, criminal justice and appropriations, or their designees. The Commissioner of Mental Health and Addiction Services and the Commissioner of Children and Families shall be cochairpersons of the council **and shall be authorized to invite individuals from the substance abuse field to participate in Commission meetings.** [The Office of Policy and Management shall, within available appropriations, provide staff for the council.]

(c) The council shall review policies and practices of state agencies and the Judicial Department concerning substance abuse treatment programs, substance abuse prevention services, the referral of persons to such programs and services, and criminal justice sanctions and programs and shall develop and coordinate a state-wide, interagency, integrated plan for such programs and services and criminal sanctions.

Agency Legislative Proposal - 2015 Session

Document Name: 10-1-14 DMHAS Leg. Proposal # 2

An Act Concerning Alternatives to Incarceration

State Agency: DMHAS

Liaison: Doreen Del Bianco
Phone: 860 418 6967
E-mail: Doreen.delbianco@ct.gov

Lead agency division requesting this proposal: DMHAS

Agency Analyst/Drafter of Proposal: Jeremy Wampler, DMHAS Director of Problem Gambling Services

Title of Proposal: An Act Concerning Alternatives to Incarceration

Statutory Reference 53-39a

Proposal Summary : The proposed bill would add “gambling” to the alternative to incarceration treatment services that a court can order.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Disordered Gambling is now recognized in the DSM-V as a behavioral addiction with similar traits and attributes as drug and alcohol disorders. Research shows that alcohol and drug use has a high correlation with persons developing problems with gambling. One in 3 problem gamblers are likely to have problems with alcohol, and 1 in 7 is likely to have problems with other drugs.

The criminal justice system has diversionary programs already in place to deal with persons affected by drug, alcohol, and mental health issues, but currently these programs do not address the role that gambling may play in their addiction and criminal behavior. For individuals who have a gambling problem, in addition to a drug, alcohol, and/or mental health problem, the current diversionary statutes provide no plan to address the gambling problem. This is of particular interest because in the criminal offender population, the rate of problem gambling is 10x that of the general population.

In our country, Connecticut is unique because of dedicated funding, and competent, professional treatment providers already in place to provide training, support and prevention services to existing diversionary programs. Providing treatment for gambling addictions as an adjunct to other diversionary services increases the likelihood of lowering recidivism rates for the offender population in our state. We have the capability to offer services to this population now and could be a valuable referral source for other programs in the state.

Gambling treatment programs have seen an increase in clients that have criminal justice involvement due to their gambling. The estimated cost of incarceration in CT is \$56,000/yr., whereas, the cost of treatment for disordered gambling, according to the National Council on Problem Gambling, is about \$7500/yr. Courts have handed down stiff sentences in some of these cases. Many of these clients are first time offenders and would have been eligible for diversionary sentencing if their addiction had been to drug and/or alcohol instead of gambling. To close this gap in the services offered by the State of Connecticut, we would like to see the statutes include “gambling”.

- **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (5) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (6) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (7) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (8) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Judicial Branch Agency Contact (name, title, phone): Deb Fuller Date Contacted: ongoing Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) NA
State Problem Gambling Services is a DMHAS funded program and our review indicates that no additional funding would be required from judicial or any other State agencies. Since many problem gambling clients are gainfully employed, they will be able to continue to contribute to paying taxes, while also paying restitution for financial-based offences.
Federal Since many problem gambling clients are gainfully employed, they will be able to continue to contribute to paying taxes, while also repaying restitution for financial-based offences.
Additional notes on fiscal impact As stated previously, the estimated cost of incarceration in CT is \$56,000/yr., whereas, the cost of treatment for disordered gambling, according to the National Council on Problem Gambling, is about \$7500/yr. Additionally, by having an alternative to incarceration option for problem gamblers, as many are employed at the point of incarceration, they will have the ability to remain gainfully employed for financial restitution purposes. Whereas, under the current system, they are incarcerated, stripped of their livelihood, and then struggle to recover gainful employment and pay restitution.

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Sec. 53a-39a would be impacted by having additional gambling informed questions integrated into the existing assessment packet. Additional training on prevalence, impact, co-occurring disorders and screening related to problem gambling would be required for individuals responsible for the alternative to incarceration program assessment process. Problem Gambling Services would provide all necessary ongoing support and ongoing training to facilitate the process, in order to reduce financial impact and to remain a collaborative partner.

Problem Gambling Services, through existing contracts with area non-profits, has the infrastructure to provide gambling-specific treatment of all levels (education to at-risk to disordered gambling) to clients and their families. Through these existing collaborations, Problem Gambling Services and contracted agencies would support Judicial in providing necessary services as indicated at no additional cost to Judicial or the State of CT.

Insert fully drafted bill here

Sec. 53a-39a. Alternate incarceration program. (a) In all cases where a defendant has been convicted of a misdemeanor or a felony, other than a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any other offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, after trial or by a plea of guilty without trial, and a term of imprisonment is part of a stated plea agreement or the statutory penalty provides for a term of imprisonment, the court may, in its discretion, order an assessment for placement in an alternate incarceration program under contract with the Judicial Department. If the Court Support Services Division recommends placement in an alternate incarceration program, it shall also submit to the court a proposed alternate incarceration plan. Upon completion of the assessment, the court shall determine whether such defendant shall be ordered to participate in such program as an **alternative to incarceration**. If the court determines that the defendant shall participate in such program, the court shall suspend any sentence of imprisonment and shall make participation in the alternate incarceration program a condition of probation as provided in section 53a-30.

(b) An alternate incarceration program includes, but shall not be limited to, an intensive probation program, any community service program approved by the Chief Court Administrator and any residential or nonresidential program approved by the Chief Court Administrator which provides care, supervision and supportive services such as employment, psychiatric and psychological evaluation and counseling, **gambling** and drug and alcohol dependency treatment. Any defendant placed in an alternate incarceration program shall comply with any other conditions of probation ordered by the court or required by the Court Support Services Division, as provided in subsections (a) and (b) of section 53a-30.

Agency Legislative Proposal - 2015 Session

Document Name: 10-1-14 DMHAS Legislative Proposal # 3
An Act Concerning the Pretrial Drug Education Program

State Agency: Department of Mental Health and Addiction Services

Liaison: Doreen Del Bianco
Phone: 860 418 6967
E-mail:

Lead agency division requesting this proposal: DMHAS

Agency Analyst/Drafter of Proposal: Loel Meckel Asst. Director, Division of Forensic Services DMHAS

Title of Proposal: An Act Concerning the Pretrial Drug Education Program

Statutory Reference 54-56i

Proposal Summary: makes a very technical change to pretrial drug education program statute (changes "weeks" to "sessions").

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (5) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (6) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (7) *Have certain constituencies called for this action?*
- (8) *What would happen if this was not enacted in law this session?*

We would like to have the option to conduct the alcohol education and drug education groups twice a week in addition to the current once a week. This change would also help make the program more cost effective for the providers and meet the needs of clients who may prefer to attend twice per week. The Judicial branch agrees with this proposal and we can do it without a legislative change to the pretrial alcohol education statute since it refers to 10 or 15 "sessions" as opposed to the pretrial drug education statute that refers to "weeks."

- **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (9) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (10) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (11) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (12) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Judicial Branch

Agency Contact (name, title, phone): Gary Roberge

Date Contacted:

Approve of Proposal YES ___ NO ___ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ___ YES ___X___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

State: Change makes program more costs effective for providers of the service.

Federal:

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Insert fully drafted bill here

Sec. 54-56i. Pretrial drug education and community service program. (a) There is established a pretrial drug education and community service program for persons charged with a violation of section 21a-267, 21a-279 or 21a-279a. The drug education and community service program shall include a fifteen-~~week~~session drug education program and a substance abuse treatment program of not less than fifteen sessions, and the performance of community service.

(b) Upon application by any such person for participation in such program and payment to the court of an application fee of one hundred dollars and a nonrefundable evaluation fee of one hundred fifty dollars, the court shall, but only as to the public, order the court file sealed. A person shall be ineligible for participation in such pretrial drug education and community service program if such person has twice previously participated in (1) the pretrial drug education program established under the provisions of this section in effect prior to October 1, 2013, (2) the community service labor program established under section 53a-39c, (3) the drug education and community service program established under this section, or (4) any of such programs, except that the court may allow a person who has twice previously participated in such programs to participate in the pretrial drug education and community service program one additional time, for good cause shown. The evaluation and application fee imposed under this subsection shall be credited to the pretrial account established under section 54-56k.

(c) The court, after consideration of the recommendation of the state's attorney, assistant state's attorney or deputy assistant state's attorney in charge of the case, may, in its discretion, grant such application. If the court grants such application, the court shall refer such person (1) to the Court Support Services Division for confirmation of the eligibility of the applicant, (2) to the Department of Mental Health and Addiction Services for evaluation and determination of an appropriate drug education or substance abuse treatment program for the first or second time such application is granted, and (3) to a state-licensed substance abuse treatment program for evaluation and determination of an appropriate substance abuse treatment program for the third time such application is granted, except that, if such person is a veteran, the court may refer such person to the Department of Veterans' Affairs or the United States Department of Veterans Affairs, as applicable, for any such evaluation and determination. For the purposes of this subsection and subsection (d) of this section, "veteran" means any person who was discharged or released under conditions other than dishonorable from active service in the armed forces as defined in section 27-103.

(d) (1) (A) Upon confirmation of eligibility and receipt of the evaluation and determination required under subsection (c) of this section, such person shall be placed in the drug education and community service program and referred by the Court Support Services Division for the purpose of receiving appropriate drug education services or substance abuse treatment program services, as recommended by the evaluation conducted pursuant to subsection (c) of this section and ordered by the court, to the Department of Mental Health and Addiction Services or to a state-licensed substance abuse treatment program for placement in the appropriate drug education or substance abuse treatment program, except that, if such person is a veteran, the division may refer such person to the Department of Veterans' Affairs or the United States Department of Veterans Affairs, subject to the provisions of subdivision (2) of this subsection.

(B) Persons who have been granted entry into the drug education and community service program for the first time shall participate in either a fifteen-[week]session drug education program or a substance abuse treatment program of not less than fifteen sessions, as ordered by the court on the basis of the evaluation and determination required under subsection (c) of this section. Persons who have been granted entry into the drug education and community service program for the second time shall participate in either a fifteen-[week]session drug education program or a substance abuse treatment program of not less than fifteen sessions, as ordered by the court based on the evaluation and determination required under subsection (c) of this section. Persons who have been granted entry into the drug education and community service program for a third time shall be referred to a state-licensed substance abuse program for evaluation and participation in a course of treatment as ordered by the court based on the evaluation and determination required under subsection (c) of this section.

(C) Persons who have been granted entry into the drug education and community service program shall also participate in a community service program administered by the Court Support Services Division pursuant to section 53a-39c. Persons who have been granted entry into the drug education and community service program for the first time shall participate in the community service program for a period of five days. Persons who have been granted entry into the drug education and community service program for the second time shall participate in the community service program for a period of fifteen days. Persons who have been granted entry into the drug education and community service program for a third or additional time shall participate in the community service program for a period of thirty days.

(D) Placement in the drug education and community service program pursuant to this section shall not exceed one year. Persons receiving substance abuse treatment program services in accordance with the provisions of this section shall only receive such services at state-licensed substance abuse treatment program facilities that are in compliance with all state standards governing the operation of such facilities, except that, if such person is a veteran, such person may receive services from facilities under the supervision of the Department of Veterans' Affairs or the United States Department of Veterans Affairs, subject to the provisions of subdivision (2) of this subsection.

(E) Any person who enters the drug education and community service program shall agree: (i) To the tolling of the statute of limitations with respect to such crime; (ii) to a waiver of such person's right to a speedy trial; (iii) to complete participation in the drug education and community service program, as ordered by the court; (iv) to commence participation in the drug education and community service program not later than ninety days after the date of entry of the court order unless granted a delayed entry into the program by the court; and (v) upon completion of participation in the drug education and community service program, to accept (I) placement in a treatment program upon the recommendation of a provider under contract with the Department of Mental Health and Addiction Services or a provider under the supervision of the Department of Veterans' Affairs or the United States Department of Veterans Affairs, or (II) placement in a treatment program that has standards substantially similar to, or higher than, a program of a provider under contract with the Department of Mental Health and Addiction Services, if the Court Support Services Division deems it appropriate.

(2) The Court Support Services Division may only refer a veteran to the Department of Veterans' Affairs or the United States Department of Veterans Affairs for the receipt of services

under the program if (A) the division determines that such services will be provided in a timely manner under standards substantially similar to, or higher than, standards for services provided by the Department of Mental Health and Addiction Services under the program, and (B) the applicable department agrees to submit timely program participation and completion reports to the division in the manner required by the division.

(e) If the Court Support Services Division informs the court that such person is ineligible for the program and the court makes a determination of ineligibility or if the program provider certifies to the court that such person did not successfully complete the assigned program and such person did not request, or the court denied, reinstatement in the program under subsection (i) of this section, the court shall order the court file to be unsealed, enter a plea of not guilty for such person and immediately place the case on the trial list.

(f) If such person satisfactorily completes the assigned program, such person may apply for dismissal of the charges against such person and the court, on reviewing the record of such person's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If such person does not apply for dismissal of the charges against such person after satisfactorily completing the assigned program, the court, upon receipt of the record of such person's participation in such program submitted by the Court Support Services Division, may on its own motion make a finding of such satisfactory completion and dismiss the charges. Upon motion of such person and a showing of good cause, the court may extend the placement period for a reasonable period of time to allow such person to complete the assigned program. A record of participation in such program shall be retained by the Court Support Services Division for a period of ten years from the date the court grants the application for participation in the program.

(g) At the time the court grants the application for participation in the pretrial drug education and community service program, any person ordered to participate in the drug education program shall pay to the court a nonrefundable program fee of six hundred dollars. If the court orders participation in a substance abuse treatment program, such person shall pay to the court a nonrefundable program fee of one hundred dollars and shall be responsible for the costs associated with such program. No person may be excluded from any such program for inability to pay such fee or cost, provided (1) such person files with the court an affidavit of indigency or inability to pay, (2) such indigency or inability to pay is confirmed by the Court Support Services Division, and (3) the court enters a finding thereof. The court may waive all or any portion of such fee depending on such person's ability to pay. If the court finds that a person is indigent or unable to pay for a substance abuse treatment program, the costs of such program shall be paid from the pretrial account established under section 54-56k. If the court denies the application, such person shall not be required to pay the program fee. If the court grants the application, and such person is later determined to be ineligible for participation in such pretrial drug education and community service program or fails to complete the assigned program, the program fee shall not be refunded. All program fees shall be credited to the pretrial account established under section 54-56k.

(h) If a person returns to court with certification from a program provider that such person did not successfully complete the assigned program or is no longer amenable to treatment, the provider, to the extent practicable, shall include a recommendation to the court as to whether placement in a drug education program or placement in a substance abuse

treatment program would best serve such person's needs. The provider shall also indicate whether the current program referral was an initial referral or a reinstatement to the program.

(i) When a person subsequently requests reinstatement into a drug education program or a substance abuse treatment program and the Court Support Services Division verifies that such person is eligible for reinstatement into such program and thereafter the court favorably acts on such request, any person reinstated into the drug education program shall pay a nonrefundable program fee of two hundred fifty dollars, and any person reinstated into a substance abuse treatment program shall be responsible for the costs, if any, associated with being reinstated into the treatment program. Unless good cause is shown, such program fee shall not be waived. All program fees collected in connection with a reinstatement to a drug education program shall be credited to the pretrial account established under section 54-56k. No person shall be permitted more than two program reinstatements pursuant to this subsection.

(j) The Department of Mental Health and Addiction Services shall develop standards and oversee appropriate drug education programs that it administers to meet the requirements of this section and may contract with service providers to provide such programs. The department shall adopt regulations, in accordance with chapter 54, to establish standards for such drug education programs.

(k) Any person whose employment or residence or schooling makes it unreasonable to attend a drug education program or substance abuse treatment program in this state may attend a program in another state that has standards similar to, or higher than, those of this state, subject to the approval of the court and payment of the program fee or costs as provided in this section.