



## Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): DMHAS1012018DataCollectionRepeal

(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 Streamlining Data Reporting

**Statutory Reference:** 17a-502 Commitment under emergency certificate. Examination of patient. Explanation of rights. Hearing. Private hospitals' notification to commissioner. Immediate discharge of patient. Notification of next of kin. Prohibited commitments to chronic disease hospitals.

**Proposal Summary:**

Repeals unnecessary and burdensome reporting requirement for private psychiatric hospitals

### 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 Department does not collect this data. Providing this data per the associated regulation (17a-183-1 Reporting of Statistics by Private Facilities) would be burdensome to the three entities in the state that hold licensure as a private hospital for psychiatric disabilities (Natchaug, Silver Hills, Masonicare). The Department no longer has the staff to complete this task and recommends repeal.

◇ 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:** [Click here to enter text.](#)

**Agency Contact (name, title, phone):** [Click here to enter text.](#)

**Date Contacted:** [Click here to enter text.](#)

Approve of Proposal     YES     NO     Talks Ongoing

**Summary of Affected Agency's Comments**

[Click here to enter text.](#)

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**

[Click here to enter text.](#)

**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)*

It is not the current policy of the Department to collect this data therefore there is no loss to the Department if the section of legislation is repealed. Providers impacted by this section are supportive of the repeal. The department will work towards repeal of the related legislation.

**Insert fully drafted bill here**

Section 1. Section 17a-502 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) Any person who a physician concludes has psychiatric disabilities and is dangerous to himself or others or gravely disabled, and is in need of immediate care and treatment in a hospital for psychiatric disabilities, may be confined in such a hospital, either public or private, under an emergency certificate as hereinafter provided for not more than fifteen days without order of any court, unless a written application for commitment of such person has been filed in a probate court prior to the expiration of the fifteen days, in which event such commitment is continued under the emergency certificate for an additional fifteen days or until the completion of probate proceedings, whichever occurs first. In no event shall such person be admitted to or detained at any hospital, either public or private, for more than fifteen days after the execution of the original emergency certificate, on the basis of a new emergency certificate executed at any time during the person's confinement pursuant to the original emergency certificate; and in no event shall more than one subsequent emergency certificate be issued within fifteen days of the execution of the original certificate. If at the expiration of the fifteen days a written application for commitment of such person has not been filed, such person shall be discharged from the hospital. At the time of delivery of such person to such hospital, there shall be left, with the person in charge thereof, a certificate, signed by a physician licensed to practice medicine or surgery in Connecticut and dated not more than three days prior to its delivery to the person in charge of the hospital. Such certificate shall state the date of personal examination of the person to be confined, which shall be not more than three days prior to the date of signature of the certificate, shall state the findings of the physician relative to the physical and mental condition of the person and the history of the case, if known, and shall state that it is the opinion of the physician that the person examined has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled and is in need of immediate care and treatment in a hospital for psychiatric disabilities. Such physician shall state on such certificate the reasons for his or her opinion.



(b) Any person admitted and detained under this section shall be examined by a physician specializing in psychiatry not later than forty-eight hours after admission as provided in section 17a-545, except that any person admitted and detained under this section at a chronic disease hospital shall be so examined not later than thirty-six hours after admission. If such physician is of the opinion that the person does not meet the criteria for emergency detention and treatment, such person shall be immediately discharged. The physician shall enter the physician's findings in the patient's record.

(c) Any person admitted and detained under this section shall be promptly informed by the admitting facility that such person has the right to consult an attorney, the right to a hearing under subsection (d) of this section, and that if such a hearing is requested or a probate application is filed, such person has the right to be represented by counsel, and that counsel will be provided at the state's expense if the person is unable to pay for such counsel. The reasonable compensation for counsel provided to persons unable to pay shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(d) If any person detained under this section, or his or her representative, requests a hearing, in writing, such hearing shall be held within seventy-two hours of receipt of such request, excluding Saturdays, Sundays and holidays. At such hearing, the person shall have the right to be present, to cross-examine all witnesses testifying, and to be represented by counsel as provided in section 17a-498. The hearing may be requested at any time prior to the initiation of proceedings under section 17a-498. The hearing shall be held by the court of probate having jurisdiction for commitment as provided in section 17a-497, and the hospital shall immediately notify such court of any request for a hearing by a person detained under this section. At the conclusion of the hearing, if the court finds that there is probable cause to conclude that the person is subject to involuntary confinement under this section, considering the condition of the respondent at the time of the admission and at the time of the hearing, and the effects of medication, if any, and the advisability of continued treatment based on testimony from the hospital staff, the court shall order that such person's detention continue for the remaining time provided for emergency certificates or until the completion of probate proceedings under section 17a-498.

**[(e) The person in charge of every private hospital for psychiatric disabilities in the state shall, on a quarterly basis, supply the Commissioner of Mental Health and Addiction Services, in writing with statistics that state for the preceding quarter, the number of**



admissions of type and the number of discharges for that facility. Said commissioner may adopt regulations to carry out the provisions of this subsection.]

[(f)] (e) The superintendent or director of any hospital for psychiatric disabilities shall immediately discharge any patient admitted and detained under this section who is later found not to meet the standards for emergency detention and treatment.

[(g)] (f) Any person admitted and detained at any hospital for psychiatric disabilities under this section shall, upon admission to such hospital, furnish the name of his or her next of kin or close friend. The superintendent or director of such hospital shall notify such next of kin or close friend of the admission of such patient and the discharge of such patient, provided such patient consents, in writing, to such notification of his or her discharge.

[(h)] (g) No person, who a physician concludes has active suicidal or homicidal intent, may be admitted to or detained at a chronic disease hospital under an emergency certificate issued pursuant to this section, unless such chronic disease hospital is certified under Medicare as an acute care hospital with an inpatient prospective payment system excluded psychiatric unit.



## Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): DMHAS10172018EmergencyMed

(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: Forensic Division

Agency Analyst/Drafter of Proposal: Mary Kate Mason

**Title of Proposal:** An Act Concerning Emergency Medication

**Statutory Reference:** 17a-543(b)

**Proposal Summary:**

This proposal would codify existing practice of administration of emergency medication to criminal defendants and clients under C.G.S. Section 54-56d.

### 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?*

There is no clear reference in the C.G. statutes related to the issue of administration of emergency psychiatric medication to criminal defendants and clients committed to a facility of the Department of Mental Health and Addiction Services per C.G.S. Section 54-56d. In emergency situation the current practice is to administer psychiatric medication. This change would codify the ability to do so.

◇ **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)*

|   |
|---|
| <p><b>Agency Name:</b> Click here to enter text.</p> <p><b>Agency Contact (name, title, phone):</b> Click here to enter text.</p> <p><b>Date Contacted:</b> Click here to enter text.</p> <p>Approve of Proposal    <input type="checkbox"/> YES    <input type="checkbox"/> NO    <input type="checkbox"/> Talks Ongoing</p> |
| <p><b>Summary of Affected Agency's Comments</b></p> <p>Click here to enter text.</p>  |
| <p>Will there need to be further negotiation?    <input type="checkbox"/> YES    <input type="checkbox"/> NO</p>  |

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

|   |
|---|
| <p><b>Municipal</b> <i>(please include any municipal mandate that can be found within legislation)</i></p> <p>Click here to enter text.</p> |
| <p><b>State</b></p> <p>Click here to enter text.</p>  |
| <p><b>Federal</b></p> <p>Click here to enter text.</p>  |
| <p><b>Additional notes on fiscal impact</b></p> <p>Click here to enter text.</p>  |

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

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| <p>Click here to enter text.</p> |
|----------------------------------|

**Insert fully drafted bill here**



Section 1. Section 17a-543a is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a)(1)(A) If it is determined by the head of the hospital and two qualified physicians that a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d is incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is deemed to be necessary for the patient's treatment, the facility in which the patient is placed may petition the probate court for the district in which such facility is located for appointment of a special limited conservator with specific authority to consent to the administration of medication, provided an employee of such facility shall not be appointed or serve as the special limited conservator. The provisions of section 45a-649 concerning issuance of a citation and notice, personal service and representation by, appointment of, and compensation of an attorney shall apply to any petition filed under this subsection as if such patient were a respondent under section 45a-649, except that (i) the court shall only be required to issue such citation and notice to the patient, the patient's attorney and any conservator appointed for the patient, and (ii) the court, in its discretion, may order notice as it directs to other persons having an interest in the patient and to such persons the patient requests to be notified. The Probate Court may appoint a special limited conservator with such specific authority pursuant to this subparagraph if the court finds by clear and convincing evidence that the patient is incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is necessary for the patient's treatment. The Probate Court may grant the special limited conservator specific authority to consent to the release of the patient's medical records to such facility if the court finds by clear and convincing evidence that the patient is unwilling or unable to release such records and such records are necessary to make decisions concerning the patient's treatment.

(B) The special limited conservator shall meet with the patient and the physician, review the patient's written record and consider the risks and benefits from the medication, the likelihood and seriousness of adverse side effects, the preferences of the patient, the patient's religious views, and the prognosis with and without medication. After consideration of such information, the special limited conservator shall either consent to the patient receiving medication for the treatment of the patient's psychiatric disabilities or refuse to consent to the patient receiving such medication.

(2) The authority of a special limited conservator to consent to the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine





that the patient continues to be incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is deemed to be necessary for the patient's treatment, the authority of the special limited conservator to consent to the administration of medication may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing upon application by the head of the hospital. Prompt notice of the order shall be given to the patient, special limited conservator and facility.

(3) The reasonable compensation of a special limited conservator appointed under this subsection shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(b) (1) If it is determined by the head of the hospital and two qualified physicians that (A) a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d is capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the facility in which the patient is placed may petition the probate court for the district in which such facility is located to authorize the administration to the patient of medication for the treatment of the patient's psychiatric disabilities, despite the refusal of the patient to consent to such medication. The provisions of section 45a-649 concerning issuance of a citation and notice, personal service and representation by, appointment of, and compensation of an attorney shall apply to any petition filed under this subsection as if such patient were a respondent under section 45a-649, except that (i) the court shall only be required to issue such citation and notice to the patient, the patient's attorney and any conservator appointed for the patient, and (ii) the court, in its discretion, may order notice as it directs to other persons having an interest in the patient and to such persons the patient requests to be notified. The Probate Court may authorize the administration of medication to the patient if the court finds by clear and convincing evidence that (I) the patient is capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (II) there is no less intrusive beneficial treatment, and (III) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm.

(2) An order authorizing the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head



of the hospital and two qualified physicians determine that (A) the patient continues to be capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the order may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing. Prompt notice of the order shall be given to the patient and facility.

(c) Notwithstanding the provisions of this section, if obtaining the consent provided for in this section would cause a medically harmful delay to a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d whose condition is of an extremely critical nature, as determined by personal observation by a physician or the senior clinician on duty, emergency treatment may be provided without consent.

[(c)] (d) Unless there is a serious risk of harm to the patient or others, based upon the patient's past history or current condition, nothing in this section authorizes any form of involuntary medical, psychological or psychiatric treatment of any patient who in the sincere practice of his or her religious beliefs is being treated by prayer alone in accordance with the principles and practices of a church or religious denomination by a duly accredited practitioner or ordained minister, priest or rabbi thereof.

[(d)] (e) Nothing in this section shall be construed to limit the application of sections 45a-644 to 45a-663, inclusive, except as specifically provided in this section.