

## Legislative History for Connecticut Act

<b>Act Number:</b> PA 04-28	
<b>Bill Number:</b> 5218	
<b>Senate Pages:</b> 1251, 1313-1315	4
<b>House Pages:</b> 1136-1138	3
<b>Committee:</b> Judiciary: 1288-1290, 1460-1461	5

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

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S-495

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2004

VOL. 47  
PART 5  
1227-1521

pat

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001251

Senate

April 15, 2004

Calendar 379, H.B. 5219, Madam President, would  
move this item to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 380 should be marked PR.

Calendar 381, PR.

Calendar Page 12, Calendar 382, H.B. 5054, Madam  
President, move to refer to the Committee on Government  
Administration and Elections.

THE CHAIR:

Without objection, so ordered. Calendar 383, PR.

Calendar 384, H.B. 5394, Madam President, move to  
place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Madam President. Calendar 385, H.B.  
5218, would also move this item to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 386, H.B. 5246, Madam President, would  
move to place this item on the Consent Calendar.

THE CHAIR:

pat

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001313

Senate

April 15, 2004

THE CHAIR:

Mr. Clerk, would you first announce a roll call vote on the Consent Calendar and then call those items. The machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, those items placed on the First Consent Calendar begin on Calendar Page 5, Calendar 82, Substitute for S.B. 148.

Calendar 86, S.B. 159.

Calendar Page 8, Calendar 340, Substitute for S.B. 144.

Calendar Page 10, Calendar 373, H.B. 5589.

Calendar Page 11, Calendar 379, Substitute for H.B. 5219.

Calendar Page 12, Calendar 385, H.B. 5218.

Calendar 386, Substitute for H.B. 5246.

Calendar Page 17, correction, Calendar Page 16, Calendar 74, S.B. 147.

Calendar 83, S.B. 149.

pat  
Senate

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001314

April 15, 2004

Calendar Page 17, Calendar 113, S.B. 63.

Calendar Page 19, Calendar 165, Substitute for S.B.

145.

Calendar 171, Substitute for S.B. 487.

Calendar Page 21, Calendar 217, Substitute for S.B.

322.

Calendar 230, Substitute for H.B. 5069.

Calendar Page 22, Calendar 242, Substitute for S.B.

541.

Calendar Page 25, Calendar 271, S.B. 524.

Calendar Page 26, Calendar 292, Substitute for S.B.

319.

Calendar Page 27, Calendar 315, Substitute for H.J.

38.

Calendar Page 28, Calendar 319, Substitute for H.J.

46.

Calendar 30, H.J. 73.

Calendar 321, H.J. 108.

Calendar 322, H.J. 109 and

Calendar 323, H.J. 110.

Madam President, that completes those items  
previously placed on the First Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk, would you once again announce  
a vote on the Consent Calendar, and the machine is open.

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001315

Senate.

April 15, 2004

THE CLERK:

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber.

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber.

THE CHAIR:

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

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total number voting 35; necessary for adoption, 19.  
Those voting "yea", 35; those voting "nay", 0. Those  
absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

Senator Gaffey.

SEN. GAFFEY:

Thank you, Madam President. A point of personal  
privilege.

THE CHAIR:

Please proceed.

SEN. GAFFEY:

H-912

CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2004

VOL. 47  
PART 4  
977-1318

House of Representatives

Wednesday, April 7, 2004

H.B. 5240

Total Number Voting	142
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not Voting	9

DEPUTY SPEAKER HYSLOP:

The bill passes.

Clerk, please call Calendar 122.

CLERK:

On page 4, Calendar 122, H.B. 5218, AN ACT  
CONCERNING DETERMINATION OF COMPETENCY TO STAND TRIAL  
AND ELIGIBILITY FOR CIVIL COMMITMENT. Favorable Report of  
the Committee on Public Health.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Good afternoon, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Good afternoon.

REP. LAWLOR: (99<sup>TH</sup>)

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

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you

remark?

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. This bill conforms the language of the statute to what has been the longstanding practice in determinations of competency to stand trial. In the statute, inadvertently there's an "or" where there should be an "and". In other words, when a report is compiled by the team which is doing such an evaluation, the longstanding practice is that the team makes recommendations both with regard to whether there's a probability that the person involved will be restored to competency and whether they are eligible for civil commitment rather than "either". It should be both and this statute would conform the law to the practice.

I urge passage of the bill.

DEPUTY SPEAKER HYSLOP:

Will you remark on the bill? Will you remark on the bill? If not, staff and guests to the Well of the House. The machine will be opened.

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.

DEPUTY SPEAKER HYSLOP:

JOINT  
STANDING  
COMMITTEE  
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JUDICIARY  
PART 4  
1063-1409

2004

building. And I'm really here with the other advisory committees that I happen to Chair really here to emphasize that it is a broad spectrum approach in how we deal with the issues of crowding because one approach in dealing with it may not give us what we need to fully effectuate a reduction, an appropriate placement of offenders where they should be whether through incarceration or in the community so that we can really look at public safety as our overriding goal, and look at all the options that we have available and the out-of-state placement is another viable, vital option that I have, that we have as a state, to address the issue of overcrowding.

SEN. KISSEL: Thank you very much.

SEN. MCDONALD: Thank you. Are there any other questions? Thank you very much, Commissioner.

CMSR. THERESA LANTZ: Thank you.

SEN. MCDONALD: Next is Gail Sturges.

GAIL STURGES: Good afternoon, Senator McDonald, Representative Lawlor, and distinguished members of the Judiciary Committee.

I'm Gail Sturges, Director of Forensic Services for the Department of Mental Health and Addiction Services. I'm here today to speak in support of H.B. 5218, AN ACT CONCERNING DETERMINATION OF COMPETENCY TO STAND TRIAL AND ELIGIBILITY FOR CIVIL COMMITMENT, which corrects an unintended error in the language of 54-56d, as it was revised last session.

Last year's revision was intended to create a second option for the court once it determined a defendant incompetent to stand trial. While no change was made to the court's ability to commit the defendant for treatment to restore competence, the revision did provide the court with an alternative option of finding the defendant incompetent and committing him or her to DMHAS for the purpose of civil commitment, which would result in a suspended prosecution similar to accelerated

rehabilitation.

H.B. 5218 changes an "or" to an "and" in order to address what is a two-part inquiry, not an "either or inquiry" as it currently reads. The examiners performing the court ordered competence to stand trial evaluation must first determine whether the incompetent defendant is restorable to competence and if so, whether the defendant appears to be eligible for civil commitment under this new treatment option.

Regarding the first prong, if the incompetent defendant were not restorable, he or she would not be eligible for the program because another subsection of the statute applies.

And regarding the second prong, even if the incompetent defendant is restorable, if the person is unwilling or unable to be civilly committed, he or she would not be eligible for the program.

H.B. 5218 would provide the necessary language correction since the intent of the statute, as revised, was to have the examiners determine that both prongs are satisfied, that is, that a defendant is both restorable to competence and appears to meet civil commitment criteria. This bill also has the support of the judicial branch.

Thank you for the opportunity to address the committee today. I'd be happy to answer any questions.

SEN. MCDONALD: Representative Farr.

REP. FARR: Is your testimony then that nobody is able to use it as it now?

GAIL STURGES: We are able to use it because we're interpreting the goal of the examiners as it was intended to be a two-part inquiry.

REP. FARR: Okay. So you --

GAIL STURGES: We would just like --

REP. FARR: -- instead of our words.

GAIL STURGES: Yes.

REP. FARR: Okay, thank you.

SEN. MCDONALD: Any other questions? Thank you very much.

GAIL STURGES: Thank you.

SEN. MCDONALD: The next speaker is Susan Cogswell and then we are going to move to the public list. Good afternoon, Commissioner.

CMSR. SUSAN COGSWELL: Good afternoon, Senator. Good afternoon, Senator McDonald, members of the Judiciary Committee.

My name is Susan Cogswell. I am the Insurance Commissioner for the State of Connecticut.

I'm here today to speak to you about the Governor's bill before you. The Connecticut Insurance Department supports Section 6 of H.B. 5043 instituting a \$250,000 cap on non-economic damages for medical malpractice insurance.

One standard is common in states where we have seen medical malpractice market stabilize. Those states have implemented a cap on non-economic damages. A cap and overall tort reform are needed to achieve the market's stability and reduce premiums.

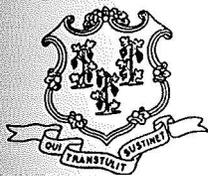
Currently, CMIC, Pro-Select, Medical Protective, PPIC are the only Connecticut licensed writers of physicians and surgeons medical malpractice liability insurance. The Department has surveyed companies that write medical malpractice in other states, but not here in Connecticut. These carriers indicate that their willingness to provide that product in any given state depends on the overall insurance and socio-economic environment of the state and their ability to control expenses.

In addition, the re-insurance market is also getting tighter. The Department found that re-

JOINT  
STANDING  
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PART 5  
1410-1703

2004



JOHN G. ROWLAND  
GOVERNOR

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

THOMAS A. KIRK, JR., PH.D.  
COMMISSIONER

**Testimony of Gail Sturges, Esq.**  
**Director of Forensic Services**  
**Department of Mental Health & Addiction Services**  
**Before the Judiciary Committee**  
**March 1, 2004**

Good afternoon, Sen. McDonald, Rep. Lawlor, and distinguished members of the Judiciary Committee. I am Gail Sturges, Esq., Director of Forensic Services for the Department of Mental Health & Addiction Services. I am here today to speak in support of H.B. 5218, An Act Concerning Determinations of Competency to Stand Trial, and Eligibility for Civil Commitment, which corrects an unintended error in the language of CGS 54-56d as it was revised last session.

The revision was intended to create a second option for the court, once it determined that a defendant was incompetent to stand trial. While no change was made to the court's ability to commit the defendant for treatment to restore competence, the revision provided the court with an alternative option of finding the defendant incompetent and committing him or her to DMHAS for the purpose of civil commitment, which would result suspended prosecution, similar to the Accelerated Rehabilitation program. H.B. 5218 changes an "or" to an "and" in order to address what is a two-part inquiry, not an "either/or" as it currently reads.

The examiners performing the court-ordered competence to stand trial evaluation must first determine whether the incompetent defendant is restorable to competence and, if so, whether the defendant appears to be eligible for civil commitment under this new treatment option. Regarding the first prong, if the incompetent defendant were not restorable, he or she would not be eligible for the program, because another subsection of the statute applies. And regarding the second prong, even if the incompetent defendant is restorable, if the person is unwilling or unable to be civilly committed, he or she would not be eligible for the program. H.B. 5218 would provide the necessary language correction, since the intent of the statute, as revised, was to have the examiners determine that both prongs are satisfied: i.e., that a defendant is both restorable and appears to meet civil commitment criteria. This bill also has the support of the Judicial Branch.

Thank you for the opportunity to address the committee today. I would be happy to take any questions you may have at this time.