

Legislative History for Connecticut Act

HB6887 PA146 1995
Senate 3215-3226 (12)
House 2434-2436, 2457-2462, 3983-3996 (23)
Judiciary: 3519-3520, 3629-3638, 3758, 3759, 3893-3900 (18)
53p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

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S-379

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1995

VOL. 38
PART 9
2920-3329

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Yes, I move all items on Senate Agenda #2 be enacted as indicated, and the Agenda be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

Without objection, so ordered.

SENATE AGENDA #2

1. REPORT(S) RECEIVED - and referred to the committee(s) indicated.

Department of Higher Education: Strategic Plan to Ensure Racial and Ethnic Diversity in Connecticut
Public Higher Education: 1985-1995.

Referred to Education

2. MATTER(S) RETURNED FROM COMMITTEE - to be tabled for the calendar.

FINANCE, REVENUE & BONDING

Subst. SB861 An Act Concerning Eligibility for

Accelerated Rehabilitation.

Senate Referred Judiciary Bill to Finance, Revenue
& Bonding

May 16, 1995

No New File

GOVERNMENT ADMINISTRATION & ELECTIONS

Subst. SB1189 An Act Concerning Revisions to the
Hazardous Waste Establishment Transfer Act and
Hazardous Waste Site Remediation.

Senate Referred Finance, Revenue & Bonding to
Government Administration & Elections

May 23, 1995

No New File

End Senate Agenda #2

SENATOR UPSON:

Also, Madam President, if you could, on Page 11,
call Calendar No. 451, AN ACT CONCERNING COMPETENCY TO
STAND TRIAL.

THE CHAIR:

Without objection, Clerk please call.

THE CLERK:

We're going to have to stand at ease because I was informed that everything else was not going to be up, and we had sent everything back to the office.

SENATOR UPSON:

Alright, we'll stand at ease, if you agree.

THE CHAIR:

Without objection.

Would the Chamber please come to order. Senator Upson.

SENATOR UPSON:

Thank you very much Madam President.

THE CHAIR:

We'll have to call the bill.

SENATOR UPSON:

Yes.

THE CLERK:

Page 11, Calendar 451, Substitute for House Bill No. 6682. AN ACT CONCERNING COMPETENCY TO STAND TRIAL, as amended by House Amendment Schedule "A". Favorable report of Committee on Judiciary, File 571, and 761.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Thank you Madam President. I move the Joint

Committee's favorable report, passage of the bill, and leave to explain the bill.

THE CHAIR:

Questions on passage and concurrence with the House. Will you remark?

SENATOR UPSON:

There are two Amendments. I believe Senator Jepsen has an Amendment and Senator Looney.

THE CHAIR:

Senator Upson do you have a preference on which LCO is called?

SENATOR UPSON:

Since we had to wait two days for Senator Jepsen, we'll call his first. That will be LCO-6759.

THE CLERK:

I don't have 6759.

THE CHAIR:

Perhaps Senator Upson.

SENATOR UPSON:

We do have it in our files, but if you could then call LCO-6918, Senator Looney.

THE CLERK:

Senate Amendment Schedule "A" LCO-6918, introduced by Senators DiBella, Sullivan, Jepsen, Peters and Looney.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you Madam President. Madam President, I move adoption of the Amendment and ask to be given leave to summarize.

THE CHAIR:

Questions on adoption, will you remark?

SENATOR LOONEY:

Yes, thank you Madam President. What this Amendment does is address the item and the comment to the file copy of the bill, and corrects the designation of psychiatric nurse, clinical specialist, holding a Masters Degree in nursing. The file copy of the bill incorrectly referred to.

THE CHAIR:

Senator Looney, just a moment. Ladies and gentlemen, I'm beginning to feel like the den mother. But it's beginning to sound like a den. Could we please direct your attention to the person who has the floor. And in this case it is Senator Looney. Senator Looney, please proceed.

SENATOR LOONEY:

Thank you Madam President. Madam President, what this Amendment does, as I said, is address the comment

to the file copy which pointed out that nurse professionals with Masters Degrees are not given in psychiatric nursing, but rather in nursing.

So the correct designation is psychiatric nurse clinical specialist, holding a Masters Degree in nursing. And that correction is made in the several sections of the bill where that occurred. Thank you Madam President.

THE CHAIR:

Thank you Senator Looney. Will you remark further on Senate "A"? Will you remark further? Senator Upson.

SENATOR UPSON:

Just if I may, Madam President, I have no objection to Senator Looney's friendly Amendment.

THE CHAIR:

Thank you. Will you remark further? If not, I'll try your minds. All those in favor indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed nay. Aye's have it. Senate "A" is adopted.

THE CLERK:

Senate Amendment Schedule "B" LCO-6759, introduced
by Senator Jepsen.

THE CHAIR:

Senator Jepsen.

SENATOR JEPSEN:

Thank you Madam President. And thank you Mr. Chairman. I move adoption of the Amendment and seek leave to summarize.

THE CHAIR:

Questions on adoption. Please proceed.

SENATOR JEPSEN:

What this bill, what this Amendment effectively does is simply to grandfather individuals who because they have been working in this field for quite some time have the clinical experience necessary and wouldn't impose upon them a burden of going back to school.

THE CHAIR:

Questions on adoption. Will you remark? Senator Upson. Senator Upson.

SENATOR UPSON:

Thank you Madam President. Through you to Senator Jepsen, if I may ask him how many people are affected by this Amendment.

THE CHAIR:

Senator Jepsen.

SENATOR JEPSEN:

I'm aware of one, there may be more for all I know.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Yes, also, through you Madam President. I don't know, the Department of Mental Health, this is their bill, it's my understanding. Have you talked to them, or is there any objection on their part to this Amendment? Through you Madam President.

THE CHAIR:

Senator Jepsen.

SENATOR JEPSEN:

I'm not, I have spoken to them, I wouldn't describe them as enthusiastic about this Amendment. I'm not aware that they are lobbying actively for its defeat, however.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Through you Madam President. You know of one person, Senator Jepsen, but there could be more. I don't know how many people we're talking about, through

you Madam President.

THE CHAIR:

Senator Jepsen.

SENATOR JEPSEN:

That's exactly what I mentioned, yes. I'm aware of one, there may be more.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

I'm going to oppose this Amendment very quietly on a voice vote, thank you.

THE CHAIR:

Thank you Senator Upson. Will you remark further on Senate "B". Will you remark? If not, I'll try your minds. All those in favor indicate by saying aye.

SENATORS:

Aye.

THE CHAIR:

Those opposed nay.

THE CHAIR:

Aye's have it. Senate "B" is adopted. Would someone like to pass the bill? Senator Upson.

SENATOR UPSON:

Yes, Madam President. The bill itself changes the three people that determine the competency of someone

to stand trial. Under existing law, a psychiatrist and psychologist, and a third party, and that would be someone such as the person we just grandfathered in, as well as a nurse who has medical experience in the mental health area, would make up the examining committee.

This will clearly define those people who will be allowed to conduct examinations. For example, it will also include, as we just said, Senator Looney's Amendment, that would be psychiatric nurse clinical specialist, holding a Masters Degree. That would be the third member of this team. The proposed change will allow examiners more time to file the reports, and it will broaden the persons eligible to do the examinations, those third party people, who are not psychologists, and psychiatrists.

If there's no objection, there's no need for Consent Calendar. I'd ask to have this called.

THE CHAIR:

Thank you Senator Upson. Will you remark further on the bill as amended? Will you remark further? If not, I would ask members to take their seat. Would the Clerk please call a roll call vote, machine will be open.

THE CLERK:

An immediate roll call is being taken in the
Senate. Will all Senators please return to the
Chamber. An immediate roll call is being taken in the
Senate. Will all Senators please return to the
Chamber.

THE CHAIR:

Have all members voted? If all members have
voted, the machine will be locked. Clerk please take a
tally. And the Clerk, please announce the tally.

THE CLERK:

Total Number Voting	36
Necessary for Passage	19
Those voting Yea	36
Those voting Nay	0

THE CHAIR:

The bill as amended is passed. Senator Upson.

SENATOR UPSON:

Yes, Madam President, on Page 14, if you could
call Calendar No. 466 that had been PT'd and mark it a
Go.

THE CHAIR:

Without objection, would the Clerk please call.

THE CLERK:

Page 14, Calendar 466, Substitute for House Bill

No. 6954. AN ACT CONCERNING REGISTRARS OF VOTERS, ABSENTEE BALLOTS, VOTER REGISTRATION DEADLINES AND THE SUBMISSION OF ELECTION AND PRIMARY RESULTS, as amended by House Amendment Schedules "A" and "B". Favorable report of Committee on GAE, and Planning & Development, File 288, and 768.

THE CHAIR:

Senator Smith.

SENATOR SMITH:

Thank you Madam President. I would move adoption of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

Questions on passage and concurrence. Will you remark?

SENATOR SMITH:

Yes, Madam President. As an initial matter I would like to move to reject House "B".

THE CHAIR:

We'll have to call the Amendment.

THE CLERK:

House Amendment Schedule "B" is LCO-7249,
introduced by Senator Ward, Representative Ward.

THE CHAIR:

Senator Smith.

H-726

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1995

VOL. 38
PART 7
2265-2666

House of Representatives

Tuesday, May 16, 1995

CLERK:

The House of Representatives is voting by roll call.
Members to the Chamber. The House is voting by roll
call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? Have all members voted?
I guess not. Representative Bysiewicz, have all
members voted? Representative Demarinis have all
members voted? Representative Demarinis have all
members voted? If all members have voted please check
the machine to make sure the vote is properly recorded,
the machine will be locked. The Clerk will take the
tally. The Clerk will announce the tally.

CLERK:

House bill number 6845.

Total Number Voting	142
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Necessary for passage	72
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Those voting Yea	141
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Those voting Nay	1
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Those absent and not voting	9
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DEPUTY SPEAKER HYSLOP:

Bill passes.

CLERK:

On page fourteen, Calendar 380, substitute for
House Bill number 6882, AN ACT CONCERNING COMPETENCY TO

House of Representatives

Tuesday, May 16, 1995

STAND TRIAL. Favorable report of the Committee on
Judiciary.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I move acceptance of the
Joint Committee's favorable report and passage of the
bill.

DEPUTY SPEAKER HYSLOP:

Question is on acceptance, will you remark
further?

REP. LAWLOR: (99th)

Thank you Mr. Speaker, I will. This bill in its
final form essentially extends the period from ten days
to twenty-one business days after the date of the
order. The period during which examiners have to
report back to a court their findings under a referral
for competency evaluation. In other words when there
is a possibility that a criminal defendant might not be
competent to stand trial, the court refers the case to
a special clinic for an evaluation to determine
competency in their report back to the court.

The file copy would simply extend that period of
time. The Clerk has LCO number 651, I'd ask the clerk
to call and I be permitted to summarize.

House of Representatives

Tuesday, May 16, 1995

DEPUTY SPEAKER HYSLOP:

Will the Clerk please call LCO 6515 and designate as House amendment "A".

CLERK:

LCO 6515 designated as House "A" offered by Representative Lawlor.

DEPUTY SPEAKER HYSLOP:

The House will stand at ease until the Republican side of the aisle receives the amendment. House come to order. Representative Lyons.

REP. LYONS: (146th)

Yes, Mr. Speaker, at this time I would ask that the bill be passed temporarily.

DEPUTY SPEAKER HYSLOP:

Questions on passing temporarily, will there be any objections? Seeing none, so ordered. House stand at ease. House come back to order. Clerk please return to the call of the Calendar.

CLERK:

Calendar number 270, on page thirty-seven. House bill number 6970, AN ACT CONCERNING THE POWERS AND DUTIES OF THE STATE COMPTROLLER CONCERNING UNEMPLOYMENT CLAIMS OF STATE EMPLOYEES, THE STATE-WIDE TIME AND ATTENDANCE SYSTEM, ANNUITIES AND DEPENDENT CARE ACCOUNTS. Favorable report of the Committee on Labor

House of Representatives

Tuesday, May 16, 1995

CLERK:

Senate bill number 850 as amended by House "A."

Total Number Voting 144

Necessary for passage 73

Those voting Yea 144

Those voting Nay 0

Those absent not voting 7

DEPUTY SPEAKER HYSLOP:

Bill as amended as passed.

CLERK:

Page fourteen, calendar 380. Substitute for House bill number 6882, AN ACT CONCERNING COMPETENCY TO STAND TRIAL. Favorable report of the Committee on Judiciary.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER HYSLOP:

Questions on acceptance and passage, will you remark?

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I believe we had called this previously and postponed it temporarily because an

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179

House of Representatives

Tuesday, May 16, 1995

amendment had not at that time been made available to all members of the House. As I explained earlier, the file copy simply extends the time period during which a report back to a court must be made and once there is an order for a competency evaluation has been issued by a court it extends that period from ten days to twenty-one business days of the date of the order.

The Clerk has LCO number 6515, I would ask that the Clerk call and I be permitted to summarize.

DEPUTY SPEAKER HYSLOP:

Clerk please call LCO 6515 previously designated House "A."

CLERK:

LCO number 6515, previously designated House "A"
offered by Representative Lawlor.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This amendment would simply add one category, it breaks an existing category into two parts; a psychiatric, a critical team which performs a competency evaluation consists of three types of specialists at the current time -- a psychiatrist, a clinical psychologist, and a psychiatric social worker. This amendment takes the

House of Representatives

Tuesday, May 16, 1995

psychiatric social worker member of the team and allows the team to consist of instead of only a psychiatric social worker, it would include a clinical independent social worker certified pursuant to our statutes or a nurse clinical specialist holding a Masters degree in psychiatric nursing. In other words, the third member of the team could be one of either of those two specialties.

It also adds clinical independent social worker certified pursuant to our statutes, later on in a clarification at the second part of the statute which covers the same ground. I would urge adoption of the amendment Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Questions on adoption, will you remark further?

Representative Metz.

REP. METZ: (101st)

Thank you Mr. Speaker. I merely have a question for the proponent of the amendment. Is the language of this amendment affected by the licensure bill which we just passed for clinical social workers?

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker, through you. I'm not sure

kmr

181

House of Representatives

Tuesday, May 16, 1995

of the answer to that question I assume it probably is, and I don't know that it would be inconsistent assuming that it is.

DEPUTY SPEAKER HYSLOP:

Representative Metz.

REP. METZ: (101st)

Are you saying that we could pass the bill with this language at this point and it would automatically change if a licensure bill should find its way to passage?

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I'm not sure of the answer to the question. But our normal procedure here is if we pass two bills which appear to be inconsistent or overlapping, the legislative commissioners in engrossing the final copy which would go to the governor could make an adjustment at that time, or the bill could be returned to legislature for further action by the legislative commission.

DEPUTY SPEAKER HYSLOP:

Representative Metz.

REP. METZ: (101st)

Thank you Mr. Speaker.

House of Representatives

Tuesday, May 16, 1995

DEPUTY SPEAKER HYSLOP:

Will you remark further on the amendment? Will you remark further on the amendment? If not, we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed nay. The ayes have it, the amendment passes, ruled technical. Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests to the well of the House, the machine will be open.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? Have all members voted? If all members have voted please check the machine make sure that your vote is properly cast. The machine will be locked. The Clerk will take a tally.

Representative Kirkley-Bey, for what purpose do you rise?

REP. KIRKLEY-BEY: (5th)

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183

House of Representatives

Tuesday, May 16, 1995

Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Kirkley-Bey in the affirmative.

The Clerk will announce the tally.

CLERK:

House bill number 6882 as amended by House "A."

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not voting	8

DEPUTY SPEAKER HYSLOP:

Bill as amended is passed. Are there any
announcements, points or personal privilege?

Representative Ward, Minority Leader.

REP. WARD: (86th)

Thank you Mr. Speaker. Mr. Speaker, in anticipation of an announcement of a session time tomorrow, for the members of the House Republican Caucus there will be a Caucus tomorrow at 11:30 a.m., it will be in the Legislative Office Building. Check with your legislative assistants in the morning as to the room number which we don't have yet. But it's an 11:30 a.m. caucus tomorrow in the Legislative Office Building. Thank you Mr. Speaker.

H-730

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1995

VOL. 38
PART 11
3805-4169

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House of Representatives

Tuesday, May 30, 1995

DEPUTY SPEAKER PUDLIN:

The bill, as amended passes. Clerk, please call
Calendar 380.

CLERK:

On page 38, Calendar Number 380, Substitute for
House Bill Number 6882, AN ACT CONCERNING COMPETENCY TO
STAND TRIAL, as amended by House Amendment Schedule "A"
and Senate Amendments Schedules "A" and "B". The
Senate adopted Senate Amendment Schedules "A" and "B"
on May 24, 1995. Favorable Report of the Committee on
Judiciary.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor. Good afternoon, sir.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill, in concurrence with the Senate.

DEPUTY SPEAKER PUDLIN:

The question is on acceptance and passage in
concurrence with the Senate. Will you remark?

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. The House previously
passed this bill, amended by House Amendment "A". When
it was transmitted to the Senate, the Senate saw fit to
adopt two amendments. The Clerk has LCO Number 6918.

gmh

House of Representatives

Tuesday, May 30, 1995

I would ask that the Clerk call and I be allowed to summarize.

DEPUTY SPEAKER PUDLIN:

Will the Clerk please call LCO 6918, Senate "A"?

CLERK:

LCO Number 6918, designated Senate "A" offered by Senator DiBella, et al.

DEPUTY SPEAKER PUDLIN:

Hearing no objection, please summarize.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. In the original file copy we had added a nurse clinical specialist holding a Masters Degree in Psychiatric Nursing to the list of persons who can participate in an evaluation team. That apparently is not the proper term and the Senate instead, substituted the words "psychiatric nurse clinical specialist holding a masters degree in nursing". I would urge adoption of this amendment.

DEPUTY SPEAKER PUDLIN:

The question is on adoption. Will you remark? If not, let me try your minds. All those in favor of Senate "A", signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

gmh

003985
122

House of Representatives

Tuesday, May 30, 1995

Opposed, nay. The amendment is adopted. Will you remark further? Representative Lawlor.

REP. LAWLOR: (99th)

Mr. Speaker, the Senate adopted Senate Amendment "B", LCO Number 6759. I would ask that the Clerk call and I be permitted to summarize.

DEPUTY SPEAKER PUDLIN:

Clerk, please call LCO 6759, Senate "B".

CLERK:

LCO 6759, designated Senate "B" offered by Senator Jepsen.

DEPUTY SPEAKER PUDLIN:

Hearing no objections, please summarize, sir.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. This amendment essentially grandfathers or grandmothers in some employees of the Department of Mental Health who have been participating in these teams for some time, but who may not hold the exact qualifications called for in the bill. I would urge its adoption.

DEPUTY SPEAKER PUDLIN:

Will you remark further? Representative Radcliffe, good afternoon, sir.

REP. RADCLIFFE: (123rd)

Good afternoon, Mr. Speaker. A question to the

gmh

House of Representatives

Tuesday, May 30, 1995

proponent of the bill.

DEPUTY SPEAKER PUDLIN:

Your question, sir?

REP. RADCLIFFE: (123rd)

To the proponent of the bill, how many individuals are we talking about here within the Department of Mental Health who have been members of these teams in prior years? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. To the best of my information, I think there are three or four.

REP. RADCLIFFE: (123rd)

Through you, Mr. Speaker. And what are the qualifications of these three or four individuals for whom this amendment evidently was presented? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. They are psychiatric social workers.

DEPUTY SPEAKER PUDLIN:

Representative Radcliffe.

gmh

House of Representatives

Tuesday, May 30, 1995

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. Through you, Mr. Speaker. As I am reading the existing law, I don't see that we have changed that particular section. On line -- with line 17 of the original file, it talked about psychiatric social workers or clinical psychologists. Could those -- have those individuals, by virtue of this act, been prohibited from serving as members of the team? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. The bill itself, as it has been amended would no longer allow psychiatric social workers to participate in these teams. Instead, it would either be clinical independent social workers certified pursuant to Section 383 or a psychiatric nurse/clinical specialist holding a Masters Degree.

There are some psychiatric social workers who may not currently have that qualification who have for many years, been participating in these teams. This amendment would allow those persons to continue working on the teams even though the bill itself would prohibit persons holding only that qualification in the future being hired and participating in those teams.

House of Representatives

Tuesday, May 30, 1995

REP. RADCLIFFE: (123rd)

Through you, Mr. Speaker. This amendment, as I read it, applies only to individuals employed by the Department of Mental Health who had served on those teams. How many psychiatric social workers are there in the State of Connecticut who would be effected by this who are not being grandfathered or grandmothereed into this particular bill? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I don't know the answer to that question.

DEPUTY SPEAKER PUDLIN:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Yes, through you, Mr. Speaker. Did the Department of Mental Health use individuals who were not State employees to do this work prior to this bill? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I am not sure, but I do not believe so.

gmh

House of Representatives

Tuesday, May 30, 1995

DEPUTY SPEAKER PUDLIN:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you. Again, reading the bill I may have -- I maybe misreading it here on line 22, I wasn't aware that psychiatric social workers could themselves be a member of the team under existing law. A psychiatric social worker, under existing law would have to be part of a team were they psychiatrists or were they psychologists. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. The current teams consist of three persons, a psychiatrist, a psychologist, and a psychiatric social worker. Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

And through you, Mr. Speaker. They also include other individuals in addition to those three who can be appointed by the appointing authority. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

House of Representatives

Tuesday, May 30, 1995

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I don't believe so. I believe only essentially a physician specializing in psychiatry could be added to the team.

REP. RADCLIFFE: (123rd)

So, through you, Mr. Speaker. On each of these teams there must be a psychiatrist and there must be two other individuals, one of whom must be a psychologist and one of whom must be, under existing law, a clinical social worker or a psychiatric social worker, rather and under the bill that is before us, a psychiatric nurse/clinical specialist holding a Masters Degree in nursing. Is that the way this amendment should be read in terms of the file copy? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

The amended bill, it passes as it was passed in the Senate, would allow each team to consist of three persons. First, a psychiatrist. Second, a clinical psychologist. And third, either (a) a psychiatric nurse/clinical specialist holding a Master's Degree or a clinical independent social worker certified pursuant

gmh

128

House of Representatives

Tuesday, May 30, 1995

to Chapter 383. So it is the third member of the team. This bill would allow the third person to be either one or the other of those two categories.

REP. RADCLIFFE: (123rd)

And through you, Mr. Speaker. What is the difference between a clinical social worker and a psychiatric social worker in terms of the individuals in Amendment "B" who are being grandfathered or grandmothered into this particular law?

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I think the principle difference is whether or not they currently hold a Masters Degree in Psychiatric Nursing.

DEPUTY SPEAKER PUDLIN:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. Then these individuals who are currently psychiatric social workers, are they licensed by any Department of the State of Connecticut? Through you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

gmh

003992
129

House of Representatives

Tuesday, May 30, 1995

Through you, Mr. Speaker. I believe they are, but I am not certain.

REP. RADCLIFFE: (123rd)

I guess, given the fact that they serve on these teams at the present time, it wouldn't do any harm. It just would be a little bit more comfortable knowing that there maybe a whole class of individuals out there who may not be State employees and what this amendment says is that but for the fact that they are not employed by the Department of Mental Health, they would be able to participate, but they are not going to be grandfathered or grandmothersed simply because of an accident of their current employment.

I don't know how many of those individuals are affected. I guess it isn't a great many, but I don't know why we are doing this, frankly for three individuals, particularly if it is not covered by any agreement that makes it a condition of employment.

DEPUTY SPEAKER PUDLIN:

Thank you, sir. Will you remark further on Senate "B"? Representative Gyle.

REP. GYLE: (108th)

Thank you, Mr. Speaker. Through you, to the proponent of Senate Amendment "B".

DEPUTY SPEAKER PUDLIN:

gmh

House of Representatives

Tuesday, May 30, 1995

Representative Lawlor, ready yourself, sir.

Proceed, Madam.

REP. GYLE: (108th)

Thank you, Mr. Speaker. Representative Lawlor, can you tell me if I have gotten this straight -- I think I have because Representative Radcliffe pretty well delineated the issue, but what you are saying is that there are three people in the State of Connecticut who are on these teams of three people each and these three people do not have a Masters Degree, but they can still be on this team. Is that correct?

DEPUTY SPEAKER PUDLIN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I am not sure that is exactly what I said. I think the question was, how many psychiatric social workers have been with the Department for more than five years. I think there is a few. There maybe as few as one, but it's not that many and I don't know how many others there might be who do not have a Masters Degree.

I think the intent of this is to allow people who have essentially been doing this function for many, many years to continue doing it and in the future, people would be required to have these two minimal

gmh

003994
131

House of Representatives

Tuesday, May 30, 1995

credentials.

DEPUTY SPEAKER PUDLIN:

Representative Gyle.

REP. GYLE: (108th)

Thank you, Mr. Speaker. That's what I thought it said. You know, I am going to oppose this amendment. I know it is probably butting my head against the wall again, but you know, very frankly, we are talking about competency to stand trial here and we have these teams that we set up specifically for their expertise. You have a doctor, who is a psychiatrist. You have a psychologist who has a doctorate. I should think the third member of the team should at least have a Masters Degree. If these people are on these teams there is nothing to preclude them from going back to school and getting their Masters Degrees. I am surprised they haven't done that already when they are in such a sensitive position. And to be perfectly honest with you, I don't think I want someone on a psychiatric team that is looking at competency to stand trial without a Masters Degree. I think that is what we did this year with our certified clinical psychiatric social worker. We made sure that they had Masters Degrees and they were licensed by the State.

I think we are taking great pains to make sure

gmh

003995
132

House of Representatives

Tuesday, May 30, 1995

that the public is well served by people with appropriate credentialling. And to grandfather in the immediate world just because they have a job with us, I think defeats the purpose and I would oppose this amendment.

DEPUTY SPEAKER PUDLIN:

Will you remark further on Senate "B"? If not, let me try your minds. All those in favor of Senate "B", please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Opposed, nay. The ayes have it. "B" is adopted. Will you remark further on the bill, as amended? Will you remark? If not, staff and guests to the well of the House. Members be seated. The machine is open.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER PUDLIN:

If all the members have voted and if your votes are properly recorded, the machine will be locked. The Clerk will take the tally.

The Clerk will announce the tally.

gmh

House of Representatives

Tuesday, May 30, 1995

CLERK:

House Bill 6882, as amended by Senate "A" and
Senate "B" in concurrence with the Senate

Total Number Voting	150
Necessary for Passage	76
Those voting Yea	150
Those voting Nay	0
Those absent and not voting	1

DEPUTY SPEAKER PUDLIN:

The bill, as amended passes. Clerk will please
call Calendar 100.

CLERK:

On page 4, Calendar 100, House Bill Number 5077,
AN ACT CONCERNING ESTATE IN FEE TAIL. Favorable Report
of the Committee on Judiciary.

DEPUTY SPEAKER PUDLIN:

The Chair recognizes the cheerful Representative
from Danbury, Representative Godfrey.

REP. GODFREY: (110th)

Thank you, Mr. Speaker. Good afternoon. I move
acceptance of the Joint Committee's Favorable Report
and passage of the bill.

DEPUTY SPEAKER PUDLIN:

On acceptance and passage. Please remark, sir.

REP. GODFREY: (110th)

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 10
3235-3628

1995

or like a bank that says, I can't give you my records. Give me a subpoena. And this could be at the early stage. So it is not aimed at defendants. Or potential targets.

SEN. LOONEY: Now the language -- the section 3 that refers to the issuance of the subpoena makes clear that the person whom it was issued shall have the right to have counsel present and to consult with such counsel.

Do we need to also make that clear in the other sections referring to the in-camera hearing in section 5 that there be right to counsel in those proceedings, also?

JOHN BAILEY: As you know, under our grand jury law, which Senator Upson and Representative Lawlor and Representative Radcliffe were on, we have the provision where counsel can be in the grand jury room. We just carried that over. Most states, you don't have that right.

SEN. LOONEY: Right. Okay. Thank you.

JOHN BAILEY: Thank you.

SEN. UPSON: Thank you very much. Any more questions? Thank you. Deb Scott on SB682 and HB5642.

DEBORAH SCOTT: Good morning, Senator Upson, Representative Lawlor and members of the Committee. I am Deborah Scott. I am Director of Forensic Services for the Department of Mental Health.

I am responsible for the programs for mentally ill defendants and offenders for the Department and for the operation of Whiting Forensic Institute. With me is Doctor Michael Norko who is a forensic psychiatrist and the Director of Whiting Forensic Institute.

I am here to talk about two bills this morning, HB6882, AN ACT CONCERNING COMPETENCE TO STAND TRIAL which is the Department's bill and HB5642, AN ACT CONCERNING CIVIL COMMITMENT OF MENTALLY ILL SEX OFFENDERS.

I have submitted written testimony and so I am just going to summarize that testimony that you have already.

I will take up HB6882 first, AN ACT CONCERNING COMPETENCE TO STAND TRIAL. This is basically a money saving measure. Currently in Connecticut, competence to stand trial evaluations are conducted by a team of a psychiatrist, clinical psychologist and psychiatric social worker. This is statutorily mandated and we are the only state that mandates three high priced mental health professionals to do this type of evaluation. Most states require only one professional.

What we are asking to do is to reduce the team to two members. The psychiatrist would be maintained as a mandatory member of the team and the other team member would be selected according to the needs in the case. It would be a clinical psychologist, a clinical social worker or a masters prepared psychiatric nurse/clinical specialist. All of these latter three professional groups have been -- are qualified in Connecticut to do independent practice and have been found qualified to do these evaluations by the American Bar Association.

I think that the change from the three person to the two person team is certainly going to enable us to keep up the quality of these evaluations. I don't see any problem with that. And it is going to save us about \$40,000 to \$60,000 a year on our evaluation budget which is a significant saving for us.

The only other suggested change in this bill is a technical change just to clarify, make crystal clear when a report has to be back to the court. I think this will simplify things both for the court and for our evaluators.

Are there any questions about this?

SEN. UPSON: We were lobbied heavily on this. Go ahead.

DEBORAH SCOTT: Okay. We will move on to the next one

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 11
3629-3916

1995

DR. HEDY AUGENBRAUN: Senator Upson.

SEN. UPSON: Yes.

DR. HEDY AUGENBRAUN: Doctor Romos Grenier had to leave. She was here most of the day. Would it be possible for one of us to read a very brief testimony?

SEN. UPSON: Is she going to say the same thing you are all going to say?

DR. HEDY AUGENBRAUN: We will make it brief.

SEN. UPSON: We know what you don't want the psychologists to be -- the issue is -- this bill. Is it mental health? Presenting these -- we want to make sure that you are of solid partner with the psychiatrists and not just with an (INAUDIBLE) situation. Correct. We all know that. But go ahead. We have a good lobbyist right there. He told all of us that, but go ahead.

DR. HEDY AUGENBRAUN: I am Doctor Hedy Augenbraun. I am a clinical psychologist and I appreciate the opportunity to address you on HB6882.

You have my --

SEN. UPSON: They say they will save money. That was the testimony.

DR. HEDY AUGENBRAUN: Not true.

SEN. UPSON: No. They said \$50,000 or \$80,000.

DR. HEDY AUGENBRAUN: They said \$40,000 to \$60,000.

SEN. UPSON: Okay. But why should we have a psychologist on there?

DR. HEDY AUGENBRAUN: Because psychologists are most trained in assessment of the three professionals who currently comprise the team. We have specific training in behavioral assessment and testing that make us invaluable when it involves questions of mental retardation --

140
gmh

JUDICIARY

April 7, 1995

SEN. UPSON: Am I correct? You guys all know about the issue because I want to get right to the heart of it? Yes? You all know so we are right on. Go ahead.

DR. HEDY AUGENBRAUN: Okay.

SEN. UPSON: We want to know why they are wrong and you are right.

DR. HEDY AUGENBRAUN: We are trained and experienced in assessment.

SEN. UPSON: I have heard that. Assessment, but a psychiatrist isn't good at assessment?

DR. HEDY AUGENBRAUN: Psychiatrists don't do testing. We are the group --

SEN. UPSON: I have heard that. What is --

DR. HEDY AUGENBRAUN: Psychological testing, intellectual testing, personality testing, testing for organicity or neuro-psychological problems, brain injuries.

SEN. UPSON: What does a test entail?

DR. HEDY AUGENBRAUN: The testing will tell if somebody is retarded --

SEN. UPSON: No. Entail.

DR. HEDY AUGENBRAUN: Oh. I thought you said tell. Within the context of the competency evaluation, it is part of the interview and mental status and the psychologists contribute not only to the mental status and the history, but also by evaluating the intelligence of the defendant, very briefly, to assure that this individual is capable of --

SEN. UPSON: So you mean it is a test that you ask questions and write down the answers?

DR. HEDY AUGENBRAUN: Yes.

SEN. UPSON: And I am not slowing you down. You have

three minutes minimum. You know that. Even though I am asking the questions, you still have three minutes. Each one of you.

DR. HEDY AUGENBRAUN: We ask specific questions regarding intellectual functioning and neuro-psychological capacity in order to determine that the individual will be capable of understanding the proceedings against them and participating in their own defense.

SEN. UPSON: How about other states, what do they do?

DR. ROBERT SUTTON: I can answer that. In a survey as of 1988, thirty eight of fifty states allowed psychologists to do criminal competency evaluations, these evaluations.

SEN. UPSON: Alone or with --

DR. ROBERT SUTTON: Well, the study does not delineate whether this is -- teams are relatively rare. The study doesn't delineate which particular states actually allow psychologists to do these solo. I can tell you, for example, that a border state, Massachusetts, eighty percent of the forensic evaluations, criminal responsibility and competency is done by psychologists with a high degree of satisfaction on the part of the judiciary. So this is not a novel privilege on our parts, by any means.

In fact, if anything, we are in the minority in this State in not giving psychologists independent practice privilege in this area.

SEN. UPSON: Go ahead.

DR. HEDY AUGENBRAUN: We have been part of the interdisciplinary team for twenty years now. The way the teams are now composed of a psychiatrist, a psychologist and social worker, you have a collaborative, cooperative effort. This results -- studies have shown in a better product, in a better evaluation. It makes the decision more reliable. And the cost has been documented to be cheaper than when psychiatrists previously did the evaluations

142
gmh

JUDICIARY

April 7, 1995

alone.

It also reduces the necessity to re-do evaluations because you have a consensus and this is often persuasive to the judge who is going to be getting this report.

SEN. UPSON: I'm sure you have two professionals. No. Nurses aren't professional, but two people of --

DR. HEDY AUGENBRAUN: Ph.D., M.D. level. Right. If there is a two person team, as in the proposed bill, it will often be a psychiatrist and a nurse. That could lead to it actually being one opinion rather than even a team effort. There will be a lack of balance. Right now, it is really a system of checks and balances. It will lead to higher costs as there will be a lack of competition and that will encourage the psychiatrist to press for higher fees, which they certainly get in the community. This is not a well paying position at this time.

And judges would ultimately have less confidence in the results. There have been no complaints about psychologists' participation as members of the team. The system has worked well for twenty years.

Thank you.

DR. DAN ABRAHAMSON: Two brief points, Senator Upson.

SEN. UPSON: Why don't you bring -- bring a chair up for -- your chair, if you don't mind standing for a second.

DR. DAN ABRAHAMSON: Senator Upson. Dr. Dan Abrahamson. And just three brief points, I would disregard my testimony.

SEN. UPSON: I appreciate that because I think we all know -- we have all been -- everyone here knows the issue.

DR. DAN ABRAHAMSON: Okay.

SEN. UPSON: You would think that you would all come and

143
gmh

JUDICIARY

April 7, 1995

talk to us in advance too.

DR. DAN ABRAHAMSON: Your time is valuable and I appreciate.

SEN. UPSON: And I am not undermining.

DR. DAN ABRAHAMSON: No. And I recognize that. And I think this is probably a more effective way --

SEN. UPSON: I think you have convinced me that we should stay where we are, but go ahead.

DR. DAN ABRAHAMSON: As Doctor Augenbraun mentioned, and as is apparent with Doctor Ramos Grenier's testimony, the assertion that money would be saved is a red herring in this case. I don't believe or a black crow or something. I don't believe that that is the case and I think she clearly delineates why that is the case. That will be in the record.

Number two, psychologists in addition to extensive training in psycho-diagnostics and psychological testing and there are hundreds of psychological tests, most of them developed by psychologists, scientifically validated as measuring what they intend to measure. In addition to that, psychology is the only of the health care professions at all, let alone the mental health professions, where practitioners are trained in research methodology equally with their training in clinical practice. That is what really defines psychology as a very unique profession.

That same research mentality we bring to the competency evaluations, where we very carefully and scrutinize the data and in fact, one research study, the only one I am aware of that compared psychologists with other mental health care professionals who did competency evaluations, found two very interesting findings. They found, relative to the other people compared and everybody had equal access to the records of the defendants, the psychologists made more collateral contacts. By that I mean they talked to family members. They talked to co-workers. They talked to law enforcement officials and got data from those

individuals more so than the other mental health professionals who performed competency evaluations and the psychologists spent more time evaluating the existing records than the other people.

We are scientists by nature. We want the data. We pool it and we determine and come to findings, based on that data. You can't remove the backbone of the evaluation team and expect the whole thing not to begin to crumble.

My third and final point is that some people argue that this bill was raised by the Department of Mental Health to include nurses in this process. Well let me tell you something. Nobody in this room is more supportive of nurses than I. My wife is an ivy league trained nurse who has spent twenty years dealing in a variety of --

SEN. UPSON: And there are more of them than there are you so we feel the same way.

DR. DAN ABRAHAMSON: That's right. Nurses contribute --

SEN. UPSON: But go ahead.

DR. DAN ABRAHAMSON: --facet of society. They are important contributors to the health care system. They don't get the respect and regard they deserve and nurses should be allowed to be involved in these competency evaluations if they are competent to do so and if DMH wants to change the competency evaluations, I would support them in doing so, but do it in a rational way. Not in the way just to bring in another class of people who may or may not be competent to do these. Let them put in more legislation to require that individuals who do these competency evaluations are, themselves, competent to do them. That would make more sense.

Thank you.

DR. ROBERT SUTTON: Let me -- I just will make this very brief. Let me leave the guild issues for a moment and talk about the consequence for our citizens in terms of, I think this bill --

SEN. UPSON: Thank you, by the way.

DR. ROBERT SUTTON: The outcome of criminal competency evaluations have important implications in a variety of ways. Mistakes are costly. If a defendant is mentally ill and incompetent, and this is missed by the evaluators, he could go back into the general inmate population and could suffer the consequences of physical abuse, assault, emotional suffering and is deprived of the psychiatric and psychological care that he needs.

If, on the other hand, the defendant is competent, and the team finds him incompetent, he is sent to the State hospitals that are ill-equipped to handle them, not to mention the cost of unnecessary hospitalization or that the defendant avoids his criminal responsibility, at least temporarily.

You need the best trained professionals to do these evaluations. They are tough. You are often dealing with violent people, people that are trying to fool the teams and the consequences are significant. You need well trained people to do this.

SEN. UPSON: I think I agree with you. Representative Radcliffe.

REP. RADCLIFFE: Just a couple of quick questions. In other states, are psychiatrists always on these teams?

DR. ROBERT SUTTON: I am not sure. I can tell you that the team model is relatively rare. Most forensic evaluations, as I understand it, are done individually and usually, I think, that the majority of states, and I think I am correct with this, allows you to either use a psychiatrist or a psychologist.

REP. RADCLIFFE: That is what I was getting at. Our state requires a team approach in which you have to have both a psychiatrist and a psychologist. Is that the majority view or is it an either/or proposition in many states?

DR. ROBERT SUTTON: I think it is an either/or in the

majority of cases. You should know in this state that psychiatrists can do these solo. They can do these independently or the team can do that. The way that the judiciary has practiced over the years is to give these evaluations to the team rather than to individual psychiatrists just because it is a better product.

REP. RADCLIFFE: So if we were to alter this to require a psychiatrist or a psychologist and one or more individuals it would still be greater protection than most of the other states?

DR. ROBERT SUTTON: You bet you. And we would be much in favor of that.

REP. RADCLIFFE: And you would still have the cost savings that you are talking about.

DR. ROBERT SUTTON: You bet you.

REP. RADCLIFFE: The Department is talking about then if there was a choice between a psychiatrist and a psychologist, under those circumstances. That is interesting.

DR. ROBERT SUTTON: Yes.

REP. RADCLIFFE: I wonder if you could get us some of that because --

SEN. UPSON: Other states, yes.

REP. RADCLIFFE: I think the Chairman was right on target on this. I am not sure that we have to sacrifice quality in order to obtain those cost savings. If, in fact, we are going to require a psychiatrist or a psychologist plus another worker as part of the -- whether it is a nurse, under existing law, social worker or licensed, maybe we can achieve the same cost savings and still provide for choice. Can you give us, just for some people who may not be familiar with this and I have had occasion, as I told Senator Upson, to use Doctor Augenbraun as a expert witness in a couple of cases and have certainly appreciated both the testimony and the education.

But can you tell us, basically, what a psychologist in Connecticut must have as far as credentials are concerned and the way some of these teams operate in terms of supervision of psychiatrists actually by psychiatrists being supervised by psychologists in certain cases? Doctor Augenbraun, I guess, has a question for you.

DR. HEDY AUGENBRAUN: Well psychologists have generally, approximately six years of post-baccalaureate training and internship in a post-op before they are allowed to practice independently in the State of Connecticut. And most of us who are clinical psychologists and who are functioning in this capacity, doing these team evaluations, have training in forensic psychology and in assessment of matters germane to competency evaluations such as malingering and deception. I think that that makes us beyond the behavioral assessment training and the research training, very valuable members of the team.

REP. RADCLIFFE: Have you had occasion to evaluate and supervise the works of medical doctors who are psychiatrists?

DR. HEDY AUGENBRAUN: Yes, I have. At Social Security, I am the Chief Psychologist which makes me in charge of fifteen psychologists and psychiatrists.

REP. RADCLIFFE: And basically, ---

SEN. UPSON: In Hartford or which --

DR. HEDY AUGENBRAUN: In Windsor.

REP. RADCLIFFE: But basically for social security psychologists and psychiatrists perform the same function and the government recognizes that.

DR. HEDY AUGENBRAUN: With exactly the same pay. Right.

REP. RADCLIFFE: Thank you. I think that closes --

SEN. UPSON: Maybe you should get us some information on what the other states do and if they are, in fact,

interchangeable.

DR. ROBERT SUTTON: I will get you that right away.

SEN. UPSON: Well, you can wait until Monday. Any more questions? I appreciate the team effort.

DR. HEDY AUGENBRAUN: Thank you.

DR. ROBERT SUTTON: Thank you.

SEN. UPSON: I guess I should go -- is Phil Tegeler here from CCLU? Is it T-E-G-E-L-E-R? Alright. And then how about Bob Pidgeon? We missed him, I think. He is not here? Oh, alright. From DCF. They changed the name this year, too?

ROBERT PIDGEON: Yes. They keep finding us.

SEN. UPSON: It took long enough for DCYS for me.

ROBERT PIDGEON: Mr. Chairman, members of the committee. My name is Bob Pigeon. I am the Director of Juvenile Justice for the Department of Children and Families. And I am here to testify about HB7025,
AN ACT CONCERNING JUVENILE JUSTICE.

I have submitted written testimony, so I will summarize my testimony as quickly as I can for you. I would be glad to answer questions then and there are a lot more details about what I am going to say in the testimony.

DCF plays a fairly large role in juvenile justice. We operate Long Lane, the State's only facility for committed delinquent kids. We operate parole services which supervises delinquent kids in the community. We fund the Youth Service Bureaus through our own budget.

DCF supports much of this proposed legislation and in fact, I think we are in the process of implementing many of the things that are talked about in the legislation and also in the reform package that was published.

Many of the provisions in the bill changes the

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April 6, 1995

Testimony of Edward Mattison
Executive Director
Connecticut Legal Rights Project
In Opposition to Committee Bills 611, 5642 and
In Favor of Bill 6882

I am the Director of the officially recognized legal assistance program for patients of the Connecticut public mental health system. We are opposed to bills 611 and 5642 and favor bill 6882. I am also speaking in opposition to bills 611 and 5642 for the Connecticut Civil Liberties Union.

Bill 611 would eliminate Connecticut's present system which permits an individual to plead not guilty by reason of insanity when he is accused of a crime and believes that he was insane at the time of the crime. Presently such a person if found not guilty by reason of insanity (NGRI) is placed under the administrative control of the Psychiatric Security Review Board (PSRB) which is responsible for hospitalizing him until he is no longer a danger to society or until the maximum sentence for the crime has expired.

Bill 611 would abolish the insanity defense and replace it with a finding of guilty but with diminished capacity. The effect would be that a person who received such a finding would first be placed under the PSRB until restored to sanity and then would serve the remainder of the maximum sentence in a correctional facility.

We believe that this bill is both impractical and a gross violation of civil liberties. It is impractical because no rational criminal attorney would permit a client to offer a plea under this statute. Such a client would get the worst of both worlds. Like current NGRI patients, it is very likely that the client will serve far more time in a mental hospital than he would in jail. Then on top of this lengthy sentence, will be added additional jail time.

The bill would make more onerous a system that already provides for so much imprisonment that last year only 12 accused criminals in the State of Connecticut chose an insanity defense. The effect is that the Corrections Department is by far the largest provider of mental health treatment in the state. Conservative estimates are that over 2000 inmates suffer from a serious and prolonged major mental illness.

It is difficult to understand the necessity of this bill. It seems based on the common misapprehension that hundreds of criminals get off easy with an insanity defense. The truth is quite the opposite. Not only is the insanity defense rare, but the latest report from DMH shows that insanity acquittees typically are locked up more than twice as long as criminals who commit the same offense.

This bill also violate civil liberties and seems facially unconstitutional in that it first requires a finding that a person is incapable of having an evil motive in committing the act he or she is accused of, but then punishes him with a criminal sanction. Conviction of a crime requires Mens Rea, a guilty and knowing mental act. It is extremely unfair to punish someone incapable of such thought.

Bill 5642 provides for the indefinite civil commitment to Whiting Forensic Institute of any sex offender who has completed his or her sentence and who remains dangerous to self or others. Although we do not deny that the problem of recidivism among people who commit sex crimes is a serious one, this is not a reason to further stigmatize people with mental illnesses. The bill in effect, declares that sex offenders are mentally ill and need treatment in a mental hospital. Although unquestionably there are a few sex offenders who have a serious mental illness amenable to treatment, most are diagnosed as having a personality disorder for which no standard psychiatric medication, treatment or therapy is effective.

The bill additionally will be extraordinarily expensive. Well over 500 inmates a year are released who might arguably come under this bill. If only 10 % of them are actually committed, in two years, they will outnumber the present population of Whiting Forensic Institute. In a short number of years these offenders would outnumber all of the civil patients in public mental hospitals. Such an outcome makes no sense and would reverse the years of progress that Connecticut has made in improving conditions for mentally ill persons.

Finally I would briefly speak in favor of Bill No. 6882. This bill would relax the requirements for the team that assesses the competency of a criminal defendant to stand trial. Present law requires a psychiatrist and both a psychologist and a psychiatric social worker. Under the bill, the team could have, in addition to a psychiatrist, a psychologist, a psychiatric social worker or a psychiatric nurse. We have nothing against the abilities of any of these disciplines, but we have found that strict rules slow down decisions and prevent resources from being used for their best purposes. We think this bill would help to shift DMH resources into providing more and better community care.

Thank you for your interest.



003893

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April 7, 1995

The Honorable Thomas F. Upson
The Honorable Michael P. Lawlor
Co-Chairs — Judiciary Committee
Connecticut General Assembly
State Capitol
Hartford, CT 06106

RE: HB 6882, AN ACT CONCERNING COMPETENCY TO STAND TRIAL

Dear Senator Upson and Representative Lawlor:

Ladies and gentleman, I appreciate the opportunity to address you today in opposition to House Bill 6882. My name is Dr. Hedy Augenbraun and I am a clinical psychologist.

Since 1974, psychologists have participated in clinical teams with psychiatrists and social workers to evaluate competency to stand trial in Connecticut. The objective of these evaluations is to determine whether defendants understand the proceedings against them and are able to participate in their own defense. A team sees three of four defendants during a session. The psychologist, psychiatrist and social worker often alternate in evaluating defendants, in a collegial atmosphere. We then review the data and reach our decision together. Usually, the social worker writes the report and testifies, though I have done both. Both psychiatrists and clinical psychologists have "the specific technical skill clinically required to perform to individual examinations" (Herron, Zonana & Crane, 1983).

The competency evaluation is critical because a decision of incompetence is "tantamount to commitment" (Fitzgerald, Peszke, Goodwin, 1978). This evaluation must be comprehensive, thorough, and address all the issues relevant to competency without the introduction of any personal or professional biases. The use of the interdisciplinary teams affords "an opportunity to minimize and to cross-check such professional and personal biases" (Fitzgerald, et al.).

As Ph.D.s, clinical psychologists are trained to be scientist-practitioners. We closely study behavior and are aware of minute variations in behavior. My graduate training included coursework in behavioral assessment and in forensic psychology, and I have been doing forensic evaluations for 14 years. My psychologist colleagues here have similar backgrounds.

As psychologists, we are particularly adept at evaluating not only mental retardation, traumatic brain injury and psychosis, to name a few conditions frequently seen in competency evaluations, but also malingering, which is rampant. Just a few weeks ago, a person being evaluated said to me, "Maybe I shouldn't do too well on these questions. I think I'd rather be in a hospital than in jail." His openness was not characteristic of the defendants whom we assess. The team has a difficult task in assessing the veracity of

-OVER-

statements, but psychologists with training in assessment of malingering and deception can make a critical difference.

Competency evaluation focuses on an individual's functional abilities as they relate to the demands of a trial. No particular psychiatric diagnosis or psychological problem decides competency in itself. Neither psychosis, mental retardation nor even amnesia is sufficient in itself to support a finding of incompetence. It is the effect of the mental condition on cognitive processes and behavior that is at issue. History, pathology, feelings, interpretations and underlying conflicts have nothing to do with competency. Having a clinical team that includes a clinical psychologist assures that the team will consider actual behavior as it relates to the question of competence. We provide a system of checks and balances, which is fundamental to American justice.

The bill at hand is being proposed as a cost-saving measure. When psychiatrists did the evaluations alone, they cost more (Herron, et al.). The team approach has also been found to provide better reports, to keep the evaluation clearly focused on competency, and to often eliminate the need for a second or third opinion.

This Bill Would Remove Psychologists From Team

The bill before you will effectively eliminate psychologists from assessment of competence as part of court clinic teams in Connecticut, where we have served for 20 years with distinction. This change will shift the currently well-balanced team to a less balanced, less effective and less reliable means of assessing competence. This bill will ultimately raise the fees for psychiatrists, and therefore provide no long-term cost savings. I urge you to reject this bill which serves no valid purpose. As a wise man said, "If it ain't broke, don't fix it." Thank you.

Sincerely,

Hedy Augenbraun, Ph.D.
Licensed Psychologist

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THE CONNECTICUT PSYCHOLOGICAL ASSOCIATION, INC.

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April 7, 1995

The Honorable Thomas F. Upson
The Honorable Michael P. Lawlor
Co-Chairs — Judiciary Committee
Connecticut General Assembly
State Capitol
Hartford, CT 06106

RE: HB 6882, AN ACT CONCERNING COMPETENCY TO STAND TRIAL

Dear Senator Upson and Representative Lawlor:

I am Dr. Daniel Abrahamson, a psychologist and Director of Professional Affairs for the Connecticut Psychological Association. I am here to offer testimony opposing HB 6882, AN ACT CONCERNING COMPETENCY TO STAND TRIAL.

Please Oppose This Bill

By virtue of their unique training in psychological testing and psychodiagnostics, psychologists are highly qualified to conduct competency evaluations. The idea of removing psychologists from mandatory participation on the clinical evaluation team is counter to the best interests of the state. Because of their unique diagnostic and testing skills, psychologists serve as the backbone of any evaluation team. It hardly makes sense to designate the backbone as an optional part of the system.

Diagnostic tests performed by psychologists and neuropsychologists are state-of-the-art tools, usually designed and developed by psychologists. Increasingly, physicians and other health care professionals turn to psychologists for their diagnostic capabilities. These diagnostic services can establish the presence of brain damage, brain disease or developmental abnormality. They can identify the specific area or areas of cerebral dysfunction and assess the prognosis for improvement or deterioration in functioning. Psychologists and neuropsychologists then apply these results toward the development of rehabilitative services for patients, working to assist the patient in becoming as functionally independent as possible and providing treatment recommendations to facilitate the greatest recovery of neuropsychological functioning.

In Connecticut, psychologists already evaluate competency for social security determinations, as well as for probate determinations of conservatorship and can participate independently on the Psychiatric Security Review Board. Psychologists also routinely perform evaluations with regard to parental rights in child custody evaluations for family court. In the Federal courts psychologists can perform determinations of mental condition, independently evaluate for determination of insanity, and serve as expert witnesses in regard to a defendant's mental condition. Inclusion of additional qualified experts would facilitate the evaluation of competency cases for the courts.

-OVER-

Other Support

More than half of the states permit psychologists to perform competency evaluations independently. Federal and state laws recognize psychology as an independent profession providing mental health services equal to other professions, including physicians. In addition, the Federal government has recognized the independent status of psychology in various health programs, such as the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) and more recently, Medicare.

Thus, if case law and state and federal legal systems recognize the independent scope of professional practice and the expertise of psychologists in diagnosis and treatment, these professionals should certainly be permitted to provide these competency evaluation services to Connecticut citizens.

Who Are Psychologists?

Psychologists undergo rigorous educational requirements including an average of seven years beyond the bachelor's degree, and are required to hold a license issued by the State Department of Health Services (Board of Examiners of Psychologists). Connecticut requires, as a minimum, a doctoral degree from an accredited institution, a year internship, an additional year of postdoctoral supervision, as well as passing a demanding licensing examination.

What Psychologists Do

More than 1000 licensed psychologists currently serve Connecticut residents in public and private settings. Psychologists diagnose and treat mental and emotional disorders and perform testing, assessment, and prevention with individuals and groups. Hundreds of psychologists work in private hospitals, outpatient clinics and community mental health centers; several hundred are engaged in private practice. Psychologists provide care for patients in the State of Connecticut Departments of Children and Youth Services, Mental Health, and Mental Retardation. Psychologists provide patient care at Connecticut's two medical schools where they conduct research and participate in training medical students, residents, and other health care professionals.

Thank you for your consideration of my testimony. Please do not hesitate to contact me if you require any additional information.

Sincerely,



Daniel J. Abrahamson, Ph.D.
Director of Professional Affairs



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April 7, 1995

The Honorable Thomas F. Upson
The Honorable Michael P. Lawlor
Co-Chairs — Judiciary Committee
Connecticut General Assembly
State Capitol
Hartford, CT 06106

RE: HB 6882, AN ACT CONCERNING COMPETENCY TO STAND TRIAL

Dear Senator Upson and Representative Lawlor:

Ladies and gentlemen, thank you for your attention this afternoon. My name is Dr. Robert Sutton. I'm here representing the Connecticut Psychological Association and I am testifying in opposition to Bill 6882, I am a licensed clinical psychologist in the state of Connecticut and have practiced here for the last ten years. Six of those years have been spent working for the Hartford Court Clinic doing competency-to-stand-trial evaluations. During my tenure at the Hartford Court Clinic I estimate that I have done around 500 competency-to-stand-trial evaluations and have also acted as a consulting psychologist, who reviews cases for the Psychiatric Security Review Board, which oversees the community treatment of defendants found not guilty by reason of insanity.

House Bill 6882, AN ACT CONCERNING COMPETENCY TO STAND TRIAL is being presented as an innocent cost-saving measure. Let me say quickly that this bill is neither innocent, nor will it be a cost-savings to the citizens of Connecticut. It is filled with guild issues and misrepresents the ultimate financial cost to the citizens of Connecticut.

I'd like to explain just a little bit about what competency to stand trial is, and what these evaluations entail before I provide more detail about the misguided nature of this bill. Allow me to tell you a little about the competency evaluation process — why they are done, who administers the program and which professionals actually do them — so hopefully you can have a better idea of how to vote on this bill.

Competency-to-stand-trial evaluations are sometimes necessary under the law. We are all aware that everyone is entitled to a fair trial. In our judicial system, in order for a defendant to receive a fair trial he must be deemed competent to stand trial. If a judge has any questions about a defendant's ability to understand his charges, appreciate the penalties he faces, follow and comprehend court proceedings or work with his lawyer to prepare a defense, then the judge refers a defendant for a competency evaluation. As you can imagine, the defendants that are referred for evaluation are often severely mentally ill, uncooperative, sometimes malingering or feigning symptoms to avoid punishment, and often have a history of violence. Add to this, that the majority of these evaluations are done in our state prisons, and you can begin to appreciate the complexity and difficulty of performing competency evaluations.

-OVER-

Currently in Connecticut these competency evaluations are performed by teams of mental health professionals made up of a psychologist (doctoral profession), a medical doctor specializing in psychiatry, and a social worker. There is also a provision under state law for psychiatrists to do these independently, but this mechanism is seldom used. The vast majority of competency-to-stand-trial evaluations in this state are done by the team method I just described and administered through the state's court clinic system. The court clinic provides the salaried social worker. The psychiatrist and psychologist are outside consultants, non-salaried, and receive hourly fees.

The team goes about its business of doing these competency evaluations by reviewing pertinent records, occasionally interviewing family members or prison personnel, interviewing the defendant extensively, and then finally making a determination of competency or incompetency to stand trial. The team also decides whether a defendant can be restored to competency, if appropriate treatment is available.

The team model for doing competency evaluations has been in use in Connecticut for twenty years. The wisdom underlying the team model is that each profession has particular expertise in the evaluation process. Psychologists have specific expertise related to the clinical problems that frequently come up in these evaluations. When it comes to questions of mental retardation, traumatic brain injury, the use of psychological testing, and behavioral observation, psychologists are in a special position since psychologists' graduate education includes rigorous training in these areas. Doctors of psychology have six years of graduate training, roughly half of which is spent in the area of clinical evaluation. This is one year more than most master's level practitioners spend in their entire clinical training.

Psychologists have long been recognized as experts in the area of clinical forensic practice. They are recognized nationally as expert witnesses and perform clinical competency evaluations and insanity determinations in a great majority of the states. If this bill is passed, you will trade a doctoral level practitioner for a master's level practitioner in a key area of forensic clinical practice.

Psychologists Should Be Mandated Members of Team

This bill is also being sold as a cost-saving measure. It is not. Currently the rate of pay for consulting psychologists or psychiatrists on these competency teams is \$ 50 an hour. This is less than half of the average fee for forensic consultants in the community. As soon as you mandate psychiatrists to be the only outside consultants to these teams you can expect that their fees would increase dramatically. The current rate for private reimbursement for forensic psychiatrists in the community ranges between \$ 110 to \$ 200 or more. There will be no cost-savings if you give psychiatry a monopoly in the area of private forensic practice. The only way to prevent this is to keep psychologists on these teams as a competitive safeguard to spiraling fees.

Sincerely,

Robert Sutton, Ph.D.
Legislative Committee

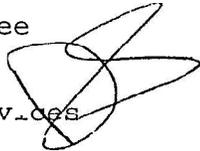
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STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH

April 6, 1995

TO: Senate Judiciary Committee
FROM: Deborah C. Scott, CISW
Director of Forensic Services
SUBJECT: H.B. #6882, An Act Concerning Competence to Stand Trial



=====

My name is Deborah Scott. I am Director of Forensic Services for the Department of Mental Health. I am testifying in favor of H.B. 6882, An Act Concerning Competency to Stand Trial.

Passage of this bill will allow the Department of Mental Health to perform competence to stand trial evaluations more efficiently, with greater flexibility and at a lower cost.

Currently CST evaluations in Connecticut are provided by three-person teams comprised of a psychiatrist, clinical psychologist and a psychiatric social worker. We are the only state requiring that competence to stand trial evaluations be done by a team of three mental health professionals.

This bill proposes to reduce the cost of competence to stand trial evaluations by reducing the team from three to two members. Under this bill the team would be composed of a psychiatrist and one or more of the following: a clinical psychologist, clinical social worker, or psychiatric nurse clinical specialist.

Clinical psychologists and social workers have expressed concern that this bill would exclude them from the evaluation process. This concern is unfounded. This bill does not prohibit the use of any particular discipline, nor the use of additional team members when specific expertise is required. It simply provides the Department of Mental Health with the necessary flexibility to choose from a number of qualified clinicians, based on the needs of each case.

I believe that the change from a three-person to a two-person team can be made without sacrificing the quality of competence to stand trial evaluations. To provide additional assurance, the bill defines the professional credentials of the clinicians eligible to participate in team evaluations. The term "psychiatric social worker," a term which has no legal or professional definition, has

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H.B. #6882

- 2 -

been changed to "clinical social worker certified under Chapter 383b." Only nurse clinical specialists holding a masters' degree in psychiatric nursing will qualify for the clinical team. Both certified social workers and the nurse clinical specialists are recognized as independent practitioners in their respected professions and by the medical community. Both have been found to be qualified to perform these evaluations by the American Bar Association. There are a number of such advanced clinicians in the Department of Mental Health who are trained in performing competence to stand trial evaluations. This proposed change would allow us to utilize their expertise.

In summary, the change from a three person to a two person team will allow us to continue to provide high quality evaluations on behalf of the Commissioner of Mental Health for the criminal courts and at the same time save \$40,000 to \$60,000 per year, a significant saving in our evaluation budget.

The other suggested change in this bill allows the court to schedule a date certain for the hearing at the time the evaluation is ordered. We believe this will simplify the process for the court and for our evaluators.

DCS:mb