

**Sec. 54-56d. (Formerly Sec. 54-40). Competency to stand trial.** (a) **Competency required. Definition.** A defendant shall not be tried, convicted or sentenced while the defendant is not competent. For the purposes of this section, a defendant is not competent if the defendant is unable to understand the proceedings against him or her or to assist in his or her own defense.

(b) **Presumption of competency.** A defendant is presumed to be competent. The burden of proving that the defendant is not competent by a preponderance of the evidence and the burden of going forward with the evidence are on the party raising the issue. The burden of going forward with the evidence shall be on the state if the court raises the issue. The court may call its own witnesses and conduct its own inquiry.

(c) **Request for examination.** If, at any time during a criminal proceeding, it appears that the defendant is not competent, counsel for the defendant or for the state, or the court, on its own motion, may request an examination to determine the defendant's competency.

(d) **Examination of defendant. Report.** If the court finds that the request for an examination is justified and that, in accordance with procedures established by the judges of the Superior Court, there is probable cause to believe that the defendant has committed the crime for which the defendant is charged, the court shall order an examination of the defendant as to his or her competency. The court may (1) appoint one or more physicians specializing in psychiatry to examine the defendant, or (2) order the Commissioner of Mental Health and Addiction Services to conduct the examination either (A) by a clinical team consisting of a physician specializing in psychiatry, a clinical psychologist and one of the following: A clinical social worker licensed pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing, or (B) by one or more physicians specializing in psychiatry, except that no employee of the Department of Mental Health and Addiction Services who has served as a member of a clinical team in the course of such employment for at least five years prior to October 1, 1995, shall be precluded from being appointed as a member of a clinical team. If the Commissioner of Mental Health and Addiction Services is ordered to conduct the examination, the commissioner shall select the members of the clinical team or the physician or physicians. If the examiners determine that the defendant is not competent, the examiners shall then determine whether there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section. If the examiners determine that there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section, the examiners shall then determine whether the defendant appears to be eligible for civil commitment, with monitoring by the Court Support Services Division, pursuant to subdivision (2) of subsection (h) of this section. If the examiners determine that there is not a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order under this section, the examiners shall then determine whether the defendant appears to be eligible for civil commitment to a hospital for psychiatric disabilities pursuant to subsection (m)

of this section and make a recommendation to the court regarding the appropriateness of such civil commitment. The court may authorize a physician specializing in psychiatry, a clinical psychologist, a clinical social worker licensed pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing selected by the defendant to observe the examination. Counsel for the defendant may observe the examination. The examination shall be completed within fifteen days from the date it was ordered and the examiners shall prepare and sign, without notarization, a written report and file such report with the court within twenty-one business days of the date of the order. On receipt of the written report, the clerk of the court shall cause copies to be delivered immediately to the state's attorney and to counsel for the defendant.

(e) **Hearing.** The court shall hold a hearing as to the competency of the defendant no later than ten days after the court receives the written report. Any evidence regarding the defendant's competency, including the written report, may be introduced at the hearing by either the defendant or the state. If the written report is introduced, at least one of the examiners shall be present to testify as to the determinations in the report, unless the examiner's presence is waived by the defendant and the state. Any member of the clinical team shall be considered competent to testify as to the team's determinations. A defendant and the defendant's counsel may waive the court hearing only if the examiners, in the written report, determine without qualification that the defendant is competent.

(f) **Court finding of competency or incompetency.** If the court, after the hearing, finds that the defendant is competent, the court shall continue with the criminal proceedings. If the court finds that the defendant is not competent, the court shall also find whether there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the maximum period of any placement order permitted under this section.

(g) **Court procedure if finding that defendant will not regain competency.** If, at the hearing, the court finds that there is not a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the period of any placement order under this section, the court shall follow the procedure set forth in subsection (m) of this section.

(h) **Court procedure if finding that defendant will regain competency. Placement of defendant for treatment. Civil commitment.** (1) If, at the hearing, the court finds that there is a substantial probability that the defendant, if provided with a course of treatment, will regain competency within the period of any placement order under this section, the court shall either (A) order placement of the defendant for treatment for the purpose of rendering the defendant competent, or (B) order placement of the defendant at a treatment facility pending civil commitment proceedings pursuant to subdivision (2) of this subsection.

(2) (A) Except as provided in subparagraph (B) of this subdivision, if the court makes a finding pursuant to subdivision (1) of this subsection and does not order placement pursuant to subparagraph (A) of said subdivision, the court shall, on its own motion or on

motion of the state or the defendant, order placement of the defendant in the custody of the Commissioner of Mental Health and Addiction Services at a treatment facility pending civil commitment proceedings. The treatment facility shall be determined by the Commissioner of Mental Health and Addiction Services. Such order shall: (i) Include an authorization for the Commissioner of Mental Health and Addiction Services to apply for civil commitment of such defendant pursuant to sections 17a-495 to 17a-528, inclusive; (ii) permit the defendant to agree to request voluntarily to be admitted under section 17a-506 and participate voluntarily in a treatment plan prepared by the Commissioner of Mental Health and Addiction Services, and require that the defendant comply with such treatment plan; and (iii) provide that if the application for civil commitment is denied or not pursued by the Commissioner of Mental Health and Addiction Services, or if the defendant is unwilling or unable to comply with a treatment plan despite reasonable efforts of the treatment facility to encourage the defendant's compliance, the person in charge of the treatment facility, or such person's designee, shall submit a written progress report to the court and the defendant shall be returned to the court for a hearing pursuant to subsection (k) of this section. Such written progress report shall include the status of any civil commitment proceedings concerning the defendant, the defendant's compliance with the treatment plan, an opinion regarding the defendant's current competency to stand trial, the clinical findings of the person submitting the report and the facts upon which the findings are based, and any other information concerning the defendant requested by the court, including, but not limited to, the method of treatment or the type, dosage and effect of any medication the defendant is receiving. The Court Support Services Division shall monitor the defendant's compliance with any applicable provisions of such order. The period of placement and monitoring under such order shall not exceed the period of the maximum sentence which the defendant could receive on conviction of the charges against such defendant, or eighteen months, whichever is less. If the defendant has complied with such treatment plan and any applicable provisions of such order, at the end of the period of placement and monitoring, the court shall approve the entry of a nolle prosequi to the charges against the defendant or shall dismiss such charges.

(B) This subdivision shall not apply: (i) To any person charged with a class A felony, a class B felony, except a violation of section 53a-122 that does not involve the use, attempted use or threatened use of physical force against another person, or a violation of section 14-227a, subdivision (2) of subsection (a) of section 53-21 or section 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b; (ii) to any person charged with a crime or motor vehicle violation who, as a result of the commission of such crime or motor vehicle violation, causes the death of another person; or (iii) unless good cause is shown, to any person charged with a class C felony.

(i) **Placement for treatment. Conditions.** The placement for treatment for the purpose of rendering the defendant competent shall comply with the following conditions: (1) The period of placement under the order or combination of orders shall not exceed the period of the maximum sentence which the defendant could receive on conviction of the charges against the defendant or eighteen months, whichever is less; (2) the placement shall be either in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of

Developmental Services or, if the defendant or the appropriate commissioner agrees to provide payment, in the custody of any appropriate mental health facility or treatment program which agrees to provide treatment to the defendant and to adhere to the requirements of this section; and (3) the court shall order the placement, on either an inpatient or an outpatient basis, which the court finds is the least restrictive placement appropriate and available to restore competency. If outpatient treatment is the least restrictive placement for a defendant who has not yet been released from a correctional facility, the court shall consider whether the availability of such treatment is a sufficient basis on which to release the defendant on a promise to appear, conditions of release, cash bail or bond. If the court determines that the defendant may not be so released, the court shall order treatment of the defendant on an inpatient basis at a mental health facility or mental retardation facility.

(j) **Progress reports re treatment.** The person in charge of the treatment facility, or such person's designee, shall submit a written progress report to the court (1) at least seven days prior to the date of any hearing on the issue of the defendant's competency; (2) whenever he or she believes that the defendant has attained competency; (3) whenever he or she believes that there is not a substantial probability that the defendant will attain competency within the period covered by the placement order; or (4) whenever, within the first one hundred twenty days of the period covered by the placement order, he or she believes that the defendant would be eligible for civil commitment pursuant to subdivision (2) of subsection (h) of this section. The progress report shall contain: (A) The clinical findings of the person submitting the report and the facts on which the findings are based; (B) the opinion of the person submitting the report as to whether the defendant has attained competency or as to whether the defendant is making progress, under treatment, toward attaining competency within the period covered by the placement order; (C) the opinion of the person submitting the report as to whether the defendant appears to be eligible for civil commitment to a hospital for psychiatric disabilities pursuant to subsection (m) of this section and the appropriateness of such civil commitment, if there is not a substantial probability that the defendant will attain competency within the period covered by the placement order; and (D) any other information concerning the defendant requested by the court, including, but not limited to, the method of treatment or the type, dosage and effect of any medication the defendant is receiving.

(k) **Reconsideration of competency. Hearing. Involuntary medication of defendant.** (1) When any placement order for treatment is rendered or continued, the court shall set a date for a hearing, to be held within ninety days, for reconsideration of the issue of the defendant's competency. Whenever the court (A) receives a report pursuant to subsection (j) of this section which indicates that (i) the defendant has attained competency, (ii) the defendant will not attain competency within the remainder of the period covered by the placement order, (iii) the defendant will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, or (iv) the defendant would be eligible for civil commitment pursuant to subdivision (2) of subsection (h) of this section, or (B) receives a report pursuant to

subparagraph (A)(iii) of subdivision (2) of subsection (h) of this section which indicates that (i) the application for civil commitment of the defendant has been denied or has not been pursued by the Commissioner of Mental Health and Addiction Services, or (ii) the defendant is unwilling or unable to comply with a treatment plan despite reasonable efforts of the treatment facility to encourage the defendant's compliance, the court shall set the matter for a hearing no later than ten days after the report is received. The hearing may be waived by the defendant only if the report indicates that the defendant is competent. The court shall determine whether the defendant is competent or is making progress toward attainment of competency within the period covered by the placement order. If the court finds that the defendant is competent, the defendant shall be returned to the custody of the Commissioner of Correction or released, if the defendant has met the conditions for release, and the court shall continue with the criminal proceedings. If the court finds that the defendant is still not competent but that the defendant is making progress toward attaining competency, the court may continue or modify the placement order. If the court finds that the defendant is still not competent and will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, the court shall proceed as provided in subdivisions (2), (3) and (4) of this subsection. If the court finds that the defendant is eligible for civil commitment, the court may order placement of the defendant at a treatment facility pending civil commitment proceedings pursuant to subdivision (2) of subsection (h) of this section.

(2) If the court finds that the defendant will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, and after any hearing held pursuant to subdivision (3) of this subsection, the court may order the involuntary medication of the defendant if the court finds by clear and convincing evidence that: (A) To a reasonable degree of medical certainty, involuntary medication of the defendant will render the defendant competent to stand trial, (B) an adjudication of guilt or innocence cannot be had using less intrusive means, (C) the proposed treatment plan is narrowly tailored to minimize intrusion on the defendant's liberty and privacy interests, (D) the proposed drug regimen will not cause an unnecessary risk to the defendant's health, and (E) the seriousness of the alleged crime is such that the criminal law enforcement interest of the state in fairly and accurately determining the defendant's guilt or innocence overrides the defendant's interest in self-determination.

(3) (A) If the court finds that the defendant is unwilling or unable to provide consent for the administration of psychiatric medication, and prior to deciding whether to order the involuntary medication of the defendant under subdivision (2) of this subsection, the court shall appoint a health care guardian who shall be a licensed health care provider with specialized training in the treatment of persons with psychiatric disabilities to represent the health care interests of the defendant before the court. Notwithstanding the provisions of section 52-146e, such health care guardian shall have access to the psychiatric records of the defendant. Such health care guardian shall file a report with the court not later than thirty days after his or her appointment. The report shall set forth such

health care guardian's findings and recommendations concerning the administration of psychiatric medication to the defendant, including the risks and benefits of such medication, the likelihood and seriousness of any adverse side effects and the prognosis with and without such medication. The court shall hold a hearing on the matter not later than ten days after receipt of such health care guardian's report and shall, in deciding whether to order the involuntary medication of the defendant, take into account such health care guardian's opinion concerning the health care interests of the defendant.

(B) The court, in anticipation of considering continued involuntary medication of the defendant under subdivision (4) of this subsection, shall order the health care guardian to file a supplemental report updating the findings and recommendations contained in the health care guardian's report filed under subparagraph (A) of this subdivision.

(4) If, after the defendant has been found to have attained competency by means of involuntary medication ordered under subdivision (2) of this subsection, the court determines by clear and convincing evidence that the defendant will not remain competent absent the continued administration of psychiatric medication for which the defendant is unable to provide consent, and after any hearing held pursuant to subdivision (3) of this subsection and consideration of the supplemental report of the health care guardian, the court may order continued involuntary medication of the defendant if the court finds by clear and convincing evidence that: (A) To a reasonable degree of medical certainty, continued involuntary medication of the defendant will maintain the defendant's competency to stand trial, (B) an adjudication of guilt or innocence cannot be had using less intrusive means, (C) the proposed treatment plan is narrowly tailored to minimize intrusion on the defendant's liberty and privacy interests, (D) the proposed drug regimen will not cause an unnecessary risk to the defendant's health, and (E) the seriousness of the alleged crime is such that the criminal law enforcement interest of the state in fairly and accurately determining the defendant's guilt or innocence overrides the defendant's interest in self-determination. Continued involuntary medication ordered under this subdivision may be administered to the defendant while the criminal charges against the defendant are pending and the defendant is in the custody of the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services. An order for continued involuntary medication of the defendant under this subdivision shall be reviewed by the court every one hundred eighty days while such order remains in effect. The court shall order the health care guardian to file a supplemental report for each such review. After any hearing held pursuant to subdivision (3) of this subsection and consideration of the supplemental report of the health care guardian, the court may continue such order if the court finds, by clear and convincing evidence, that the criteria enumerated in subparagraphs (A) to (E), inclusive, of this subdivision are met.

(5) The state shall hold harmless and indemnify any health care guardian appointed by the court pursuant to subdivision (3) of this subsection from financial loss and expense arising out of any claim, demand, suit or judgment by reason of such health care guardian's alleged negligence or alleged deprivation of any person's civil rights or other act or omission resulting in damage or injury, provided the health care guardian is found

to have been acting in the discharge of his or her duties pursuant to said subdivision and such act or omission is found not to have been wanton, reckless or malicious. The provisions of subsections (b), (c) and (d) of section 5-141d shall apply to such health care guardian. The provisions of chapter 53 shall not apply to a claim against such health care guardian.

(l) **Failure of defendant to return to treatment facility.** If a defendant who has been ordered placed for treatment on an inpatient basis at a mental health facility or mental retardation facility is released from such facility on a furlough or for work, therapy or any other reason and fails to return to the facility in accordance with the terms and conditions of the defendant's release, the person in charge of the facility, or such person's designee, shall, within twenty-four hours of the defendant's failure to return, report such failure to the prosecuting authority for the court location which ordered the placement of the defendant. Upon receipt of such a report, the prosecuting authority shall, within available resources, make reasonable efforts to notify any victim or victims of the crime for which the defendant is charged of such defendant's failure to return to the facility. No civil liability shall be incurred by the state or the prosecuting authority for failure to notify any victim or victims in accordance with this subsection. The failure of a defendant to return to the facility in which the defendant has been placed may constitute sufficient cause for the defendant's rearrest upon order by the court.

(m) **Release or placement of defendant who will not attain competency.** If at any time the court determines that there is not a substantial probability that the defendant will attain competency within the period of treatment allowed by this section, or if at the end of such period the court finds that the defendant is still not competent, the court shall consider any recommendation made by the examiners pursuant to subsection (d) of this section and any opinion submitted by the treatment facility pursuant to subparagraph (C) of subsection (j) of this section regarding eligibility for, and the appropriateness of, civil commitment to a hospital for psychiatric disabilities and shall either release the defendant from custody or order the defendant placed in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services. If the court orders the defendant placed in the custody of the Commissioner of Children and Families or the Commissioner of Developmental Services, the commissioner given custody, or the commissioner's designee, shall then apply for civil commitment in accordance with sections 17a-75 to 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders the defendant placed in the custody of the Commissioner of Mental Health and Addiction Services, the court may order the commissioner, or the commissioner's designee, to apply for civil commitment in accordance with sections 17a-495 to 17a-528, inclusive, or order the commissioner, or the commissioner's designee, to provide services to the defendant in a less restrictive setting, provided the examiners have determined in the written report filed pursuant to subsection (d) of this section or have testified pursuant to subsection (e) of this section that such services are available and appropriate. The court shall hear arguments as to whether the defendant should be released or should be placed in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental

Services. If the court orders the release of a defendant charged with the commission of a crime that resulted in the death or serious physical injury, as defined in section 53a-3, of another person, or orders the placement of such defendant in the custody of the Commissioner of Mental Health and Addiction Services, the court may, on its own motion or on motion of the prosecuting authority, order, as a condition of such release or placement, periodic examinations of the defendant as to the defendant's competency. Such an examination shall be conducted in accordance with subsection (d) of this section. Upon receipt of the written report as provided in subsection (d) of this section, the court shall, upon the request of either party filed not later than thirty days after the court receives such report, conduct a hearing as provided in subsection (e) of this section. Such hearing shall be held not later than ninety days after the court receives such report. If the court finds that the defendant has attained competency, the defendant shall be returned to the custody of the Commissioner of Correction or released, if the defendant has met the conditions for release, and the court shall continue with the criminal proceedings. Periodic examinations ordered by the court under this subsection shall continue until the court finds that the defendant has attained competency or until the time within which the defendant may be prosecuted for the crime with which the defendant is charged, as provided in section 54-193 or 54-193a, has expired, whichever occurs first. The court shall dismiss, with or without prejudice, any charges for which a nolle prosequi is not entered when the time within which the defendant may be prosecuted for the crime with which the defendant is charged, as provided in section 54-193 or 54-193a, has expired. Notwithstanding the erasure provisions of section 54-142a, police and court records and records of any state's attorney pertaining to a charge which is nolle prosequi or dismissed without prejudice while the defendant is not competent shall not be erased until the time for the prosecution of the defendant expires under section 54-193 or 54-193a. A defendant who is not civilly committed as a result of an application made by the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services pursuant to this section shall be released. A defendant who is civilly committed pursuant to such an application shall be treated in the same manner as any other civilly committed person.

(n) **Payment of costs.** The cost of the examination effected by the Commissioner of Mental Health and Addiction Services and of testimony of persons conducting the examination effected by the commissioner shall be paid by the Department of Mental Health and Addiction Services. The cost of the examination and testimony by physicians appointed by the court shall be paid by the Judicial Department. If the defendant is indigent, the fee of the person selected by the defendant to observe the examination and to testify on the defendant's behalf shall be paid by the Public Defender Services Commission. The expense of treating a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services, the Commissioner of Children and Families or the Commissioner of Developmental Services pursuant to subdivision (2) of subsection (h) of this section or subsection (i) of this section shall be computed and paid for in the same manner as is provided for persons committed by a probate court under the provisions of sections 17b-122, 17b-124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive, 17b-194 to 17b-197, inclusive, 17b-222 to 17b-250, inclusive, 17b-256, 17b-263, 17b-340 to 17b-350, inclusive, 17b-689b and 17b-743 to 17b-747, inclusive.

(o) **Custody of defendant.** Until the hearing is held, the defendant, if not released on a promise to appear, conditions of release, cash bail or bond, shall remain in the custody of the Commissioner of Correction unless hospitalized as provided in sections 17a-512 to 17a-517, inclusive.

(p) **Placement of violent defendant.** This section shall not be construed to require the Commissioner of Mental Health and Addiction Services to place any violent defendant in a mental institution which does not have the trained staff, facilities and security to accommodate such a person.

(q) **Defense of defendant prior to trial.** This section shall not prevent counsel for the defendant from raising, prior to trial and while the defendant is not competent, any issue susceptible of fair determination.

(r) **Credit for confinement time.** Actual time spent in confinement on an inpatient basis pursuant to this section shall be credited against any sentence imposed on the defendant in the pending criminal case or in any other case arising out of the same conduct in the same manner as time is credited for time spent in a correctional facility awaiting trial.

(1949 Rev., S. 8748; 1959, P.A. 523, S. 2; 1967, P.A. 670; 1969, P.A. 828, S. 213; P.A. 74-306, S. 1-4; P.A. 75-476, S. 1-3, 6; P.A. 76-353; 76-436, S. 532, 681; P.A. 77-415, S. 1, 2; P.A. 78-280, S. 117, 127; P.A. 80-313, S. 32; P.A. 81-365; P.A. 83-183, S. 1-5; P.A. 84-506; P.A. 85-288; 85-613, S. 79, 154; P.A. 93-91, S. 1, 2; P.A. 94-27, S. 16, 17; P.A. 95-146; 95-257, S. 11, 58; P.A. 96-90; 96-180, S. 128, 166; 96-215, S. 3, 4; P.A. 98-88, S. 1, 2; P.A. 01-41; June 30 Sp. Sess. P.A. 03-3, S. 13-17, 97; P.A. 04-28, S. 1; 04-76, S. 57; P.A. 05-19, S. 2, 3; P.A. 06-36, S. 1; P.A. 07-71, S. 1; 07-73, S. 2(b); 07-153, S. 1.)

History: 1959 act added provision re computation and payment of hospital expense during confinement; 1967 act divided section into Subsecs., added qualification of inability to assist in his own defense to Subsecs. (a) and (c) and authority of judge to act on his own motion in Subsec. (a), amended Subsec. (b) to make mandatory the appointment of at least two psychiatrists rather than discretionary appointment of two or three physicians to examine accused and added provisions re commitment to state hospital for mental illness for examination, re physician's witnessing of examination and re filing of examination report; 1969 act added Subsec. (d) re maximum periods of commitment; P.A. 74-306 amended Subsec. (b) to make judge's appointment of examiners optional rather than mandatory, to change number appointed from "at least two" to "one or more", to replace provision re commitment to state hospital with provisions re commitment to commissioner of mental health and examination by clinical team, to impose 15-day deadline for filing written report, to require hearing and to specify when hearing may be waived, amended Subsecs. (c) and (d) to reflect changes in Subsec. (b), imposing 15-day deadline for hearing in Subsec. (c) and provision re application of Sec. 17-197 in Subsec. (d), and added Subsecs. (e) and (f) re commitment of violent person and re cost of examinations; P.A. 75-476 restated and clarified Subsec. (b) adding procedural details and limiting examinations to a determination of accused's ability to understand proceeding and assist in his own defense where previously determination was of accused's "mental condition", made similar changes in Subsec. (c), eliminating references to insanity and mental defectiveness and deleting provision stating that expenses are to be paid in same manner as expenses in superior court criminal prosecutions, and amended Subsec. (d) to replace previous provisions re maximum commitment for period equaling maximum sentence for the particular crime or for 25 years if case involves class A felony with maximum commitment period of 18 months, to make changes conforming provisions to changes in Subsecs. (b) and (c) and to add provisions re hearing procedure and options to proceed with trial, reconfine accused, etc.; P.A. 76-353 amended Subsec. (b) to set 10-day deadline for hearing where previously "prompt" hearing was required, amended Subsec. (c) to add references to commissioner of

mental retardation, to require hearing within ten rather than 15 days and to add reference to possibility that accused will not be able to understand proceeding and assist in his own defense within remainder of commitment period, amended Subsec. (d) to conform with changes in Subsec. (c) and to restore optional maximum commitment for maximum period of sentence which may be imposed for the crime he is accused of and repealed Subsecs. (e) and (f) by omission; P.A. 76-436 amended section to reflect substitution of assistant state's attorneys for prosecuting attorneys, effective July 1, 1978; P.A. 77-415 restated provisions, reorganized Subsecs. and added Subsecs. (f) and (g) restoring provisions omitted by P.A. 76-353; P.A. 78-280 made technical grammatical change in Subsec. (b); P.A. 80-313 restated and reordered provisions, and revised subsection divisions but made no substantive changes; Sec. 54-40 transferred to Sec. 54-56d in 1981; P.A. 81-365 replaced previous section which was declared unconstitutional; P.A. 83-183 authorized placement of defendant in custody of children and youth services commissioner in Subsecs. (g), (i), (l) and (m) and specified that court may order treatment at mental retardation facilities in Subsec. (i); P.A. 84-506 amended Subsec. (d) to require the examiner to "prepare and sign, without notarization" a written report and file it with the court within 10 days of the examination, amended Subsec. (g) to replace provision requiring court to either release the defendant or place him in the custody of the commissioner of mental health, children and youth services or mental retardation with provision that the court shall "follow the procedure set forth in Subsec. (m)", added a new Subsec. (l) re the responsibilities of the person in charge of a treatment facility and the prosecuting authority when a defendant fails to return to such facility, and relettered remaining Subsecs. accordingly; P.A. 85-288 amended Subsec. (m) to provide that the court shall dismiss, with or without prejudice, any charges for which a nolle prosequi is not entered when the time within which the defendant may be prosecuted for the crime with which he is charged has expired; P.A. 85-613 made technical change in Subsec. (m), substituting reference to chapter 368t for reference to chapter 365a; P.A. 93-91 substituted commissioner and department of children and families for commissioner and department of children and youth services, effective July 1, 1993; P.A. 94-27 amended Subsec. (m) to delete reference to Secs. 17a-580 to 17a-603, inclusive, effective July 1, 1994; P.A. 95-146 amended Subsec. (d) to revise the composition of the clinical team by replacing "a psychiatric social worker" with "one of the following: A clinical independent social worker certified pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing", to add exception re appointment of an employee of the Department of Mental Health as a member of a clinical team, to revise the list of professionals authorized to observe the examination by deleting "a psychiatric social worker" and adding "a clinical independent social worker certified pursuant to chapter 383b or a psychiatric nurse clinical specialist holding a master's degree in nursing" and to require the report to be filed within 21 business days of the "date of the order" rather than within 10 days of the "completion of the examination"; P.A. 95-257 replaced Commissioner and Department of Mental Health with Commissioner and Department of Mental Health and Addiction Services, effective July 1, 1995; P.A. 96-90 amended Subsec. (m) to delete references to Secs. 17a-450 to 17a-484, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, 17a-615 to 17a-618, inclusive, and 46a-11a to 46a-11g, inclusive; P.A. 96-180 made technical changes in Subsec. (d) by replacing references to "clinical independent social worker certified pursuant to chapter 383b" with "clinical social worker licensed pursuant to chapter 383b", effective June 3, 1996; P.A. 96-215 amended Subsec. (b) by deleting "clear and convincing" evidence and inserting "preponderance of the" evidence in lieu thereof, effective June 4, 1996; (Revisor's note: In 1997 the references to "17b-115 to 17b-138" and "17b-689 to 17b-693, inclusive," in Subsec. (n) were changed editorially by the Revisors to "17b-116 to 17b-138" and "17b-689, 17b-689b", respectively, to reflect the repeal of certain sections by Sec. 164 of June 18 Sp. Sess. P.A. 97-2); P.A. 98-88 amended Subsec. (k) to designate existing provisions as Subdiv. (1), redesignating former Subdivs. (1) and (2) as Subparas. (A) and (B), respectively, adding Subpara. (C) re a report that the defendant will not attain competency absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent and adding provision requiring the court to proceed as provided in Subdivs. (2) and (3) if it finds that the defendant will not attain competency absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, to add new Subdiv. (2) authorizing the court to order the involuntary medication of the defendant if it makes certain findings by clear and convincing evidence, and to add new Subdiv. (3) requiring the appointment of a licensed health care provider to represent the health care interests of the defendant if the defendant is unable to provide consent for the administration of psychiatric medication, requiring such person to file a report with the court setting forth his findings and recommendations re the administration of psychiatric medication to the defendant and requiring the court to hold a hearing on the matter and consider such person's opinion in deciding whether to order the involuntary medication of the

defendant, and amended Subsec. (m) to authorize a court when it releases a defendant charged with a crime that resulted in the death or serious physical injury of another person to order periodic examinations of the defendant, set forth the procedure for conducting such an examination and a subsequent hearing by the court, require the continuation of criminal proceedings if the defendant is found to have attained competency, specify the duration of such periodic examinations and add references to Sec. 54-193a; P.A. 01-41 amended Subsec. (k) to designate as "a health care guardian" the person appointed in Subdiv. (3) to represent the health care interests of the defendant, add Subdiv. (4) re indemnification of health care guardians and make technical changes in Subdivs. (1) and (2); June 30 Sp. Sess. P.A. 03-3 amended Subsec. (d) by adding provision re whether defendant appears eligible for civil commitment with monitoring by Court Support Services Division pursuant to Subsec. (h)(2), adding Subdiv. and Subpara. designators and making technical changes, amended Subsec. (h) by designating existing provisions as Subdiv. (1) and amending said Subdiv. by designating provisions re ordering placement for treatment as Subpara. (A) and adding Subpara. (B) re ordering placement at treatment facility pending civil commitment proceedings, and by adding Subdiv. (2) re placement of defendant in custody of Commissioner of Mental Health and Addiction Services at treatment facility pending civil commitment proceedings, amended Subsec. (j) by adding Subdiv. (4) re report whenever defendant has been placed for treatment pending civil commitment proceedings and application for civil commitment is denied or not pursued and by making technical changes, amended Subsec. (m) by adding provision re if court orders placement of defendant in custody of Commissioner of Mental Health and Addiction Services and by making technical changes, and amended Subsec. (n) by adding reference to Subsec. (h)(2), effective August 20, 2003, and, in repealing Secs. 17b-19, 17b-62 to 17b-65, inclusive, 17b-116, 17b-116a, 17b-116b, 17b-117, 17b-120, 17b-121, 17b-123, 17b-134, 17b-135, 17b-220, 17b-259 and 17b-287, also authorized deletion of internal references to said sections in this section, effective March 1, 2004; P.A. 04-28 amended Subsec. (d) by changing "or" to "and" re determinations of probability that defendant will regain competency and whether defendant appears eligible for civil commitment, effective April 28, 2004; P.A. 04-76 amended Subsec. (n) by deleting references to Secs. 17b-118b and 17b-221 that were repealed by the same act; (Revisor's note: In 2005, a reference in Subsec. (m) to Sec. 17a-283 was changed editorially by the Revisors to Sec. 17a-282 to reflect the repeal of Sec. 17a-283 by P.A. 04-54); P.A. 05-19 amended Subsec. (k)(1) by adding Subpara. (D) re denial of application for civil commitment of defendant and amended Subsec. (p) by deleting provision re state policeman to guard violent defendant after necessary placement in facility; P.A. 06-36 amended Subsec. (d) by adding provision re action of examiners upon determination of substantial probability that defendant will regain competency within maximum period of placement order, amended Subsec. (h)(2) by adding provision re request for voluntary admission under Sec. 17a-506, replacing provision re defendant ceasing voluntary participation in treatment plan with provision re defendant unwilling or unable to comply with treatment plan despite reasonable efforts of treatment facility to encourage compliance, deleting reference to Subsec. (j) and adding provision re contents of written progress report, amended Subsec. (j)(4) by adding provision re first 120 days of period covered by placement order, replacing "has been placed for treatment pending civil commitment proceedings" with "would be eligible for civil commitment" and deleting provision re application for civil commitment is denied or not pursued, amended Subsec. (k)(1) by replacing "has been placed for treatment pending civil commitment proceedings" with "would be eligible for civil commitment", deleting provision re application for civil commitment is denied or not pursued, adding provision re receipt of report pursuant to Subsec. (h)(2)(A)(iii) and adding provision re placement order upon finding that defendant is eligible for civil commitment, amended Subsec. (k)(3) by inserting "unwilling or" and made technical changes throughout section; P.A. 07-71 amended Subsec. (k) by making a conforming change in Subdiv. (1), making a technical change in Subdiv. (2), designating existing provisions of Subdiv. (3) as Subdiv. (3)(A) and making a technical change therein, adding Subdiv. (3)(B) re supplemental report of health care guardian, adding new Subdiv. (4) re continued involuntary medication of defendant and redesignating existing Subdiv. (4) as Subdiv. (5); pursuant to P.A. 07-73 "Commissioner of Mental Retardation" was changed editorially by the Revisors to "Commissioner of Developmental Services", effective October 1, 2007; P.A. 07-153 amended Subsec. (d) by adding provision re examiners' determination and recommendation re civil commitment of incompetent defendant to hospital for psychiatric disabilities, amended Subsec. (j) by adding new Subpara. (C) requiring progress report to contain opinion re eligibility for and appropriateness of such commitment and redesignating existing Subpara. (C) as Subpara. (D), made technical changes in Subsec. (k) and amended Subsec. (m) by adding provision re consideration of examiners' recommendation and treatment facility opinion re such commitment, distinguishing between commitment procedures

applicable to placement of defendant in custody of Commissioner of Children and Families or Commissioner of Developmental Services and commitment procedures applicable to placement of defendant in custody of Commissioner of Mental Health and Addiction Services and authorizing the court to order the latter commissioner to provide services in a less restrictive setting.