



General Assembly

January Session, 2019

Raised Bill No. 967

LCO No. 4889



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING THE RECOMMENDATIONS OF THE
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES
REGARDING EMERGENCY MEDICATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-543a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) (A) If it is determined by the head of the hospital and two
4 qualified physicians that a patient who is a defendant placed in the
5 custody of the Commissioner of Mental Health and Addiction Services
6 pursuant to section 54-56d is incapable of giving informed consent to
7 medication for the treatment of the patient's psychiatric disabilities and
8 such medication is deemed to be necessary for the patient's treatment,
9 the facility in which the patient is placed may petition the probate
10 court for the district in which such facility is located for appointment
11 of a special limited conservator with specific authority to consent to
12 the administration of medication, provided an employee of such
13 facility shall not be appointed or serve as the special limited
14 conservator. The provisions of section 45a-649 concerning issuance of a

15 citation and notice, personal service and representation by,
16 appointment of, and compensation of an attorney shall apply to any
17 petition filed under this subsection as if such patient were a
18 respondent under section 45a-649, except that (i) the court shall only be
19 required to issue such citation and notice to the patient, the patient's
20 attorney and any conservator appointed for the patient, and (ii) the
21 court, in its discretion, may order notice as it directs to other persons
22 having an interest in the patient and to such persons the patient
23 requests to be notified. The Probate Court may appoint a special
24 limited conservator with such specific authority pursuant to this
25 subparagraph if the court finds by clear and convincing evidence that
26 the patient is incapable of giving informed consent to medication for
27 the treatment of the patient's psychiatric disabilities and such
28 medication is necessary for the patient's treatment. The Probate Court
29 may grant the special limited conservator specific authority to consent
30 to the release of the patient's medical records to such facility if the
31 court finds by clear and convincing evidence that the patient is
32 unwilling or unable to release such records and such records are
33 necessary to make decisions concerning the patient's treatment.

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

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

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

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

61 (b) (1) If it is determined by the head of the hospital and two
62 qualified physicians that (A) a patient who is a defendant placed in the
63 custody of the Commissioner of Mental Health and Addiction Services
64 pursuant to section 54-56d is capable of giving informed consent but
65 refuses to consent to medication for treatment of the patient's
66 psychiatric disabilities, (B) there is no less intrusive beneficial
67 treatment, and (C) without medication, the psychiatric disabilities with
68 which the patient has been diagnosed will continue unabated and
69 place the patient or others in direct threat of harm, the facility in which
70 the patient is placed may petition the probate court for the district in
71 which such facility is located to authorize the administration to the
72 patient of medication for the treatment of the patient's psychiatric
73 disabilities, despite the refusal of the patient to consent to such
74 medication. The provisions of section 45a-649 concerning issuance of a
75 citation and notice, personal service and representation by,
76 appointment of, and compensation of an attorney shall apply to any
77 petition filed under this subsection as if such patient were a
78 respondent under section 45a-649, except that (i) the court shall only be
79 required to issue such citation and notice to the patient, the patient's
80 attorney and any conservator appointed for the patient, and (ii) the
81 court, in its discretion, may order notice as it directs to other persons
82 having an interest in the patient and to such persons the patient

83 requests to be notified. The Probate Court may authorize the
84 administration of medication to the patient if the court finds by clear
85 and convincing evidence that (I) the patient is capable of giving
86 informed consent but refuses to consent to medication for treatment of
87 the patient's psychiatric disabilities, (II) there is no less intrusive
88 beneficial treatment, and (III) without medication, the psychiatric
89 disabilities with which the patient has been diagnosed will continue
90 unabated and place the patient or others in direct threat of harm.

91 (2) An order authorizing the administration of medication under
92 subdivision (1) of this subsection shall be effective for not more than
93 one hundred twenty days. In the case of continuous hospitalization of
94 the patient beyond such one hundred twenty days, if the head of the
95 hospital and two qualified physicians determine that (A) the patient
96 continues to be capable of giving informed consent but refuses to
97 consent to medication for treatment of the patient's psychiatric
98 disabilities, (B) there is no less intrusive beneficial treatment, and (C)
99 without medication, the psychiatric disabilities with which the patient
100 has been diagnosed will continue unabated and place the patient or
101 others in direct threat of harm, the order may be extended for a period
102 not to exceed one hundred twenty days by order of the Probate Court
103 without a hearing. Prompt notice of the order shall be given to the
104 patient and facility.

105 (c) Notwithstanding the provisions of subsections (a) and (b) of this
106 section, if obtaining consent under this section would cause a
107 medically harmful delay to a patient whose condition is of an
108 extremely critical nature, as determined by the personal observation of
109 a physician or the senior clinician on duty in the facility in which the
110 patient is placed, the physician or senior clinician may administer
111 medication for treatment of the patient's psychiatric disabilities
112 without consent.

113 [(c)] (d) Unless there is a serious risk of harm to the patient or
114 others, based upon the patient's past history or current condition,
115 nothing in this section authorizes any form of involuntary medical,

116 psychological or psychiatric treatment of any patient who in the
117 sincere practice of his or her religious beliefs is being treated by prayer
118 alone in accordance with the principles and practices of a church or
119 religious denomination by a duly accredited practitioner or ordained
120 minister, priest or rabbi thereof.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17a-543a

Statement of Purpose:

To allow a hospital to administer emergency medication to a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services without consent if obtaining consent would cause a medically harmful delay.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]