



## Agency Legislative Proposal - 2017 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 11042017\_DMHAS\_Maximum Security Medical Exemption

(If submitting electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Department of Mental Health and Addiction Services

**Liaison:** Mary Kate Mason

**Phone:** (860) 418-6839

**E-mail:** mary.mason@ct.gov

Lead agency division requesting this proposal: Division of Forensic Services

Agency Analyst/Drafter of Proposal: Mary Kate Mason

**Title of Proposal:** Maximum Security Medical Exemption

**Statutory Reference:** 17a-599

**Proposal Summary:**

This will provide statutory authority for DMHAS to transfer a patient under the jurisdiction of the Psychiatric Security Review Board (PSRB) temporarily to a general hospital or less secure environment at CVH while they are being treated for/recovering from serious medical conditions. The PSRB does not have specific statutory authority to approve such a transfer currently, nor does DMHAS. This amendment would explicitly allow DMHAS to make such transfers, including requiring that DMHAS gives notice to the PSRB.

### 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?*

Some medical equipment that is necessary for convalescing is prohibited in the maximum security units for staff and patient safety. Patients that do not need to be on a medical unit in a general hospital may still be too physically frail to receive care on the maximum security unit. Patients once physically able will be returned to maximum security. The existing statute is silent related to acquittee transfers to a general hospital for medical care and this proposal addresses this as well. The PSRB population is aging, so this issue will occur with increasing frequency in the future.



**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 was not raised by Judiciary in previous session

**PROPOSAL IMPACT**

**AGENCIES AFFECTED** (please list for each affected agency)

<b>Agency Name:</b> Psychiatric Security Review Board <b>Agency Contact (name, title, phone):</b> Ellen Lachance, Executive Director, (860) 566-1441 <b>Date Contacted:</b> 11/02/2016  Approve of Proposal <input checked="" type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b> <input checked="" type="checkbox"/> <b>Talks Ongoing</b>
<b>Summary of Affected Agency’s Comments</b> The PSRB is in support of the proposal
Will there need to be further negotiation? <input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>

**FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation) Click here to enter text.
<b>State</b> There is no fiscal impact
<b>Federal</b> Click here to enter text.
<b>Additional notes on fiscal impact</b> Click here to enter text.



◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Allows for transfer for medical treatment of an acquittee under the supervision of the Psychiatric Security Review Board to an environment that maintains custody of the acquittee while ensuring safety of the acquittee

**Insert fully drafted bill here**

**Section 1. Section 17a-599 of the general statutes is repealed and the following is substituted in lieu thereof (effective upon passage)**

- (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) Any acquittee requiring confinement under conditions of maximum security pursuant to subsection (a) and requiring medical treatment unavailable in the maximum security environment or because such treatment would constitute a safety hazard to the acquittee or others, including, but not limited to, the use of certain medical equipment or material, may be transferred by such hospital or said commissioner to a facility that can provide such care, provided that (1) conditions of custody equivalent to conditions of maximum security are maintained; (2) such hospital or said commissioner provides immediate written justification to the board upon such transfer; and (3) such acquittee is transferred back to such hospital or said commissioner once the medical treatment of the acquittee is complete.



## Agency Legislative Proposal - 2017 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): [Click here to enter text.](#)

**11042017\_DMHAS\_PAEP**

(If submitting electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Department of Mental Health and Addiction Services

**Liaison:** Mary Kate Mason

**Phone:** (860)418-6839

**E-mail:** mary.mason@ct.gov

Lead agency division requesting this proposal: Division of Forensic Services

Agency Analyst/Drafter of Proposal: Mary Kate Mason

**Title of Proposal:** An Act Concerning the Pretrial Alcohol Education Program

**Statutory Reference:** 54-56g

**Proposal Summary:**

The Pretrial Alcohol Education Program (PAEP) statute 54-56g requires only 12 sessions if treatment is ordered while the Drug Education statute was changed to 15 sessions if treatment is ordered by PA-13-159. We propose that 54-56g(b) be modified to require 15 sessions of Treatment. We also propose to expand the option for treatment to include co-occurring disorders treatment programs because an increasing number of participants are being identified who need treatment for both substance use and mental health disorders. Co-occurring (aka dual diagnosis) disorders treatment is the best service for these participants. 3) Add “state-licensed” where it is missing from some references to treatment. To ensure that participants ordered to “treatment” are provided the best care they should be referred to a state-licensed program.

### 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?*

1) This change will allow for additional treatment sessions, making it consistent with pretrial drug education program. Evidence exists that supports that longer treatment achieves better outcomes. 2) This will allow appropriate services for the increasing number of participants who being are identified as needing treatment for both substance use and mental health disorders. 3) This makes language consistent throughout regarding placement in a “state-licensed” program.



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◇ **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?*

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**PROPOSAL IMPACT**

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

**Agency Name:** Judicial Branch  
**Agency Contact (name, title, phone):** Doreen DelBianco, Deputy Director of External Affairs, (860) 757-2270  
**Date Contacted:** 10/31/2017

Approve of Proposal     **YES**     **NO**     **Talks Ongoing**

**Summary of Affected Agency’s Comments**

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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 fiscal impact

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**State**  
 A minority of participants are ordered to treatment. Increasing the number of required sessions from 12 to 15 will increase costs for those using Medicaid or the very small number who are found indigent by the court. Costs for those that are found to be indigent are paid



from the Pretrial Account into which participants' court fees are deposited. We anticipate there will be enough fees deposited in the Pretrial account to cover these costs. Co-occurring treatment would be paid for with Medicaid, private insurance or the pretrial account. Co-occurring treatment would not incur any new costs to the state.

No fiscal impact

**Federal**

No fiscal impact

**Additional notes on fiscal impact**

[Click here to enter text.](#)

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

The research on substance abuse treatment shows that the longer a person remains in treatment the more likely they are to remain substance free. Research also shows that the success rate of mandated clients is similar to voluntary clients. 15 sessions exceeds duration of the most common criminal justice programs but in the treatment field this number of sessions would not be considered sufficient for a person with an alcohol/drug dependence or mental illness. Group sessions are more effective than individual sessions so referrals for treatment are frequently to group treatment rather than individual sessions. Therapy groups usually are shorter than the 1.5 hour Alcohol or Drug Education Program (AEP/DEP) Groups. Research on first time DUI offenders shows that a considerable number have diagnosable substance use disorders and need an extended period of treatment and support. Research also shows that untreated mental health issues increase the risk of a second DUI. Unlike the AEP/DEP groups, insurance will pay for formal treatment. If a person does not have insurance and can't self-pay the court can find them indigent and either the substance abuse treatment agency will help them apply for Medicaid or DMHAS funds will pay for the service.

**Insert fully drafted bill here**

**Sec. 54-56g. Pretrial alcohol education program.** (a)(1) There shall be a pretrial alcohol education program for persons charged with a violation of section 14-227a, 14-227g, 15-133 or 15-140n. 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 dollars, the court shall, but only as to the public, order the court file sealed, provided such person states under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under penalties of perjury that: (A) If such person is charged with a violation of section 14-227a, 14-227g, subsection (d) of section 15-133 or section 15-140n, such person has not had such program invoked in such person's behalf within the preceding ten years for a violation of section 14-227a, 14-227g,



subsection (d) of section 15-133 or section 15-140n, (B) such person has not been convicted of a violation of section 53a-56b or 53a-60d, a violation of subsection (a) of section 14-227a before, on or after October 1, 1981, a violation of subdivision (1) or (2) of subsection (a) of section 14-227a on or after October 1, 1985, or a violation of section 14-227g, (C) such person has not been convicted of a violation of section 15-132a, subsection (d) of section 15-133, section 15-140l or section 15-140n, (D) such person has not been convicted in any other state at any time of an offense the essential elements of which are substantially the same as section 53a-56b, 53a-60d, 15-132a, 15-140l or 15-140n or subdivision (1) or (2) of subsection (a) of section 14-227a or subsection (d) of section 15-133, and (E) notice has been given by such person, by registered or certified mail on a form prescribed by the Office of the Chief Court Administrator, to each victim who sustained a serious physical injury, as defined in section 53a-3, which was caused by such person's alleged violation, that such person has applied to participate in the pretrial alcohol education program and that such victim has an opportunity to be heard by the court on the application.

(2) The court shall provide each such victim who sustained a serious physical injury an opportunity to be heard prior to granting an application under this section. Unless good cause is shown, a person shall be ineligible for participation in such pretrial alcohol education program if such person's alleged violation of section 14-227a or 14-227g or subsection (d) of section 15-133 caused the serious physical injury, as defined in section 53a-3, of another person.

(3) The application fee imposed under this subsection shall be credited to the Criminal Injuries Compensation Fund established under section 54-215. The evaluation fee imposed under this subsection shall be credited to the pretrial account established under section 54-56k.

(b) 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 to the Court Support Services Division for assessment and confirmation of the eligibility of the applicant and to the Department of Mental Health and Addiction Services for evaluation. The Court Support Services Division, in making its assessment and confirmation, may rely on the representations made by the applicant under oath in open court with respect to convictions in other states of offenses specified in subsection (a) of this section. Upon confirmation of eligibility and receipt of the evaluation report, the defendant shall be referred to the Department of Mental Health and Addiction Services by the Court Support Services Division for placement in an appropriate alcohol intervention program for one year, or be



placed in a state-licensed substance abuse treatment program [or state-licensed co-occurring disorders treatment program](#). The alcohol intervention program shall include a ten-session intervention program and a fifteen-session intervention program. Any person who enters the pretrial alcohol education program shall agree: (1) To the tolling of the statute of limitations with respect to such crime, (2) to a waiver of such person's right to a speedy trial, (3) to complete ten or fifteen counseling sessions in an alcohol intervention program or successfully complete a substance abuse treatment program [or co-occurring disorders treatment program](#) of not less than ~~twelve~~ [fifteen](#) sessions pursuant to this section dependent upon the evaluation report and the court order, (4) to commence participation in an alcohol intervention program or substance abuse treatment program [or co-occurring disorders treatment program](#) not later than ninety days after the date of entry of the court order unless granted a delayed entry into a program by the court, (5) upon completion of participation in the alcohol intervention program, to accept placement in a [or state-licensed](#) substance abuse treatment program [or or state-licensed co-occurring disorders treatment program](#) upon the recommendation of a provider under contract with the Department of Mental Health and Addiction Services pursuant to subsection (f) of this section or placement in a state-licensed substance abuse treatment program [or state-licensed co-occurring disorders treatment program](#) which meets standards established by the Department of Mental Health and Addiction Services, if the Court Support Services Division deems it appropriate, and (6) if ordered by the court, to participate in at least one victim impact panel. The suspension of the motor vehicle operator's license of any such person pursuant to section 14-227b shall be effective during the period such person is participating in the pretrial alcohol education program, provided such person shall have the option of not commencing the participation in such program until the period of such suspension is completed. If the Court Support Services Division informs the court that the defendant is ineligible for such program and the court makes a determination of ineligibility or if the program provider certifies to the court that the defendant did not successfully complete the assigned program or is no longer amenable to treatment and such person does not request, or the court denies, program reinstatement under subsection (e) of this section, the court shall order the court file to be unsealed, enter a plea of not guilty for such defendant and immediately place the case on the trial list. If such defendant satisfactorily completes the assigned program, such defendant may apply for dismissal of the charges against such defendant and the court, on reviewing the record of the defendant's participation in such program submitted by the Court Support Services Division and on finding such satisfactory completion, shall dismiss the charges. If the defendant does not apply for dismissal of the charges against such defendant after satisfactorily completing the assigned program the court, upon receipt of the record of the defendant'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 the





defendant and a showing of good cause, the court may extend the one-year placement period for a reasonable period for the defendant 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 such program. The Court Support Services Division shall transmit to the Department of Motor Vehicles a record of participation in such program for each person who satisfactorily completes such program. The Department of Motor Vehicles shall maintain for a period of ten years the record of a person's participation in such program as part of such person's driving record. The Court Support Services Division shall transmit to the Department of Energy and Environmental Protection the record of participation of any person who satisfactorily completes such program who has been charged with a violation of the provisions of subsection (d) of section 15-133 or section 15-140n. The Department of Energy and Environmental Protection shall maintain for a period of ten years the record of a person's participation in such program as a part of such person's boater certification record.

(c) At the time the court grants the application for participation in the pretrial alcohol education program, such person shall also pay to the court a nonrefundable program fee of three hundred fifty dollars if such person is ordered to participate in the ten-session intervention program and a nonrefundable program fee of five hundred dollars if such person is ordered to participate in the fifteen-session intervention program. If the court grants the application for participation in the pretrial alcohol education program and such person is ordered to participate in a substance abuse treatment program [or co-occurring disorders treatment program](#), such person shall be responsible for the costs associated with participation in such program. No person may be excluded from either 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. If the court finds that a person is indigent or unable to pay for a treatment program, the costs of such program shall be paid from the pretrial account established under section 54-56k. If the court finds that a person is indigent or unable to pay for an intervention program, the court may waive all or any portion of the fee for such intervention program. 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 alcohol education 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.

(d) 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 a ten-session intervention program, a fifteen-session intervention program or placement in a state-licensed substance abuse treatment program [or state-licensed co-occurring disorders 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.

(e) When a person subsequently requests reinstatement into an alcohol intervention program or a substance abuse treatment program [or co-occurring disorders 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, such person shall pay a nonrefundable program fee of one hundred seventy-five dollars if ordered to complete a ten-session intervention program or two hundred fifty dollars if ordered to complete a fifteen-session intervention program, as the case may be. Unless good cause is shown, such fees shall not be waived. If the court grants a person's request to be reinstated into a [substance abuse treatment program or co-occurring disorders](#) treatment program, such person shall be responsible for the costs, if any, associated with being reinstated into the [substance abuse treatment program or co-occurring disorders](#) treatment program. All program fees collected in connection with a reinstatement to an intervention 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.

(f) The Department of Mental Health and Addiction Services shall contract with service providers, develop standards and oversee appropriate alcohol programs to meet the requirements of this section. Said department shall adopt regulations, in accordance with chapter 54, to establish standards for such alcohol programs. Any person ordered to participate in a [substance abuse treatment program or co-occurring disorders](#) treatment program shall do so at a state-licensed treatment program which meets the standards established by said department. Any defendant whose employment or residence makes it unreasonable to attend an alcohol intervention program or a substance abuse treatment program [or co-occurring disorders treatment program](#) in this state may attend a program in another state which has standards substantially similar to, or higher than, those of this state, subject to the approval of the court and payment of the application, evaluation and program fees and treatment costs, as appropriate, as provided in this section.

(g) The court may, as a condition of granting such application, require that such person participate in a victim impact panel program approved by the Court Support Services Division of the Judicial Department. Such victim impact panel program shall provide a



nonconfrontational forum for the victims of alcohol-related or drug-related offenses and offenders to share experiences on the impact of alcohol-related or drug-related incidents in their lives. Such victim impact panel program shall be conducted by a nonprofit organization that advocates on behalf of victims of accidents caused by persons who operated a motor vehicle while under the influence of intoxicating liquor or any drug, or both. Such organization may assess a participation fee of not more than seventy-five dollars on any person required by the court to participate in such program, provided such organization shall offer a hardship waiver when it has determined that the imposition of a fee would pose an economic hardship for such person.

(h) The provisions of this section shall not be applicable in the case of any person charged with a violation of section 14-227a (1) while operating a commercial motor vehicle, as defined in section 14-1, or (2) who holds a commercial driver's license or commercial driver's instruction permit at the time of the violation.



## Agency Legislative Proposal - 2017 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): [Click here to enter text.](#)

**11042016\_DMHAS\_PDEP**

(If submitting electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Department of Mental Health and Addiction Services

**Liaison:** Mary Kate Mason

**Phone:** (860) 418-6839

**E-mail:** mary.mason@ct.gov

Lead agency division requesting this proposal: Division of Forensic Services

Agency Analyst/Drafter of Proposal: Mary Kate Mason

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

**Statutory Reference:** 54-56i

**Proposal Summary:**

Expand the option for treatment to include co-occurring mental health and substance use disorders treatment programs because an increasing number of participants are being identified who need treatment for both issues. Co-occurring (aka dual diagnosis) disorders treatment is the best service for these participants. The proposal also adds “state-licensed” where it is missing from some references to treatment. This will ensure that participants ordered to “treatment” are provided the best care they should be referred to a state-licensed program.

### 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?*

1) An increasing number of participants charged with DUI are being identified as needing treatment for both substance use and mental health disorders. 2) This makes language consistent throughout regarding placement in a “state-licensed” program.

◇ **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?

Click here to enter text.

### PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

**Agency Name:** Judicial Branch

**Agency Contact (name, title, phone):** Doreen DelBianco, Deputy Director of External Affairs, (860) 757-2270

**Date Contacted:** 10/31/2017

Approve of Proposal     YES     NO     **Talks Ongoing**

**Summary of Affected Agency's Comments**

Had conversation, sent written proposal

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)  
none

**State**

A minority of participants are ordered to treatment. Increasing the number of required sessions from 12 to 15 will increase costs for those using Medicaid or the very small number who are found indigent by the court. Costs for those that are found to be indigent are paid from the Pretrial Account into which participants' court fees are deposited. We anticipate there will be enough fees deposited in the Pretrial account to cover these costs. Co-occurring treatment would be paid for with Medicaid, private insurance or the pretrial account. Co-occurring treatment would not incur any new costs to the state.



**Federal**

none

**Additional notes on fiscal impact**

Click here to enter text.

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Research on first time DUI offenders shows that untreated mental health issues increase the risk of a second DUI.

**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 pretrial drug education and community service program shall include a fifteen-session drug education program, [\[and\]](#) a substance abuse treatment program, [and a co-occurring disorders 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 pretrial 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 [state-licensed](#) substance abuse treatment program [or state-licensed co-occurring disorders treatment program](#) for the first or second time such application is granted, and (3) to a



state-licensed substance abuse treatment program [or state-licensed co-occurring disorders treatment program](#) for evaluation and determination of an appropriate substance abuse treatment program [or state-licensed co-occurring disorders 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 pretrial 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 [or co-occurring disorders 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 [or state-licensed co-occurring disorders treatment program](#) for placement in the appropriate drug education or substance abuse treatment program [or co-occurring disorders 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 pretrial drug education and community service program for the first time shall participate in either a fifteen-session drug education program or a [state-licensed](#) substance abuse treatment program [or state-licensed co-occurring disorders 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 pretrial drug education and community service program for the second time shall participate in either a fifteen-session drug education program or a [state-licensed](#) substance abuse treatment program [or state-licensed co-occurring disorders 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 pretrial drug education and community service program for a third time shall be referred to a state-licensed substance abuse program [or state-licensed co-occurring disorders treatment 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 pretrial 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 pretrial 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 pretrial 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 pretrial 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 pretrial drug education and community service program pursuant to this section shall not exceed one year. Persons receiving substance abuse treatment program [or co-occurring disorders treatment program](#) services in accordance with the provisions of this section shall only receive such services at state-licensed substance abuse treatment program [or state-licensed co-occurring disorders 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 pretrial 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 pretrial drug education and community service program, as ordered by the court; (iv) to commence participation in the pretrial 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 pretrial 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 such 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 [or co-occurring disorders 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 [or co-occurring disorders 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 [or co-occurring disorders 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 [or co-occurring disorders 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 such drug education program shall pay a nonrefundable program fee of two hundred fifty dollars, and any person reinstated into a substance abuse treatment program [or co-occurring disorders 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 [or co-occurring disorders 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.



## Agency Legislative Proposal - 2017 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 11042016\_DMHAS\_Professional Assistance

(If submitting electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Department of Mental Health and Addiction Services

**Liaison:** Mary Kate Mason

**Phone:** (860) 418-6839

**E-mail:** mary.mason@ct.gov

Lead agency division requesting this proposal: Office of the Commissioner

Agency Analyst/Drafter of Proposal: Mary Kate Mason

**Title of Proposal:** An Act Concerning Revisions to Professional Assistance Program for Regulated Professionals

**Statutory Reference:** Sec. 19a-12e. Petition re inability of health care professional to practice with reasonable skill or safety. Report re arrest or disciplinary action. Investigation. Disclosure. Procedure.

**Proposal Summary:**

Repeal language in sec 19a-12e(d) This language is discriminatory to people with mental illness, but may also be objectionable on constitutional grounds as it has a negative effect on healthcare professionals merely for being arrested for certain crimes, not convicted of them.

### 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?*

The law provides that a petition can be filed by anyone when there is any information that appears to show that a health care professional is, or may be, unable to practice his or her profession with reasonable skill or safety. An arrest arising out of an allegation of the possession, use, prescription for use or distribution of a controlled substance or legend drug or alcohol or being diagnosed with a mental illness or behavioral or emotional disorder does not show that a person cannot safely practice his or her profession. This language appears to be based on the discriminatory belief that individuals with a mental health diagnosis cannot function at the same level of those who are undiagnosed.



◇ **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?

[Click here to enter text.](#)

**PROPOSAL IMPACT**

◇ **AGENCIES AFFECTED** (please list for each affected agency)

**Agency Name:** Department of Public Health  
**Agency Contact (name, title, phone):** Brie Wolf, (860) 509-7246, Jill Kennedy (860) 509-7280  
**Date Contacted:** 9/2016

Approve of Proposal     **YES**     **NO**     **Talks Ongoing**

**Summary of Affected Agency’s Comments**  
DPH has reviewed the information and is supportive of this proposal

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)  
[Click here to enter text.](#)

**State**  
No fiscal impact

**Federal**  
[Click here to enter text.](#)

**Additional notes on fiscal impact**  
[Click here to enter text.](#)



◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

none

**Insert fully drafted bill here**

Section 19a-12e of the general statutes is repealed and the following is substituted in lieu thereof:

(a) As used in this section:

(1) “Health care professional” means any person licensed or who holds a permit pursuant to chapter 372, 373, 375 to 378, inclusive, 379 to 381a, inclusive, 383 to 385, inclusive, 398 or 399;

(2) “Assistance program” means the program established pursuant to section 19a-12a to provide education, prevention, intervention, referral assistance, rehabilitation or support services to health care professionals who have a chemical dependency, emotional or behavioral disorder or physical or mental illness; and

(3) “Hospital” has the same meaning as provided in section 19a-490.

(b) (1) Any health care professional or hospital shall, and any other person may, file a petition when such health care professional, hospital or person has any information that appears to show that a health care professional is, or may be, unable to practice his or her profession with reasonable skill or safety for any of the following reasons: (A) Physical illness or loss of motor skill, including, but not limited to, deterioration through the aging process; (B) emotional disorder or mental illness; (C) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (D) illegal, incompetent or negligent conduct in the practice of the profession of the health care professional; (E) possession, use, prescription for use or distribution of controlled substances or legend drugs, except for therapeutic or other medically proper purposes; (F) misrepresentation or concealment of a material fact in the obtaining or reinstatement of a license to practice the profession of the health care professional; or (G) violation of any provision of the chapter of the general statutes under which the health care professional is licensed or any regulation established under such chapter.

(2) A health care professional or hospital shall, and any other person may, file a petition described in this subsection not later than thirty days after obtaining information to support



such petition. Each petition shall be filed with the Department of Public Health on forms supplied by the department, shall be signed and sworn and shall set forth in detail the matters complained of.

(c) Any health care professional or hospital that refers a health care professional for intervention to the assistance program shall be deemed to have satisfied the obligations imposed on the health care professional or hospital pursuant to this section with respect to a health care professional's inability to practice with reasonable skill or safety due to chemical dependency, emotional or behavioral disorder or physical or mental illness.

[(d) A health care professional who has been the subject of an arrest arising out of an allegation of the possession, use, prescription for use or distribution of a controlled substance or legend drug or alcohol or diagnosed with a mental illness or behavioral or emotional disorder shall, not less than thirty days after such arrest or diagnosis, notify the Department of Public Health. The health care professional shall be deemed to satisfy this obligation if the health care professional seeks intervention with the assistance program.]

[(e)](d) A health care professional shall report to the department any disciplinary action similar to an action specified in subsection (a) of section 19a-17 taken against the health care professional by a duly authorized professional disciplinary agency of any state, the District of Columbia, a United States possession or territory or a foreign jurisdiction, not later than thirty days after such action. Failure to report in accordance with the provisions of this subsection may constitute a ground for disciplinary action under section 19a-17.

[(f)] (e) No health care professional, hospital or person filing a petition in accordance with the provisions of this section or providing information to the department or the assistance program shall, without a showing of malice, be liable for damage or injury to the health care professional. The assistance program shall not be liable for damage or injury to the health care professional without a showing of malice.

[(g)](f) The department shall investigate each petition filed pursuant to this section in accordance with the provisions of subdivisions (10) and (11) of subsection (a) of section 19a-14, to determine if probable cause exists to issue a statement of charges and to institute proceedings against the health care professional under subsection (j) of this section. Such investigation shall be concluded not later than eighteen months after the date the petition is filed with the department and, unless otherwise specified by this subsection, the record of such investigation shall be deemed a public record, in accordance with section 1-210, at the conclusion of such eighteen-month period. Any such investigation shall be confidential prior to the conclusion of such eighteen-month period and no person shall disclose his or her knowledge of such investigation to a third party unless the health care professional



requests that such investigation and disclosure be open, except the department shall provide information to the person who filed the petition as provided in subdivision (12) of subsection (a) of section 19a-14. If the department determines that probable cause exists to issue a statement of charges, the entire record of such proceeding shall be public unless the department determines that the health care professional is an appropriate candidate for participation in the assistance program. If at any time subsequent to the filing of a petition and during the eighteen-month period following the filing of the petition, the department makes a finding of no probable cause, the petition and the entire record of such investigation shall remain confidential, except as provided in subdivision (12) of subsection (a) of section 19a-14, unless the health care professional requests that such petition and record be open.

**[(h)] (g)** As part of an investigation of a petition filed pursuant to this section, the department may order the health care professional to submit to a physical or mental examination to be performed by a physician chosen from a list approved by the department. The department may seek the advice of established medical organizations or licensed health professionals in determining the nature and scope of any diagnostic examinations to be used as part of any such physical or mental examination. The chosen physician shall make a written statement of his or her findings.

**[(i)](h)** If the health care professional fails to obey a department order to submit to examination or attend a hearing, the department may petition the superior court for the judicial district of Hartford to order such examination or attendance, and said court or any judge assigned to said court shall have jurisdiction to issue such order.

**[(j)](i)** Subject to the provisions of section 4-182, no license shall be restricted, suspended or revoked by the Department of Public Health, and no health care professional's right to practice shall be limited by the department, until the health care professional has been given notice and opportunity for hearing in accordance with said section.