

Legislative History for Connecticut Act

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## JUDICIARY

February 15, 1977

selves. Now if there are any questions on anything. I doubt whether you have any at this stage.

REP. ABATE: Did any member of the Probate Assembly have, I'm not familiar with the make-up of the Committee, or the Commission (OVERLAPPING CONVERSATION) You didn't have any direct in-put?

JUDGE VON WETTBERG: That was left entirely to Judge Knierim.

REP. ABATE: Judge Knierim of course was your....direct line. Any questions? Any further questions? Thank you very much, Judge. Appreciate it. Judge Kinsella? Thank you, very much. Dr. Pesky?

DR. MICHAEL PESZKE: My full name is Michael Alfred Peszke. I'm a licensed physician, psychiatrist, Associate Professor at the University of Connecticut School of Medicine and I was honored by being asked to Chair the Committee to study the Civil Commitments Statutes by Eric Plaut, Commissioner of Mental Health, and I am here speaking on behalf of the Department of Mental Health.

I would seriously, and earnestly urge the passage of the Committee Bill #7896, which is an Act Concerning Revision of Procedures Governing the Commitment of Mentally Ill Persons, and I would also ask that the raised Committee Bill number 1374 be put into effect. The intent of the second is to postpone the Revised Public Act which was to take effect of the Civil Commitment of the mentally ill on the 1st of March. Since we have submitted a new Bill, which we hope the Judiciary Committee will consider, it would, I think, be very cumbersome to have one Act go into effect the 1st of March, and then another one possibly be implemented very shortly afterwards

REP. ABATE: Doctor, in that connection, I had this question in mind when we considered this Bill earlier. Public Act #76-227 is that particular Act that you're asking the effective date be delayed--

DR. PESZKE: Til the 1st of October, correct.

REP. ABATE: Right. Is the new Bill being worked on a major departure from 76-227? Are there technical amendments or --

DR. PESZKE: There are some very significant amendments and corrections, and it is our impression, the impression of the Committee, which was an anti-disciplinary Committee, that it will be - it will appeal to the individuals who originally passed Act 76-227, and will also appeal to the Judiciary Committee.

REP. ABATE: Any questions? Thank you very much, Dr. Peszke. John Q. Tillson.

JOHN Q. TILLSON: Mr. Chairman, I am John Q. Tillson, a Counselor for the Connecticut Hospital Association, and I am talking about the same

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## JUDICIARY COMMITTEE

February 22, 1977

JUDGE JOY: (Con't.) This is a new and unique idea in Connecticut, as a Probate Judge and an Attorney, I found it very important that some action be taken in this regard. I feel that there are people, and we deal with people each day, who come to us and request the court to give them some help, because they no longer feel that they are able to take care of their own affairs. However, they do not want to admit, or they perhaps are not incompetent under the definition of our present law. We now have the possibility of the court, after considering the reasons why a person might want to have a conservator appointed for themselves, considering who the proposed conservator is, to afford some help to the petitioner on a voluntary basis.

It's also important to note, that that voluntary conservatorship, in accordance with our bill, can be terminated at any time and also, at the request of the person himself. We feel that we've made an important stride to protect all persons who may be alleged to be incompetent, we've given the procedural requirements, which the court must follow, we've given notice requirements, which I think are expanded, we have expanded the class of persons who may make out applications to have a person appointed as a conservator and we've included criminal penalties for any person who might make an application, illeging a person who is incompetent falsely.

With this in mind, I 'd like to again, ask your committee to favorably consider the bill that we have proposed.

REPRESENTATIVE ABATE: Thank you very much, any questions for Judge Joy?

MRS. SMITH: (INAUDIBLE)

JUDGE JOY: Yes, we have left that provision in this law, Yes.

REPRESENTATIVE ABATE: Any other questions? Thank you very much. Is it Judge Vasinick? I'm not sure...Yes.

JUDGE VASINGTON: Ladies and Gentlemen of the committee, my name is Paul Vasington, I'm Judge of Probate for the District of Norwich, also, practicing Attorney, part time. Practicing Attorney that is.

I'm here to speak on bill 7896, the commitment bill, and first let me preface my remarks, by saying that I probably commit more people in the state of Connecticut than any other Judge of Probate.

JUDGE VASINGTON: (Con't.) I offer that to you, because I want you completely understand that my remarks are not intended to continue that record nor to perpetuate the situation, but I read the bill and I feel that although I am infavor of it in principle that there are some suggestions I would make concerning the procedure concerning the hearings and probably ask you to consider, even though I'm not a psychiatrist I just attended a psychiatry and law firm in Miami, to consider in your definition of dangerousness the situation where a persons actions go, the actions of a person who is not dangerous to himself, in the physical sence, may impose emotional danger or emotional situations upon others and by your definition, the definition reads that a person is dangerous to himself or others means that there is a substancial risk, that physical and I include that word in quotes, "physical" harm will be inflicted by the individual upon himself, or her person, her own person, or upon another person. Now, the illustration made in Miami and to which I refer is a person can be halucinating, delusional, can be conducting himself in such a manor that he, although not dangerous to himself, in the physical sence, although hes able to survive in the physical sence he's able to eat and provide shelter and his conduct can create an emotional trauma upon the members of his family, who constantly day in and day out are observing this sort of behavior. Under my interpretation of the law, that person, the other person the members of the family, would have know recourse, with respect to committments, because that person would not fit under the catagory of dangerous, because he would not be inflicting any physical injury upon himself, nor would he be gravely disabled because he would be able to care for himself.

I also, at this time would like, even though it's not in the bill to consider a situation, or have the legislature consider a situation, where a person who maybe of such a mental condition, that mental, medical treatment in a hospital, hospital treatment avails them no good, and yet, they have no recourse on the outside because there are no family willing to take him, they have no place to go, and the law, as I understand it, the right to treatment principle is a very important element of the law today and there are situations where you may have patients, I'm referring now to a senile person, an elderly person who has no family, the family doesn't want them, the convelescent homes won't take them and yet they are not in the real sence of the word mentally ill and as I asked one of our psychiatrists, after his lecture, What do we do with them, do we put them of the front doorstep and then leave them there, and he said, Well, that's the problem.

JUDGE VASINGTON: (Con't.) I think that in the full sence of the situation, the state has to look to the development of the social agencies to provide for people of this type, because the Supreme Court in the Donaldson Case and other cases, has said that if there is no treatment available for these people, they should no be hospitalised.

Now, with respect to procedure, On line, I think is a type-agrafical error, printing error, and if you bare with me a moment I will try to find it, there is a line here dealing with emergency committments, I think it's on line 284, it doesn't, gramatically it's incorrect, it says if such committment is continued under the emergency committment for additional 15 days or until completion of probate proceedings which ever occurs first, now, I presume what is intended there is that is a person is admitted on an emergency commitment they have a 15 day period of time, within which the hospital can hold them without application to a Probate Court. If the application is made within the 15 days, I believe the intent of this legislature, which I would sincerely object to, is that the Probate Court will then have an additional 15 days, within which to process that application.

I seriously urge the legislature to revert back to the additional 30 days for these reasons, If an application is made, at the original hearing the patient is entitled to council, assuming hes indigent, that determination probably will not be made until the first hearing, at that time the patient, assuming he will not sign a voluntary, as you provided for and wants a hearing, will request a council of his choice. Presumably the court, I don't know what other facilities would be available, presumably the court would contact that council to determine whether or not that council wishes to examine, to represent that patient. If council agrees, which is usual, most council don't like to go into a hearing unprepared, he will want time to investigate to check the record and maybe to attempt to obtain an independent psychiatric evaluation of his own.

Normally, once the application is received by the Probate Court, as is required in section 178, the court must assign it not within 10 days, so you can see that the original assignment, after the application is received, will eat up much of that 15 day period. It might be physically impossible to conduct the hearing within that 15 days, with the result that the patient would have to be discharged under the provisions of that statute, if it can be processed within the 15 days.

JUDGE VASINGTON: (Con't.) Further, it disallows council for a patient, the opportunity to ask for a continuence and for the court to grant it, because a continuence will take it outside the 15 day period.

Also, from a practical point of view, you have situations when a hearing is assigned to the hospital who is more interested in the welfare of the patient than the strict court room prodedures, may send that patient home on an extended leave as a prerequisite or precondition to discharge to see how that patient reacts at home. On the day of the hearing, the patient isn't at the hospital, because he is home on leave, What do you do if you limit me, or any Probate Judge to the 15 days. I would point out that I don't know of any injustices that have occurred by permitting the court to have that extra 30 days, as is under the present law, the 45 days in all.

Also, benefit of the 45 days, is many times you'll get a patient and I, as I have had who is, their initial commitment there, and their on the verge of recovering, they don't want the socalled stigma of a Probate Court commitment, we have on many occasions committed, I mean continued these hearings to give the hospital an opportunity to discharge the patient so that there is no committment. Also, you have the situation where the statute provides for less restrictive placement and we have on many occasions provided, or discussed with Social Workers the opportunity to determine whether, or not there are these less restrictive placements available, in other words to check with the family, if it's psychiatrically detremental to send the patient back to the environment from which he came, because it would cause a re-occurrence of this psychiatric problem, to see if there are other members of the family, there other areas that were taken to see whether there are out patient facilities in the town from which he comes, all this is permitted under the time period that we now have. I doubt very much whether it would be permitted under the 15 day limitation that you have imposed in section A, dealing around line 284, so I would seriously suggest your consideration to increase that back up to the 30 days, so that it includes 45 days in all.

Also, I am sure Judge Knierim will talk to you about many of these things, but I would like to, because I, again, was not on that committee, maybe rightfully so, but these are comments that I have concerning the operation of this. Now, you have on line 341, the provision that the person detained under this section may request a hearing, which shall be held within 72 hours of such a request.

JUDGE VASINGTON: (Con't.) I would appreciate it from the courts point of view and this maybe a little bit selfish, that this be changed to read within 72 hours after the court receives notice, you know the hospital may get notice and the hospital may not notify the court, even though the statute provides that the hospital shall immediatly notify the court, if the hospital is delayed or something transpires that causes them not to give me immediate notice, you've cut down my 72 hours and therefore, you get into the situation of battering back and forth, well, who was at fault, did the hospital give me the notice, was it the courts fault that the 72 hours was not complied with?

So, I would sincerely request that be changed to include 72 hours after, within 72 hours after the court receives notice.

On the voluntary admissions, again, that dealing with the 5 days, I think Judge Knierim, referred to that on line 407, 408, he again, he and I disagree on this and I think that it's probably a misunderstanding. He requests that you insert back the 15 days, I would again, request that you go back to that 45 day period, because you run into the same situation here, for example, if a patient is on a voluntary statis and then requests discharge, but the hospital feels that he is still in need of further treatment or confinement at the hospital, they will file an application which then takes the usual course, which requires the assigning within ten days, the appointment of council, council might accept or might reject the appointment, with the result that the court might have to appoint it's own council. When council gets involved they may want to check the records, so I think with all due respect, the statistics have shown that there are no great injustices in the present law, in so far as, the time period of 45 days is concerned.

That time be permitted, I don't know of any court that has delayed it to the 45 days, except in my experience has been that, if a person goes AWOL, we will continue the hearings until the 45th day and then if he hasn't returned we automatically discharge him, but that has been one of the only reasons why we use the 45 days, or as I've indicated, if a person has a good record and doesn't want the committment and there is a strong possibility that he will be discharged within the 45 day period and his Attorney and family have no objection to it, we will continue the hearing until such time.

JUDGE VASINGTON: (Con't.) I would just point out, I don't object to this strongly because I'm not a psychiatrist and I would not have any way of making a determination, but I just feel that the provision of asking every patient to become, if he want to become a voluntary patient at the time of the initial hearing, could create a merry-go-round situation and I point out for example, if a person is dangerous, is, I mean as Judge Knierim pointed out and as many psychiatrists feel that the person who is ill, mentally ill is the last one to admit it and who is the last one who will seek medical attention. The same person knows he hurts and he goes to a doctor. If you get a person who is psychotic and who's dangerous and he asks for, to sign a voluntary immediately upon signing the voluntary he's going to ask for a discharge, the hospital will have to process that within your 5 day period, then if the hospital is on the ball their going to file an application for committment, reassign after a hearing, he has, at which time I then tell him he has the right to sign a voluntary, he signs the voluntary and again, immediatly upon signing the voluntary, he signs a request for discharge and the hospital, again, if they feel that he is dangerous to himself or others will file another request to be discharged, so that you can go around in a circle.

I think that maybe, the idea of the patient signing a voluntary, is not a bad one, but I think maybe, there should be some medical guidance to the court in the determination of whether or not to permit that patient to sign the voluntary at that time.

Gentelmen and ladies, all in all, I think the bill is a good bill, I think it's a step in the right direction, I honestly think, that in time future changes will be required because of the changes in the laws, as provocated by the Supreme Court, the right to treatment, some jurisdictions are now asking, providing that every patient must be given a "meranda" warning, which creates problems on how do you examine a patient who doesn't talk to you, cause I imagine psychiatrist, but these are problems that will come in time. I thank you very much for your attention.

REPRESENTATIVE ABATE: Thank You, Just a minute Judge Vasington, any questions from the members of the committee? Thank you, sir.

JUDGE VASINGTON: Thank You.

REPRESENTATIVE ABATE: Looks like the next name is Doctor John Donnally. Doctor John Donally. Doctor Howard Zonana.

HOWARD ZONANA: Hi, my name is Howard Zonana, I'm a psychiatrist on the faculty at Yale University and I was Chairman of the sub-committee, which reviewed the emergency detention part of the Commitment Bill.

I would like to make some comments, to give some back ground as to what some of the changes and why they were recommended. I also, have been responsible for the emergency room, the psychiatric part of the emergency room at Yale New Haven Hospital, for three to five years and that unit see at least 4 thousand patients a year, just psychiatric patients, and approximately a third to a half of those are hospitalized. I think in general most involuntary patients, whom this bill addresses, are being seen in General Hospital Emergency rooms and detained under the emergency detention, part of the commitment law.

The balance is the need to have adequate care, without undue legal intrusions which might sabotage a treatment relationship balanced with the issue of safeguarding patient rights. So, the balance of that, is some things we're going to loss on and some things we hope to gain on. Now, one of the issues that we have here, which effects us a great deal, I think, is the ambulance course. Right now, a great number of patients who come into emergency rooms admit the need for hospitalization want to go to the hospital, but ambulances won't take volunteer patients to state hospitals, they are concerned about reimbursement for cost, whether of not when the patient gets up there, they will just say that they want to leave.

So, commitment papers are often signed on patients who are truly voluntary, primarily to cover the ambulance costs and ambulance cost being covered in this way for voluntary patients, as well, would Obviate this and we feel this is a very significant section of the bill although it might increase some cost.

The other has to do with the initiation of evaluations. Police increasingly, concerned with issues of civil rights are less willing to transport or take into custody patients whom families are concerned about, who they call the police for and unless they can get some formal criminal charge, Police Departments have been increasingly unwilling to bring people to emergency rooms.

HOWARD ZONANA: (Con't.) They will either arrest them on a minor charge, which then takes them into the criminal system, often ends up we see them end for 5440's, Incompetency to stand trial, which gets them trapped into the wrong system. This bill will allow for Police reasonable cause basis to transport people to General Hospital emergency rooms, where an evaluation can be performed.

The other thing which we have included here, is a more formal statement of state hospital responsibility for seeing that people meet the standards. Physicians who are not psychiatrists can initiate emergency detentions, and this is primarily included because there are areas in the state where there are no psychiatrists and patients who get into difficulty need someone to take the initial steps in order to initiate treatment, but we feel a psychiatric opinion ought to be called in as quickly as possible, to confirm and make the evaluation. This is currently in the law in two separate sections, but we have consolidated here to be sure that the state hospital quickly evaluates someone within 48 hours, to be sure that they meet the standards on a psychiatric basis.

We drop the section that has to do with a patient having a physician of his own choosing, that he can contact, not because we disagree with this, basically, most physicians who learn that a patient has a physician of his own will certainly call that physician as part of the evaluation.

Our feeling was that basically, this right was an illusion for most people, most people who come to emergency rooms at General hospitals don't have physicians of their own, so when you tell them you have the right to a physician, they say well don't have on the hospitals don't provide those physicians and so it ends up being a meaningless right.

Most patients who are also, seen in emergency half the patients are evaluated by internists or surgeons, prior to their being seen by a psychiatrist, I think this just emphasizes or focuses on why we feel the commitment bill as a whole the right to commitment ought to be vested in the hands of physicians. It's, we think that psychologists for example are equally qualified to do psychotherapy, but the kind of evaluation involved in these kinds of settings often are a combination of neurological and medical issues and form ecological issues, which we don't feel ought to be outside the province of medicine and psychiatric issue.

HOWARD ZONANA: (Cont') The standards that the judge talked about before are clearly a compromise. There's no good definition of mental illness, which will encompass all of the people that we would like to in the standards. The dangerousness to enter, is a complicated one psychiatrists embarrassed to admit that we don't predict dangerousness very well.

The need on the other hand, to have some substance of guidelines for courts to go by to review these cases, is also appreciated. That, we may well miss, some people we would like to get, I don't see how we are going to get out of that bind, I think that the time limits are important, I think the 15 day, which we decided to keep alot of states have moved to much shorter times, we feel thats important to do an adaquate workup. 80 percent of the patients who are initially detained on emergency certificates are usually released by the end of that 15 day period and to have Probate committments done at a much sooner time, would increase the number of people who were probated. On the other hand, we feel that 30 days or a total of 45 days without a hearing is to long and that we would like to see that shortened to 30 days, and feel that even though that might put some presure two week time ought to be adaquate initiate a hearing.

The other right that we are emphasizing here which is new is the introduction of A Probable Cause Hearing. This is basically, to weed out the gross abuses in this system, to allow patients who are inappropriately detained to have a more immediate remedy, and a hearing to judicate that.

O.K. I think I'll stop there for questions.

REPRESENTATIVE ABATE: Are there any questions from members of the committee? Doctor Thank you very much, we appreciate you testimony. I had earlier called the name Of Doctor John Donnelly, has he returned to the room? Mr. Crane.

LANCE CRANE: Thank you Mr. Chairman, ladies and gentleman. I too, I'm Lance Crane, I'm an Attorney in New Haven, I'm a member also, of the Department of Psychiatry at Yale, and I too served on the Commissioners' committee, primarily concerned with the emergency committment portions of this bill. I will try and be very brief and try to give you several reasons, why we felt this kind of legislation would be desirable for Connecticut at this time.

LANCE CRANE: (Con't.) We have drafted the bill, first to try and introduce greater clarity into the standards that are incorporated here and into the procedure that would apply to the committment process.

The standard that we are currently living with, speaks of a person being a subject for confinement, in order to be confined. That is for most people in the field, to broad, to discretionary a standard to give reasonable assurance of who ought to be confined in most settings, it's difficult for judges to operate with and it's difficult for psychiatrists to operate with. We've substituted several concepts which we hope will introduce greater clarity, introducing the dangerousness into the concept of civil commitment, as apposed to just emergency commitment, where it has existed until this time and also, introducing the concept of grave disability.

I think also, I should point out that with the emergency committment provisions, as Doctor Zonana has said, when someone is admitted to a facility, they will have to be examined by a psychiatrist within 48 hours, and under our provisions, if the psychiatrist concludes that the person does not need the criteria for committment, the person must be discharged. Under the prior law, if a facility examines someone upon admission and decided that the person was not mentally ill, they had to be discharged, but if the facility decided that they were mentally ill, there was no further review of the question of their fit subject for confinement, so that we have introduced a strict connection to the original committment standard here, for review. So, that for the courts purposes and for the committing physicians purposes we hope the greater clarity will reduce both over committment and abuses in this area.

Second, thing I think that Recommends this legislation, is the question of signaficant patient's rights in the process. The right to an Attorney is clarified, the right to Probable Cause hearing, as you've already heard, the right to be a voluntary patient if one chooses, rather than be committed. At the initiation of the probate process the patient would have to be asked if they would like to be a voluntary patient as the judge from Norwich has indicated, there may be some problems with that, I doubt that it will result in the kind of merry-go-round that was indicated, but I think it's a significant policy to reduce the number of committments where people are willing to be voluntary patients, if their willing to be voluntary patients then the state should not have an interest in confining them, against their will and that would result in some signaficant reduction in stigma we hope.

LANCE CRANE: (Con't) Other significant rights include, the concept of a least restrictive alternative. At the Probate process, if the judge finds that there is an alternative that is less intrusive than removing somebody to a far away in-patient facility, then the court should consider and should have the opportunity for doing more things than either confining him in an in-patient facility or releasing, should have the opportunity to order confinement at a halfway house, to order other kinds of intermediary dispositions.

Finally, I think has been mentioned by Doctor Zonana, there are other reasons for recommending the legislation, based on its ability to reduce artificiality in the process. At this time we have two things that currently produce over commitment in the emergency commitment stage. One, is the question of ambulances, as we've already indicated, Section 205, A&B, result in some over commitment, on an emergency basis, if only to allow somebody to get ambulance transportation to a facility. The price to be transported should not be that you should be identified as an emergency involuntary patient. If somebody is willing to be a voluntary patient, and doesn't have the means to get to the facility, they ought to be allowed to get there under the statute without having to be declared in need of emergency commitment.

The second question, is the question of police officer discretion, we've introduced provisions in Section 7, of this statute, to allow police officers to take people to the emergency room to be evaluated within 24 hours, to see if they need hospitalization. In the past and currently often police officers will feel the need to file charges against someone to justify the detention, where no charges needed to be filed given the nature of the case. If we make it express that the police officers can initiate an emergency evaluation then perhaps we will reduce the number of criminal charges that have to be processed by the criminal system and also, reduce the number of instances where people have had charges filed against him, where it wasn't necessary.

I'm going to stop there, there is a great number of things in the bill and I know there are many other people who would like to talk on it here today. I would certainly respond to any questions that you have.

REPRESENTATIVE ABATE: Thank you very much Mr. Crane. Any questions for members of the committee?

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LANCE CRANE: Thank you.

REPRESENTATIVE ABATE: Yes, just a moment.

LANCE CRANE: Yes.

MRS. SMITH: (INAUDIBLE)

LANCE CRANE: I would believe that the party moving for commitment would have the burden of proof. The party that is, in the case where somebody would be a state facility under the emergency commitment paper, the patient elected to have the probable cause hearing, then I would think the state would have to satisfy the Judge that there was reasonable grounds to hold somebody under the emergency commitment provisions. So, the burden of proof would fall to the state. Or, if it were a private facility, or the family moving for the Probate, it would fall to them.

REPRESENTATIVE ABATE: The real issue seems to be though, it's more abiguous in the case of an application for voluntary commitment, because your placing the burden of proof on the individual who is allegedly or apparently seeking commitment....

LANCE CRANE: I'm not sure that situation would come up, section 187, provide the right, allows facilities to receive people on voluntary admissions and currently has the ten day notice provision, would have a 5 day notice provision with our ammendments, if a person were to file notice and the facility would feel the need to hold them, they would have to initiate a Probate Proceeding and at that point the burden of proof would be on the facility and it would be a normal Probate commitment.

REPRESENTATIVE ABATE: O.K. That's fine. Any other questions?

LANCE CRANE: Thank you very much.

REPRESENTATIVE ABATE: George Griffin?

GEORGE GRIFFIN: Thank you, Mr. Chairman, ladies and gentlemen of the committee. I am deputy director of the DEpartment of Adult Probation and I'm here representing our director who is out of state but has provided written material, I believe, to the committee.

I'm speaking in relation to S.B. 390. AN ACT CONCERNING  
RELEASE OF JUVENILE COURT RECORDS TO ADULT PROBATION OFFICERS.

BRIAN HEATH: Thank you, Mr. Chairman. This morning I'd like to or this afternoon, it was this morning. I'd like to talk about seven or eight nine six. Yes right. My name is Doctor Brian Heath, I am a clinical psychologist, I work for the state. My credentials are as follows:

I am coordinator of amatory services at Norwich Hospital, I am director of an out-patient clinic, psychiatric out-patient clinic, I am president of the Mental Health Association for Eastern Connecticut, I'm Secretary to the "Ketchen" area Council, thirteen, fourteen in the Windham region.

But today I'm also coordinator of Intern Training at Norwich Hospital in psychology, but today I'd just like to speak in my capacity in representing the Connecticut psychological Association. While it's possible to support the intent of the provisions founded in 7896, to improve civil committment and judicial procedures. I would respectfully submit that the recommendations found, there in, do not adaquatly safeguard the individual, community or state.

Obviously, the need for a significant number of probate hearings will be aborted to larger proportion of unecessary emergency committments then fended in the first place. Up to one third of all hospital admissions stay less then seven days. 7896, does not recognize this. Most of the civil committments are written in emergency rooms, perhaps as many as 95 percent. The proportion of emergency certificates for a full percent has not changed significantly in the past ten years.

Dispite an increase in alternative resources throughout the state. A recent survey of the emergency room physicians in Eastern Connecticut, indicated among other things, a need for improved psyco-diagnostic procedure. These practitioners skilled in treating trumatic physical illness, are not so adept at diagnosing emotional trauma, a limitation not restricted to physicians in Connecticut.

Bill, 6226 has been reserved by the public Health and Safety Committee. This bill is, as a support of the Mental Health Association of Connecticut and the Connecticut Psychological Association, and does attempt to improve the validity of the emergency certificate by including the presence of a second more informed opinion at the time of certification. This bill recommends, among other things, that a physicians signature be coterminous with that of either a psychiatrist or a psychologist. It also recommends, that a psychologist be recognized as a mental, mental health resource to be considered by probate judges as was individuals for expert testimony in matters concerning mental health and mental status.

BRIAN HEATH: (Con't) It has been argued elsewhere, that psychologist's do not now have professional visitation rights for their patients if they should be come hospitalized. That right is reserved for medical consultants only. Because of this discriminatory practice, it is therefore, suggested a psychologist not be permitted to co-sign in those certificates. Such institutional requirements resemble union or guild practices and have little to do with public service or treatment.

They are therefore, they therefore are subject to change to regulation and control by the duly constituted state commissions and departments. But, more than that as mental health treatment becomes locally focused, human resources and agencies must upgrade and modernize their practices. To continue to rely exclusively on physicians in the commitment procedure will also work to rent the rapid development of low cost alternatives. Such a policy, also confirms the myth that emotional problems are largely and solely medical in nature and origin.

However, there are no valid medical tests to identify the presence of a non-organically based mental disturbance. No blood test, no x-ray, no physical, surgical or lab procedure available. The determination of mental disturbance, in the community, totally depends upon the subjective opinion of one person. Psychologist's on the other hand, are trained in psycho-diagnostics and are the only certified professional group trained to objectively evaluate mental status, by nationally validated and standardized tests and measurements.

Psychologists are also trained and licensed to one, perform neurological examinations, provide individual, group, family and marital consuling, they work in a varity of professional settings including state and Federal hospitals, clinics, private psychiatric hospitals, schools, institutions for the mentally retarded, the physically handicapped, industry and commerce, private practice and other human services.

They are represented nationally by the American Psychological Association and in Connecticut Psychological Association. Other states, California in 1969, Florida even earlier have already allowed bonified mental health professionals, or practitioners as part of the certification and probate procedures. Because this is the only way that a community based mental health delivery system can effectively control and regulate the flow of patients to in-patient status.

BRIAN HEATH: (Con't.) To rely exclusively as in the past upon physicians and psychiatrists flies in the face of the mandate established under public act 74-224. For example, an example of a more open approach in another state, in New York 1976 a law was passed allowing minimally trained or specially trained medical assistance to write prescriptions and provide other basic medical services in rural areas, where traditional services could not be guaranteed.

Why, while relying more heavily upon the courts in the matter of civil commitment in probate, will guarantee a larger measure, potential freedom for plaintiffs and is to be encouraged. It also brings them into a judicial arena at an early stage and what is traditionally the case in upper areas of Jewish prudence. Also, usually the last resort, the grievance settlement when other alternatives and less radical procedures have been exhausted.

In short, I would agree with the "PESKY" Committee that the problem associated with civil commitment are in quote "Caused by poor administrative practices and inadequate professional input." However, we differ on implementation strategies. I've argued that this law 7896, does not go far enough to prevent unnecessary hospitalizations, thus forestalling the expense of possible probate hearings, by adding the competence of a licensed psychologist to the civil commitment procedure this goal can be more adequately approached.

A second social cost benefit would be an increased emphasis upon locally based treatment, and the development of viable alternatives to hospitalization. Thank You.

REPRESENTATIVE ABATE: Doctor Heath, thank you, are there any questions from the members of the committee? Representative Quinn.

REPRESENTATIVE QUINN: Representative Quinn, 132, I'd just like to share your concern about the differentiation of psychologists and psychiatrists and your competency, as in general, as a psychologist and professional. I happen to be a former student of psychology and I agree with you, totally.

REPRESENTATIVE ABATE: Doctor Heath we appreciate your forbearing here this morning and staying with us here to the bitter end. Thank you. Robert Roth.

ROBERT ROTH: Mr. Chairman, my name is Robert Roth, I'm employed as a consultant on energy with the low income planning agency Inc. Of Hartford.

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ROBERT ROTH: (Con't.) I'm here as a volunteer for the low income planning agency and also as an attorney and a private citizen with an interest in bill number 7896. The commitment statute.

Before I forget, I'd like to mention that I've just handed you Mr. Chairman, the intended testimony of Norman James on another matter. Mr. James is with Connecticut Age and Legal Services and wanted to speak to a different bill and was unable to wait, so he asked me to give you a copy of his testimony.

I'd also like to mention that two attorney's with experience in this little commitment area, Attorney Judith Solomon of the University of Connecticut Clinic and Attorney Judith Lerner of Legacy Inc., in Norwich, both of whom do substantial amounts of the civil commitment work at Norwich hospital. Attorney Solomon was unable to wait, although she did come in earlier and Attorney Lerner was unable to make at all today, but both these Attorney's have indicated their intention to submit written remarks to the committee and I just wanted to mention that for the records.

REPRESENTATIVE ABATE: Thank you very much, Mr. Roth.

ROBERT ROTH: My own remarks, although there are a great many issues involved in the subject that is before us today, I tried to reduce what I have to say to several main points. I think it needs to be said that the nature of the facilities to which a person is going to be committed, by these procedures, is a significant issue, which is not really come out explicitly in testimony. I have copies of two articles that I'd like to distribute to the members of the committee who have remained and I'd like to thank you, by the way, for staying this long.

One, is about, two articles on the Norwich bulletin, one entitled, adolescent patients, sexually assaulted and severely beaten and the other a return to back wards, called a step back wards. I don't mean to be facetious in, there is a kind of melodrama that comes from newspaper reports and especially from headlines, but I introduce these articles as a kind of impressionistic way to trying to communicate my sense that these facilities do not treat people, they do not care for people and my personal experience with a number of people who have been hospitalized, is that they may just as likely so damage, perhaps more likely do damage to a person as they would be of any help, so if we're really talking about the welfare of the person who is liable to commitment, I think that this issue needs to be addressed and I'm responding to the sense of an earlier speaker.

ROBERT ROTH: (Con't.) Who said, I can quote roughly, "That we would not turn away persons," this is with regards to the standard for committment that is incorporated in this new bill 7896, "we would not turn away persons in need of care and treatment who had not done physical harm" the feeling was that some people need help who have not overtly manifested their problem and the speaker went on to suggest that, mental illness is not physically manifest, so therefore, a physical standard of something that you and I can both see as an appropriate, the analogy was made to unconsciousness that to go along with the kind of standard that we have been suggesting would be to deny a person who had been knocked unconscious in an accident the right to immediate emergency medical treatment.

It may seem a fine logical point, but I think unconsciousness I'm not sure, I think it may go to the heart of the issue to suggest that unconsciousness is not quite mental illness as far as I can tell, because unconsciousness is something that you and I can both see, it's an objective fact, at least in extreme cases, at least in a full case of unconsciousness.

Whereas, mental illness is something that you and I theoretically cannot see in many cases, it's something that only an expert, a psychiatric, a person with a psychiatric background can see. That is the whole reason I would belabor this for the sake of at least the two members of the committee whom if I recall correctly were here last time I addressed this issue, when we talked about this bill, just a little bit last week. when I spoke against delaying the effective date of the statute, which was passed last session, but for the members who are not here, I would like to suggest that the main problem I have with this bill is in the standard for committment and that there is a very significant change, although, the bill that was passed last session is to a large extent, incorporated in the legislation now before you, there is a very, from my view, a very significant change and it's the one that gives me the biggest problem with 7896. Generally speaking I have a positive sence of the way bill would attempt to limit inappropriate commitments, but when it, in a sence it provides a great deal of procedure and very careful procedure in order to make sure that the persons that are going to be involuntarily confined meet a certain standard, before they are confined or at least to make sure after they've been confined for a while that they meet the standard for being there.

But the standard itself is a very significant issue and it seems to me that you can provide all the procedre in the world but it's not substitute for substance.

ROBERT ROTH: (Con't.) And so, in a sense there is very little protection in my view guaranteed by these procedures, because it's a very simple standard that all these procedures are designed to test for. The standard that is proposed in 7896, combination of mental illness, dangerousness to self or others and grave disability. As limited by, as limited by 7896 as opposed to the way we wrote it last year, is substantially the same standard that was passed in California in 1969, with "Landerman, Petris, Shore" Act. My impression as an Attorney having done several years of work in California, there, was that except in rare cases the standard for commitment had very little, the standard that was passed by the legislature, in that case provide very little protection for a person, because essentially, since dangerousness and grave disability as so on, were linked to mental illness, in the way that they were, essentially the way they are in the statute, what it comes down to in practice, is the judge asking a psychiatrist at a hearing whether the person in question meets the standard.

There is no way that, I mean although there is provision for a jury trial in some cases, and so on, in a sense there is no standard for a jury to deal with, because by definition they have to try and deal with a standard, which incorporates terms upon which they are not, which they are not qualified, theoretically, to address.

That is the problem with the standard as incorporated in this bill. What we tried to do by contrast, and you'll see it in the language on, which is deleted in the proposal here, but if you start at line 52, there are several lines there ending on 54, and then again at 56, what is removed is the requirement of evidence of a recent attempt or threat to inflict physical harm upon himself or herself or upon another person. Then later on the word physical is removed and although this may seem incidental, really this was a substantial part of a point in trying to get this bill together last session, was that we wanted to incorporate a standard which "lay" people as we think is appropriate, should be able to judge about and what we have if we except the standard as proposed today is one upon which laymen have nothing, a say, and about which only the opinions of psychiatrists would be theoretically relevant.

So what I'm saying is the kind of, it was felt that it would be extreme to require that a person actually attack someone or attempt suicide, for example, it was felt by other people then my self that it would be extreme, to insist upon a standard to that degree, but we felt we incorporated a great many objections, when we allowed that a person who had threatened physical harm upon anyone, himself, or herself, or another person would meet the standard.

ROBERT ROTH: (Con't) And what we have if we except the standard that's been proposed today, is one in which a person doesn't have to threaten, doesn't have to have harmed anyone, doesn't have to have harmed himself, or herself or anyone else, doesn't have to have done any physical damage and doesn't even have to have threatened to have done any of these things.

But, by virtue of the clairvoyance which is theoretically attributed to their profession. Psychiatrist's are going to be able to, on the base of this standard, to tell us who meets it and who doesn't. So, again, I don't mean to belabor the point, I'd be glad to go into it further, but I just want to reiterate what I said last week, that there are numerous studies in the area, one of which, I have with me today, which I would be glad to share with the committee, if people have particular questions about it. But, they indicate that psychiatrists are not qualified to make predictions of dangerousness they are not qualified to predict behavior any more then anyone else is. It sounds a bit bald when I put it that way, and yet any study that I've ever been able to find, on the basis of my experience in the field, indicated that.

So, I'll move on from the issue of the standard...

REPRESENTATIVE ABATE: I just have one question in that regard before you go further, Considering the fact that the language has evidence by recent attempt or threat to inflict physical harm upon himself or herself or upon another person, is to limiting. What do you suggest as a compromise between what we have now, I can see that there can be very definite problems with a language in the law as it now exists, What, do you have recommendation for a middle ground?

ROBERT ROTH: Well, about all I can say, and I'm sorry I can't be more helpful, but in the deliberations last session, the standard, which is now incorporated at line 52, or part of which begins at line 52, was the result of as much compromise as I think we were able to make. We wanted to develop a standard that would be based upon some sort of objective evidence and this was the one that came out of the tug, you know both ways on the issue, short of, you know, off hand of course I'd be glad to try and think about it and come up with something else, I wouldn't want to shut the door on the idea, but, it seems to me that unless you've got at least a threat, apart from an attempt, unless you've got at least a threat of some kind you have nothing to go on, except, theoretically someones expert opinion and that's precisely the problem, were trying to eliminate.

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ROBERT ROTH: (Con't.) My problem with the California, experience was that, although the standard was passed this grave disability the dangerousness and so on, it adds alot of words to this standard, but when you come down into the situation in court, the judge has knowone to ask whether this standard is met except a psychiatrist, because who knows whether a person is so mentally ill as to be gravely disabled or dangerous to himself or herself or others. I mean it's a problem of principle that I think can only be compromised so far, before the principle is lost and my sence is that unless some language to the effect, the problem, you know this is not something that was in, that is not, I'm not sure what the status of the bill that was passed last session is at this point, it passed both houses of the legislature, it was signed by the governor but is not a law yet because it was made to go into effect on March 1, and there is now a procedure, whereby, people are asking that it be, it's effectiveness date be delayed until October 1.

REPRESENTATIVE ABATE: As of this moment it's still the law of the state with an effective date as of March 1.

ROBERT ROTH: Of March 1. What I'm saying is there has been know experience under the statutory standard that we came up with last session and in a sence that's part of what bothers me about this procedure here, that in a sence we went through every kind of compromise we could think of last session, to come up with a standard that could meet the objections of all sides.

Now, there is this attempt, the problem, part of the problem of the effective date as to this standard which we came up with, which is the only meaningful inovation in a sence, in the whole statute, will never go into effect if we get an October 1st effective date and then the statute 7896 is passed.

So, we'll never even have any experience of attempting to experiment with something that's a little bit more objective then the label quote unquote "Mental Illness." You know, it was, the....of the problems, the kinds of things you read if you look studies of dangerousness or attempt to look at sociologists, people who have tracked origin of, origin of patient populations and so on. The conclusion is that no matter how uneasy a person may make you feel, who is quote, unquote, "Paranoiac" or meets one of the other mental illness labels, there is no actuary evidence of any kind that indicates that these people are liable to violence any more so then any member of the general population.

ROBERT ROTH: (Con't). There is a lot of evidence to indicate they may be less dangerous. I should, and pardon me, pardon me for elaborating this, but I really, maybe another way of clarifying the point, would be to mention that in other action, in other legislation, some of the people with whom I am associated, are attempting to have people who have been found not guilty by reason of insanity, on a charge of violent, of violent felony against the person, or person who has been found incompetent to stand trial, on the charge of a violent felony against the person, these people are, in my opinion, these are the people who give a bad name to mental patients of the class, and right now they are shipped off to Norwich along with a lot of other people who may never have hurt anyone, themselves or anyone else.

So, I hope that if we can manage to have those people placed at Whiting Forensic, as opposed to the state hospitals, we may reduce this problem of people escaping from the hospital and turning out to do something violent, or whatever, and the public gets this very generalized impression that mental patients are dangerous, but in fact, unless you've got an overt act or at least a threat, you know or violence in the past, there is no basis upon which you can predict whether someone is going to be violent in the future. There is no rational basis on which you can make that kind of judgement.

So, as I said, we're trying to deal with that problem in a different kind of a way and short of making those suggestions I really don't know how much further I could go in the way of, in the way of suggesting further compromise.

In conclusion, my opinion is the language we now have reduces the principle to it's, to it's smallest possible terms and I think that once we get much further away from the language that's here now, the entire principle will be lost, that we need some kind of, you know, we give a dog three bits,....

REPRESENTATIVE ABATE: Why do you feel it's not within the competency of a psychiatrist to make this determination?

ROBERT ROTH: Well, if I were to say that I felt it were not within the competency of a psychiatrist, that would have to do with my own assessment on a personal basis, of psychiatrist's that I have met and so on. I don't, why I believe, as opposed to feel that it's not within their competence, or my rational basis for that is, that I mentioned in my testimony last week the study which I brought with me today, from California law review, entitled "Psychiatry in the Presumption of Expertise" flipping coins in the court room.

ROBERT ROTH: (Con't.) I'd be glad to make a copy bill, to the committee, but my sence as a reseacher in this area and as a person who has read this article, which validates anything I've ever found, the attempt is made to take cases in which psychiatrists have predicted dangerousness and for one reason or another, what normally would happen in such a case, doesn't happen. When "Tenel" went to take the chains from mental patients in France a very long time ago, people said you can't, we've got to have them chained because they are dangerous and most of the people from whom the chains were removed didn't do anything violant. That was the first case.

But, since that time there have been cases, say the one in New York where several hundred violent psychotic men were released by court order from a institute for the criminally insane because certain procedures hadn't been met, and so on.

Follow up studies were done in that case and that's the kind of case you get, for one reason or another the prediction gets a test and in virtually all those cases it turns out to have been, I won't say in virtually all thoses cases it turns out to have been wrong, it turns out to be no better then chance.

There is a substancial body of data here which I don't want to belabor, but the point is you can flip a coin and in every case we've had an oppportunity to objectively test it, you can get as good a judgement from a flip of a coin as you can from a psychiatrist as to whether someone is going to be dangerous in the future. Now, as a lawyer and a person and everything else, I feel as though you have a different basis to judge when a person has already been violent or at least when they have threatened to be violent, but when all you've got is a state of mind I just don't think the expertise exists, you know it's not that I have it in for psychiatrist's personally, I don't think anyone is able to make those kinds of predictions.

REPRESENTATIVE ABATE: It just seems to me the threat of violence is, as was indicated in the present law, is just further evidence of one being dangerous, the psychiatrist is going to consider that in making that conclusion and there is nothing that prohibits him now, of course from doing that. If a person has committed a violent act or has threatened a violent act, the psychiatrist is obviously going to consider that in making this determination. It seems to me that to say that you can only determine an individual to be dangerous after he has threatened or has in fact committed a violent act, is just waiting a little to long. That's my concern. Sure you may get a, an opinion from one psychiatrist that can be offset by another psychiatrist but for want of a, of anything that I Consider a better recommendation at this point, I cant' even forse, frankly, a situation that can improve on this at this point is time.

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REPRESENTATIVE ABATE: (Con't.) It seems to me that we ought to rely on the expertise of the psychiatrist in making this evaluation, at this point in time. Have you had the opportunity Mr. Roth, to bring your objections to the attention of the committee members, that were studying this, since the passage of the present law?

ROBERT ROTH: No.

REPRESENTATIVE ABATE: At all, there has been a, there has been a committee in existence, a few members of which testified here today studying this whole area of....

ROBERT ROTH: Commissioner Plaut's committee?

REPRESENTATIVE ABATE: Yes, right. Commissioner Plaut's committee. I would be interested in knowing what there reaction to your comment....

ROBERT ROTH: I see, I didn't know that was the one you meant. I have contact with several people on that committee and as I understand it, part of what Attorney Judith Solomon, who is a member of that committee, intends to say in her written remarks, is that she has a similar problem as I do, to the standard.

REPRESENTATIVE ABATE: Alright, she's a member of that committee you said? She will be submitting a written comment?

ROBERT ROTH: Right, That's what she said to me this morning. I would like to, since you put the question to me, I would like to respond to it and I'm not clear entirely whether I'm repeating myself, but occasionally there is the opportunity to state an issue clearly and I think, were really getting to the issue at this point. And what your saying is, now, we have a situation where we're afraid people are going to be violent and they haven't threatened or hurt anyone as far as we can tell, but, we think something perhaps ought to be done with them to prevent them in the future. Now, how can we tell whether they are going to be violent and your feeling is as a policy maker, feeling that there is a decision to be made in such a case, what else can we do but go to psychiatrist's and I Just want to make sure I'm coming across clearly myself when I suggest that we as a society look to psychiatrist's in much the way people in earlier times looked to religion for example.

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ROBERT ROTH: (Con't.) To answer questions which we feel there is no imperical basis to get any type of objective judgement, that we put our faith somewhere and our culture has put it's faith the psychiatric profession to make these kinds of decisions because we feel they need to be made.

Personally I don't feel that they do need to be made, I think, that it would not be terribly disruptive of the social order if we simply to wait and give a person that first, I don't want to say that first bit, but as I say it does bother me a little bit that a dog has more opportunity to give some kind of objective manifestation of the state of mind, before we're going to do something to him or her, but when it comes to a person, all we have to do is get a psychiatrist to say that this person is liable to be dangerous and terrible things are liable to happen to that person, because it is terrible things that happen to people who end up at Norwich Hospital.

REPRESENTATIVE ABATE: I can see the counterpoint too, and I don't want to belabor it, but I can see the situation where an individual is very obviously dangerous, but because he has not threatened or committed an act of violence, we can't commit him and think of the danger the potential danger to that individual the person who psychiatrist's will generally agree is obviously dangerous, but yet we can't do anything with them and that individual could very well destroy himself or destroy someone else, simply because he hasn't committed an act of violence or threatened it. The limitation is to severe under the written laws, I think.

ROBERT ROTH: I hear what you are saying, my fear is, that we as a society will lose a great deal more than the opportunity to treat whatever number of people are involved in your case. If we essentially undermine the whole constitutional prohibition against preventive detention, by making this exception, which in my experience is so big you can drive a truck full of people through, and it happens every day, in other words there is a constitutionally prohibition against confining people who have not committed, who haven't violated some specific statutory standard.

REPRESENTATIVE ABATE: Is it necessary to address that with an after the fact determination?

ROBERT ROTH: But, that's precisely my point, all the act does after the fact or before the fact or whenever it kicks into play is try with very careful procedure to make sure that the people who are being committed meet a certain standard.

ROBERT ROTH: (Con't.) If the standard itself is defective or in my opinion constitutionally vague and over broad, It's something that in jurisprudence there is the idea that until the person in American jurisprudence, we get it in part from the English, until the person, unless there is a statute on the basis of which, a person can read and determine what behavior is prohibited or proscribed, then that person shouldn't be locked up.

Short of, you know, short of the argument, which is an argument of principle and if we disagree, we can, a person can only go so far, but if that argument on principle doesn't move you, then all I can say again, is that there is no way of making the kind of determination that you would like to see made.

I wish you would take a look at, only because there are people who have put alot more time then I have and can tell you on the basis of review of virtually every study that they have been able to get their hands on, that there isn't, there isn't any way that psychiatrist's are simply not going to make a predictably valid judgement is such cases. I guess I understand the difficulty because what I'm saying, the implication is that there is knowone who is qualified to make these judgements and that's exactly my view.

When you give me the case where there is a person who is obviously dangerous and all psychiatrists would agree, I'd query whether such a person exists, and I don't think he or she does but take a person who everyone in this room would agree is a little dangerous and someone we wouldn't want to associate with or meet on the street or be close to any longer then we have to, what I'm suggesting is, that studies are done on people who give other people that impression and there is no indication that they are any more likely to do violence than anyone else, then a member of the general population. That is simply the case and when they are released and when you get a situation where they have been adjudicated dangerous to self or others then for some reason or another they are released, the predictions turn out to be no better than chance in terms of whether they were right or wrong.

There are some serious jurisprudential issues here and some, I don't know if this is the occasion to deal with them, I think that in a sence there is alot of, there is alot of, there are are a handful of principals involved in my own position which I haven't elaborated on extensively.

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ROBERT ROTH: (Con't.) It might be good, in terms of consideration by the judiciary committee, it would seem even more appropriate then generally for a legislator to think not to get into some of those issues but again, unless you want to, I'll leave it to you as to how long you want to make this discussion. I feel as though....

REPRESENTATIVE ABATE: I don't feel, I think I would welcome your presence at a future committee meeting to discuss those points but I have a few people that are still waiting to testify. I think in support of the efforts we ought to conclude....

ROBERT ROTH: Perhaps, if it's your interest, we can pursue it at some later date, I'd be glad to, if anyone, as I said my name's Robert Roth I'm with the Low Income Planning Agency my phone number in Hartford is; 246-6525 and I'd very much like to be available to any member of the committee who would like to pursue any of these points further or see for yourself the kinds studies, I've gone out of my way not to site extensively or by way of documentation but which do exist to support the kinds of arguments I'm making.

In terms of concluding because I, in deference to the people who still have to speak, but I would like to mention just one point of the procedure, which I think is important, apart from subsequent argument, on page, well, I don't remember. Oh, it's page 10, the idea of a right to examination by one's own physician. As I said I feel generally supportive of the procedural attempt that is made in this bill to see that the standard in question is met. I don't like the standard itself which I think is a major flaw but in terms of procedure there is just one criticism, starting on page, on line 307, we have what used to be the right prior to hospitalization, under the provisions of this section, to be examined by a physician of the persons own choosing.

There is another procedural barricade that we try to set up to the prospect of a person being inappropriately detained and I don't know whether it will help to clarify the substance of all the remarks I'm making here to mention that generally speaking there is a process here, whereby, I think it's never legitimate to lock someone up and I think the things that happen to people that are locked up in this way, have impressed me sufficiently, so that I don't feel as though it's an appropriate procedure ever to use on a person.

ROBERT ROTH: (Con't.) It's with that kind of an approach that at least if it's going to happen you try to make the procedure as tight as possible, you try to make the standard meaningful and something upon which people can at least argue, let alone agree. But, you and I can't have an argument about whether a person is going to be so mentally ill and dangerous that he's dangerous. It's that kind of a conceptual problem.

But, the right to be examined by your own physician is one such road block, that we tried to set up to inappropriate commitments and one of the earlier speakers suggested that this right is an illusion for most people. That in most cases you have to ask the person if they've got their own physician and generally they don't. and that's the end of that and I guess it's some kind of an inconvenience for people in these circumstances to have to ask whether a person has their own doctor.

My feeling is that in a small number of these cases a person may have their own doctor and it's, you know it's an opportunity that I think they should have to be examined by their own doctor prior to the commitment. If there is one, again, I say it may very well, since we are dealing primarily with low income people, at least in the area of my concern, it may not be true in the Institute for Living and various other places, but at Norwich and CBH and Fairfield Hills we have people who by and large are not going to have their own Attorney's but in that rare case, excuse me, their own doctors as well as their own lawyers, but in that rare case where you do have a person a person who's got their own physician, I would not want to rely on the physicians discretion, the committing physicians discretion or the certifying physicians discretion, to ask whether that was the case. I think it's appropriate to have that as a matter of law, I think it's not a terrible inconvenience in a hospital to have to inquire and in most cases the person doesn't have a doctor.

REPRESENTATIVE ABATE: But, doesn't the bill further indicate that an individual has a right to counsel? And that if he can't have counsel the state will provide him with counsel? Don't you think an Attorney is going to bring in this psychiatrist to attempt to offset the determination of the first psychiatrist?

ROBERT ROTH: I wish I believed that. I was about to say and it's worth noting that the Attorney your talking about comes in at a later point in the proceeding .

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REPRESENTATIVE ABATE: Right, I'm saying after the fact.

ROBERT ROTH: After the person has been detained.

REPRESENTATIVE ABATE: Right, understandably.

ROBERT ROTH: In most cases, I'm familiar with the people who do the legal work at Norwich, both of the Attorney's that do the legal work at Norwich, these people are poor and so poor that it's almost ludicrous, we try to get the right to your own counsel, to your own psychiatric witness, we try to get a provision for payment by state of your own psychiatric witness because in a rare case maybe you can get a doctor to come down but it's going to cost somewhere in the range of 75 to 150 dollars to get a psychiatrist to make one visit and do an independent write up on the person that you want to help out in this way.

So except for a person of substantial means, it's another one of those things that almost never is going to be terribly helpful, it's something that you want to have on hand as a lawyer representing these people you want to have it on hand to use in the case where there is the opportunity, but it's the rare case and all I'm saying, I don't mean to belittle the opportunity, because it's one you want to have, but it's not a substitute for some of the other opportunities you might have earlier on if you happen to have your own doctor and he can say to the certifying physician, ya, well I know this person....

REPRESENTATIVE ABATE: That's the problem, unfortunately you know, your playing to something that I recognize, in that, most people recognize as being a problem in our whole system of justice. One has a right to appeal we say, well, you know who can afford a counsel to bring an appeal? This is a problem that we just can't address I'm afraid at this point. Your going, your raising issues that I say, Yes, are legitimate but I don't see how we can improve on the system at this point. I just don't know what we can do, except to place the responsibility on the state of subsidizing everyone who's rights are somewhat, somewhat denied. And we can't and we aren't at that point.

ROBERT ROTH: I understand that we're not at that point, but as an Attorney, my feeling is, Excuse me, the substitute for a procedure which is going to air tight, which I don't believe we'll ever have in this field, but the substitute is one which provides as many checks and balances as possible to give that person who may be emotionally together enough to make a case for him or her self or to avoid the process. Just to give them every possible opportunity to do that.

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ROBERT ROTH: (Con't.) All I'm saying, I'm not suggesting that this committee try right now to resolve the range of problems that I just mentioned, but I am suggesting that in addition to the opportunity to have your own counsel, the opportunity by law to be consulted, that's all it is to be consulted, as to whether you have a private physician who will come and talk for you in this case and that's all we're talking about, we're talking about having hospital people when the case comes up ask the person whether they have got their own physician who want to, whom they could call in to do something for them, to do an independent evaluation.

They very well may not have that person, but it's just one more, it's not an attempt to solve the whole problem, that's precisely the whole point, it's a very small attempt to put one more cog in the machinery so that the wheel wouldn't turn quite so fast when a committment procedure begins.

Thank you very much Mr. Chairman for your interest, thank you members of the committee. I have these articles which I would like to distribute at this point.

REPRESENTATIVE ABATE: Thank you very much. Richard Schreiber. O.K. and you are speaking for Mr. Schreiber?

BEVERLY WALTON: Yes, I'm Beverly Walton of Glastonbury and I'm speaking for the Mental Health Association of Connecticut.

I'll be even briefer than I expected to be, when one is one of the first speakers, you have only to speak to the bill itself but having heard several hours of testimony, I find I cannot speak to some of the things that have been said, but we'll still keep to the concept of the bill.

One is that the Mental Health Association in general and very broadly is in favor and supports RCB 7896. However, we do have several points which we would like to bring out. One is that we would also like to see some sort of standard set perhaps not the one for the eminent, not the one which has been deleted from this bill which Mr. Roth spoke about and I would like to talk maybe about that to the commission.

Secondly, for a committment hearing we would like to see that the council be allowed to copy the record from the hospital, not merely be allowed to take notes from them, that's on line 148 of the bill. A person would get better legal advise and counsel if the Attorney did not have to go in and make copy's of notes, but instead could have a copy of the total hospital records.

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BC

## JUDICIARY COMMITTEE

February 22, 1977

BEVERLY WALTON: (Con't.) We also believe that the respondent should have the right to refuse all but live saving treatment beginning 24 hours before his commitment hearing. We would like to see the requirements for seeking out less restrictive placement settings and their availability and the recommendation, be applicable to the emergency certificate as well as to the probate court commitment.

We would also like to associate ourselves with the remark of Doctor Heath in regards to adding psychologists as members of the examining team for commitments or for emergency certificates. We'd also, if I haven't mentioned this before, would like to retain the provision that the right of the respondent to ask for a physician of his/her own choosing, and make it workable. Thank you.

REPRESENTATIVE ABATE: Thank you very much Ms. Walton, are there any questions for Ms. Walton? Thank you. Tod Lipha. Larry Hall. Judge Knierim, Judge I appreciate your standing by and I'm sorry that a situation developed to the point where you had to stay as long as you did and I think you would have taken advantage of the opportunity had we allowed you to proceed initially. I really appreciate your staying.

JUDGE KNIERIM: Thank you, Mr. Chairman, and thank the committee for its patience, I have very brief comments on committee bill 7895, AN ACT CONCERNING APPOINTMENT OF CONSERVATORS.

I think Judge Joy covered the intent of this proposal quite well, we do feel working with the present conservators statute that it needs substantial revision and I think this bill does it.

Now, in response to a question by Marcia Smith, Judge Joy said it was our intent to keep the law which was passed by the legislature to allow a person to designate his/her own conservator, in the proper document. In the drafting that was inadvertently repealed and I think its important section 12 should read that section 45-70B, 45-71 and 45-78 it repealed. 45-70A is that bill that.....

REPRESENTATIVE ABATE: I think Marcia was of the impression that it was intended by this legislation to in fact repeal that, but I'm not sure that that was the case, but we'll take care of that. 45-70A.

JUDGE DNIERIM: That should remain intact, that's the new one and 45-70B should be repealed. 45-71....

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
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JUDICIARY

March 15, 1977

PROBATE

PRESIDING CHAIRMEN: Senator Depiano, Representative Abate.

COMMITTEE MEMBERS PRESENT:

SENATORS: Guidera

REPRESENTATIVES: Jaekle, Berman, Fox, Lowden, A. Parker, Swieszkowski, Osiecki.

REPRESENTATIVE ABATE: What was 75207 and is now 45-79A to the federal income tax and the state tax provision. I'd like to call your attention to the fact that the only change in the prior statute is the change of the date to December 31, 1977 and the rest of the statute is the same.

DR. JAMES JOHNSON: I would like to address my comments to proposed bill 723 initially, a bill to provide technical amendments to Connecticut General Statutes, Section 5440. The department would like to commend this bill and speak thoroughly in favor of it. There is one technical change that I would suggest to the Committee and that's in Section A, in order to make that consistent with the remainder of the amendments that were passed previously and there embodied in this present draft.

In Section A there is a statement about the middle of the paragraph that begins, that such accused is so insane or so mentally defective. We would like to see that wording changed to be consistent with the remainder of this statute and of this bill by striking those words so it would read as follows: that such accused is unable to understand the proceedings against him or to assist in his own defense.

And that a similar change farther down in the paragraph that reads now, and such judge shall and soforth if he is of the opinion that the mental condition of the accused is probably so defective that he, strike that portion beginning the mental condition of the accused and ending with he and insert the accused is unable to understand the proceedings. This is a housekeeping suggestion that would make the entire bill consistent in wording through Sections A, B, C, D and E.

And with that in mind the change we would like to support that bill.

Secondly, Committee Bill # 7246. The Department has introduced a comprehensive model commitment bill No. 7896 in which the safeguards erected by this particular bill, 7246, are embodied. As a matter of fact, they provide more of a safeguard than a second opinion. It requires for a

DR. JAMES JOHNSON: (continued) hearing at the request, a show cause hearing, requested by the patient within 72 hours of his hospitalization. Asking for a second opinion even though anyone has a right to it, would prove unworkable in many occasions, and it's rather ambiguous when the patient should be informed of this right. The amendment that's in this bill now says, and shall be informed of this right prior to admission. For a practical standpoint, if one chooses to pass this bill, the patient should be informed prior to leaving his community. The problems that we face ever and again is that a patient is committed, placed in an ambulance, brought to one of our facilities, and upon arrival there is found inappropriate for admission and has no transportation back home. The ambulance companies cannot be paid if the patient is indigent and he is rather stranded in one of our facilities.

So that if he's going to ask or be informed that he has a right to a second opinion, he should be informed of that right where he is presently being examined, where he is much closer to his own physician. If we wait until he arrives in one of our facilities, either in Norwich, Fairfield Hills or Connecticut Valley, he is pretty far away from access to a physician of his own choosing. If he's informed at that point, we're making it almost impossible for him to achieve the implementation of this right.

The Department would urge that this bill withdrawn in favor of the more comprehensive 7896. If it is not withdrawn, then we would certainly urge you to consider on page 2, line 59, changing that wording, and shall be informed of this right prior to commitment.

And with that, and having mercifully brief, I thank you for your time.

REPRESENTATIVE ABATE: Thank you for your comments. Norman Johnson.

NORMAN JOHNSON: Good afternoon, my name is Normal Johnson, I'm an attorney and I'm the legal services development specialists with the Department on Aging. I'm here today to address a couple of comments to the proposed bills for revision of the conservatorship procedures. And on behalf of the Department on Aging and Commissioner Ratchford who regrets that he couldn't come this afternoon to testify, I will just speak briefly on both bills 1116 and 7895. ✓

The bills, we think, make significant advances into areas that protect individual rights, human liberties, this about which we all have concern, with which we are particularly concerned with regards to the elderly, being at a time in life when it is very easy for them to lose control of their own fates, futures, their estates. We think it's extremely important that every possible consideration be

CHARLES ROARK: (continued) legislation from the very beginning because it does affect monies due the state without fair hearings. For instance, under 4-68H of the General Statutes, we are authorized to apply for them to become legal representatives in certain estates under \$5,000.

When this Section was first passed, we found an alarming drop in the number of cases that were being referred to us for administration and we believe by increasing the amount to \$10,000 the loss, the revenues will be even greater.

Last year in 1975-76 we handled close to \$700,000 under our 4-68H authority, of which almost \$550,000 came to the state of Connecticut and is representative of almost 1200 cases. According to the records of the Probate Court administrators, only 17% of the estates handled by the Probate Courts are under \$5,000 where as 45% represent those under \$10,000. Now when you go from 17% to 45% you ask yourself how much more money could be lost with this increased limitations.

We would be happy with this section of law if we could get notice of all these cases. For instance, if before the estates could be settled, if the Probate Court could give us notice, give us 30 days to reply as whether or not we had interest in the estate, we'd be very happy with the law itself. Right now we depend upon the courts to bring these to our attention and they don't have to. I do think there's a serious question of loss of revenue to the state of Connecticut if this bill is passed or the notice requirement not met.

<sup>787A</sup>  
House Bill 774, which deals with allowances for spouses, survivor spouses and families is asking for a hearing before such allowance is settled would be established. And we are particularly concerned that we be advised before allowance is established since, in fact, we're also trying to recover money for the state of Connecticut. The law as now reads, not only doesn't require notice, but it doesn't set forth any guide lines under which allowances could be established. We believe that a notice should be required and strongly urge you to support that requirement.

I might suggest that consideration be given also to the fact that maybe some guidelines as to extent the allowance should be established. We believe that a reasonable allowance should be established but the allowance should be consistent with what has been supported by the person to whom they have been supported by.

And I'd like also to make one comment on House Bill 7896, which deals with what Dr. Johnson spoke about earlier. Section 8 is a primary concern to us. Under this Section 8

CHARLES ROARK: (continued) of House Bill 7896 it amends Sections 17-205A in our statutes, subsection B to where the Department of Finance Control is now responsible to conduct the financial investigation of the ability of a person to pay his ambulance transportation. Up to now, we've been providing the services at no cost to the state or the department. We do it as a matter of accomodation, and we include it in our regular finance investigation. There is no time limit involved. The purpose of this amendment to Section 70-205A is to provide a speedier payment of the ambulance companies bills. We must do this by law then these companies would expect payment within a reasonable period of time which means we no longer can do it as an accomodation but as a priority. And I would suggest that either we put a time period in to this investigation or face the fact that it's going to cost the state money for us to hire people to do these things on a priority basis.

We're not against the ambulance companies being given transportation money or making sure they are paid, but we cannot guarantee you that we can do this investigation on what amounts to 3,000 cases a year within a 30 day period of time. And, of course, as venders, they like to be paid on a timely basis.

It will cost money if we must do this. And I think that our history is that the normal investigation takes between 30 and 90 days and if we can continue that same time thing with the ambulance groups it will cost us no additional funds.

SENATOR DEPIANO: Thank you very much. Judge Iacovo

JUDGE IACOVO: Good afternoon, gentlemen. My name is Louis J. Iacovo, Judge of Probate for the city of Stamford. I wonder whose district? I don't intend to speak particularly long on this particular subject because Judge Krienium who is our Probate Administrator will be speaking later.

I would merely like to say that the Probate Assembly of the State of Connecticut is barely behind the bills that have been introduced by the Probate Administrator. I'd like to say that the Probate Assembly has participated in the formation of these bills through committee work and soforth with the Probate Administrator. And we have attempted through the Assembly to try to correct errors, etc. and to see where we can make the going much easier for the people who have to probate their estates. And, as I say, Judge Krienium. will be speaking on these particular bills, but we are in favor of the ones that he has put forth as a package.

If there are any questions, we'll be here and I'll be

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CONNECTICUT  
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SENATE

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SENATE

MONDAY

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LFU

SENATOR HOULEY:

Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Will you comment?

SENATOR HOULEY:

The Bill permits late filing for towns for reimbursement for funds appropriated under Special Act 76-74 for expenses incurred in algae and aquatic weed control. If there is no objection, I move the item to Consent.

THE CHAIR:

So ordered.

THE CLERK:

Calendar 1177, File 650 and 1190, Favorable Report of the Joint Standing Committee on Appropriations, Substitute for House Bill 7896, AN ACT CONCERNING REVISION OF PROCEDURES GOVERNING THE COMMITMENT OF MENTALEY ILL PERSONS, as amended by House Amendment, Schedule A.

THE CHAIR:

Senator Houley.

SENATOR HOULEY:

Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Will you comment?

SENATOR HOULEY:

Yes. The Bill revises the procedure for formal emergency and voluntary

## SENATE

MONDAY

JUNE 6, 1977

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LFU

commitment of mentally ill persons. It revises the procedures of Probate Court concerning commitments and expands the responsibilities of State agencies, particularly the Department of Mental Health in the transportation of indigent persons. It appropriates \$15,000 to \$20,000 for the purposes and if there is no objection, I move that item to the Consent Calendar.

THE CHAIR:

So ordered.

THE CLERK:

Turning to page 9 of the Calendar, top item on the page, Calendar 1178, File 1165, Favorable Report of the Joint Standing Committee on Appropriations, Substitute for House Bill 8075, AN ACT TO PROVIDE FOR THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES TO RECEIVE AND INITIATE COMPLAINTS FOR VIOLATION OF THE STATE CODE OF FAIR PRACTICES.

THE CHAIR:

Senator Houley.

SENATOR HOULEY:

I move acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the House.

THE CHAIR:

Will you comment?

SENATOR HOULEY:

Yes. It has a minimal cost impact and the Bill would allow individuals and the Commission to make direct reference to Sections 4-61b to 461(1) of the State Code of Fair Practices, filing complaints against State agencies regarding violations of this Code of Fair Practices. If there is no objection, I move

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pass Filer for us to be going back down the road to adopting commissions. Without the defect it limits membership of the board to Fairfield County, I think it's ridiculous for anybody that supported Filer that was in favor of reorganization. I can understand the parochial interests of those in Fairfield County but I can't understand the other support in this chamber. I would urge rejection of the bill as before us.

Thank you Mr. Speaker.

THE SPEAKER:

Will you remark further on the bill? If not, will the members please be seated. Will the staff come to the well. The machine will be open. The Chair would remind the members that if they are present in the room, they must vote. The machine will be locked. The Clerk will take a tally.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	148
Necessary for Passage.....	75
Those Voting Yea.....	79
Those Voting Nay.....	69
Those Absent and Not Voting.....	3

THE SPEAKER:

The bill is PASSED.

THE CLERK:

Page 5 of the Calendar, Calendar No.756, substitute for H.B. No. 7896, File Nos. 650 and 1190, An Act Concerning Revision of Procedures Governing the Commitment of Mentally Ill Persons, favorable report of the Committee on Appropriations.

MR. ABATE (148th):

Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark, sir?

MR. ABATE (148th):

Yes. Mr. Speaker, the Clerk has an amendment, LCO 8089. Would the Clerk please call the amendment and may I be allowed summarization?

THE SPEAKER:

The Clerk please call LCO8089, House Amendment "A".

THE CLERK:

House Amendment Schedule "A", LCO 8089, offered by Rep. Abate, 148th district.

THE SPEAKER:

Is there objection to the gentleman from the 148th summarizing in lieu of Clerk's reading? Hearing no such objection, the gentleman from the 148th to summarize.

MR. ABATE (148th):

Thank you. Mr. Speaker, ladies and gentlemen of the assembly, the amendment requires that in the instance of a hearing on the commitment of an allegedly mentally ill person where such person refuses to be examined by two court appointed physicians, he shall be examined by two physicians, one of whom must be a psychiatrist at any hospital to which he is delivered for examination.

Further, the amendment requires in cases of an application having been submitted to the Probate Court for the involuntary commitment of an individual that a medical examination occur within 48 hours and it limits detention to not more than 72 hours in cases where a person is considered to be mentally ill by a court of probate.

I move adoption of the amendment.

THE SPEAKER:

(record  
15)

Will you remark further on House "A"? If not, the question is on its adoption. All those in favor of House "A" will indicate by saying aye. Opposed? The ayes have it. House "A" is ADOPTED.

Will you remark on the bill as amended?

MR. ABATE (148th):

Yes. Mr. Speaker, this bill is designed to provide safeguards against the arbitrary commitment of individuals alleged to be mentally ill and seeks to insure treatment of all seriously mentally ill persons with requiring actual evidence of prior dangerous acts before commitment.

The bill at the very outset, and I'll go through it section by section, because I've received a great deal of input that many people are not aware in fact of what this bill does because they consider it somewhat complicated and I'm going to go through the bill, provision by provision, so you'll understand exactly what this is. This is a major piece of legislation and I think it's important for everyone herein to understand what it's all about.

In section 1, we have a definitional section. The phrase "dangerous to himself" under existing law is now defined as there being a substantial risk that physical harm will be inflicted by a person upon himself or others as evidenced by a recent attempt or threat to do so. The file copy eliminates that requirement so as long as there is a finding that exists a substantial risk that physical harm will be inflicted by a person upon himself or upon others, he may be found to be dangerous to himself, even though there may not have been an actual attempt to do harm to himself or to others. The phrase "gravely disabled" is defined as a condition in which a person as a result of mental impairment is in danger of serious harm as a result of his

inability to provide for his own needs. In other words, the individual may not be dangerous to himself or others but he may be so gravely disabled that he's not able to care for himself. A showing of the need for hospitalization and treatment must be made. Previously serious physical harm had to be shown.

Section 2 of the bill indicates that jurisdiction over commitment is at the probate district in which the person resides or where he is at the time of the filing of the application or if the person is hospitalized, the hearing can actually be at the hospital, should it be shown that it would be to the disadvantage of this individual to be transferred to the court of probate. The hearing can actually be at the hospital. Upon the motion of the respondent that's the individual who is alleged to be mentally ill, or upon the motion of the judge of probate or the probate administrator, there shall be appointed a three judge panel to hear the application for permanent commitment.

Section 3 of the bill indicates that a hearing on an application must be held not later than ten days after it is filed. Reasonable notice shall be given to the respondent informing him of his right to be present and informing him of his right to counsel and informing him of his right to cross-examine witnesses. If the respondent can't afford counsel and does not select counsel, one will be appointed for him. At the hearing, a sworn certificate by at least two physicians, one of whom shall be a psychiatrist, shall be required. The physician shall be selected by the court from a panel provided by the department of mental health. The respondent shall have the right to cross-examine the physician if he requests it not later than three days before the hearing. If the court finds by clear and convincing evidence that the respondent is mentally ill and dangerous to himself or others or gravely disabled, it may order his commitment for the duration of the mental illness or until

discharged.

Subsection b of section 3 indicates that if the respondent refuses to be examined by the court appointed physicians, the court may issue a warrant for the respondent's apprehension. The individuals apprehending the respondent, in most cases the police, shall deliver that person to a general hospital to be examined by two physicians, one of whom again must be a psychiatrist. The respondent may be committed as a result of the examination under this section.

Subsection e indicates that at the start of the hearing, the respondent shall be given the opportunity to voluntarily enter the hospital. If he agrees, the application shall be continued.

Subsection f indicates that the respondent shall be present at the hearing and if medicated, the court shall be so informed of such medication.

In subsection d, it is indicated that the hospital shall notify each patient annually of his right to a further hearing and shall give the court a list of patients confined involuntarily without release for one year. Within fifteen days, the court shall appoint a psychiatrist to examine the patient.

Section 4 indicates that any person who a physician concludes is mentally ill and dangerous to himself or others or is gravely disabled and in need of hospitalization may be confined in a mental hospital under an emergency certification for not more than fifteen days. If a written application for permanent commitment, however, is submitted within those fifteen days, there will be an extension of the period of commitment for fifteen days or until the hearing on permanent commitment is held but in no event, longer than an additional fifteen days period. So you can see the real safeguards here. We're trying to concern ourselves and address the problems and individuals being

confined on an emergency basis but without termination and without requisite procedures.

Any person admitted under an emergency certification issued by a physician shall be examined by a psychiatrist within forty-eight hours of an admission and released if the criteria for admission are not met. A person so admitted must be informed of his right to counsel and a hearing. If a person cannot afford counsel, he must be advised of the fact that counsel will be provided for him at state expense. If a person requests a hearing, it shall be held within seventy-two hours of the receipt of this request. He shall have the right to be present and to cross-examine witnesses. If there is probable cause to conclude that the person is mentally ill or whether he is a danger to himself or to others or is gravely disabled and in need of hospitalization, the court shall order commitment for the remainder of time under the emergency certification which is again only fifteen days.

Sub-section e requires notification to the commissioner of mental health any time a person is involuntarily admitted to a private mental institution.

Sub-section f mandates the immediate discharge of a patient not meeting the standards for emergency detention.

Section 5 deals with the question of voluntary commitment. This is where an individual wants to go to a hospital for purposes of examination. In such a case, a person may voluntarily admit himself in writing to a mental hospital and may not be confined for more than five days. There are instances where individuals would voluntarily admit themselves and would find out that they can't be released. Under this bill, the individual would have to be released within five days. He must be informed that while he's there, an application may be submitted for his permanent commitment. There may be an

informal admittance to a mental hospital and such a patient is free to leave at any time if he informally goes in and indicates that he wants to be admitted for a short period of time, he can leave any time. Under the more formal voluntary procedure, he has to be allowed within five days of his request to leave. If a commitment application is filed for a person who has admitted himself voluntarily, confinement shall be continued in order to prepare for the hearing on permanent commitment but for not longer than fifteen working days after the filing of a notice of such person's desire to leave. Such person shall have a right to a probable cause hearing in accordance with the emergency commitment procedure set forth in the act. Each probate court shall keep confidential record of cases of mentally ill persons coming before it available only to a respondent and his counsel.

In section 7 of the act, and there are only two more sections, a police officer having reasonable cause to believe that a person is mentally ill, may take a person to a general hospital for emergency admission. If the person is brought to a hospital for emergency certification, of course, he must be examined within forty-eight hours by two physicians, one of whom must be a psychiatrist, and he can't be held for longer than seventy-two hours. Any person may apply to the probate court alleging that a respondent is mentally ill, dangerous to himself or others and gravely disabled and in need of immediate treatment and the court may issue a warrant for that respondent, that person's apprehension. If a person is apprehended, he will be brought to court for the conduct of a probable cause hearing to determine if, in fact, this individual is in need of permanent commitment. If the court finds that a person is mentally ill, that there is probable cause to believe, it may order the respondent to be taken to a general hospital for examination.

Section 8 indicates that if the expenses for the procedures outlined in the bill shall be paid by the state only if a finding is made that in fact the individual cannot afford it. Now that is presently the law but the bill also indicates that there must be an investigation now under this law, under this bill, by the department of finance and control to determine whether indeed an individual can financially afford to pay for the services himself. If the finding is made that he cannot, the state will assume the expense.

The bill is a good one. The committee put a lot of time into it. There was a special commission appointed that worked assiduously, diligently in bringing this matter to our attention. I'm in total support of it. The judiciary committee is in total support of it. The commissioner of the department of mental health is in total support of it, and you might remember that we delayed action earlier this session on the effective date of a bill passed in the last session of the general assembly which addresses the same problem but which fell short of the mark. This bill covers all of the gaps and is really needed legislation. I ask for your support.

THE SPEAKER:

Will you remark further on the bill?

MRS. CONNOLLY (16th):

Mr. Speaker, thank you Mr. Speaker. I would just like to commend Rep. Abate for a superb job. I have gone over this bill very diligently. I think the results in the bill which we have before us confirms my contention that you need committees working together in concert where sometime the public health and safety had worked on parts of this bill approaching it from different aspects and found that they had problem in defining the terms danger to himself and mentally disabled. It took the judiciary committee a year of study and hard work to pull this together. It defines the terms not only

legal protection but for the protection of the mentally ill patient as well, defining carefully and yet building in safeguards. This could indeed be called a mental health patient's bill of rights because he is protected from the mental health standpoint and from the legal standpoint. I would commend Rep. Abate and urge passage of this bill. Thank you, Mr. Speaker.

THE SPEAKER:

Will you remark further on the bill? If not, will the members please be seated, staff and guests come to the well. The machine will be open. Have all the members voted? Is your vote properly recorded? If so, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

THE CLERK:

Total Number Voting.....	146
Necessary for Passage.....	74
Those Voting Yea.....	146
Those Voting Nay.....	0
Those Absent and Not Voting.....	5

THE SPEAKER:

(record  
16)

The bill is PASSED.

THE CLERK:

Page 6 of theCalendar, Calendar No. 1322, substitute for S.B. No. 1329, File No. 1119, An Act Establishing a Special Emergency Needs Fund, favorable report of the Committee on Appropriations.

MR. GROPPA (63rd):

Mr. Speaker, I move for the committee's joint favorable report and passage of the bill in concurrence with the Senate.

THE SPEAKER:

Question is on acceptance of the joint committee's favorable report in concurrence with the Senate. Will you remark, sir?