
OLR Bill Analysis

sHB 5367

AN ACT CONCERNING COMPETENCY TO STAND TRIAL.

SUMMARY:

By law, a court may order a defendant it finds incompetent to stand trial to the custody of the Department of Mental Health and Addiction Services (DMHAS) commissioner for the purpose of rendering him or her competent. These defendants are placed in a mental health facility unless they are too violent to be accommodated.

This bill expands the exception to placement, specifies that those defendants not placed remain in the Department of Correction's (DOC) custody, and outlines the responsibilities of both commissioners with respect to them.

If a defendant is a person with an intellectual disability and a court determines at any time that he or she is not likely to attain competency or is not competent at the end of the placement period (see BACKGROUND), the law allows a court to order him or her placed in the custody of the developmental services commissioner for civil commitment. The bill allows the court to order the commissioner to notify it if the department releases the defendant before the statute of limitations for prosecuting him or her has expired.

EFFECTIVE DATE: October 1, 2012

DEFENDANTS PLACED IN CUSTODY OF DMHAS

The bill expands the DMHAS commissioner's authority to refuse to place certain defendants in mental health facilities.

Under current laws, he does not have to place a violent defendant in a mental institution that lacks the facility, security, and trained staff to accommodate him or her. The bill, instead, allows the commissioner to exclude any defendant from a hospital for psychiatric disabilities

who (1) presents a significant security, safety, or medical risk and (2) the commissioner, in consultation with the DOC commissioner, determines that the staff, facility, or security cannot accommodate the defendant. Any defendant not placed in such a hospital remains in DOC custody. In these cases, the DOC is responsible for the defendant's medical and psychiatric care. DMHAS is responsible for:

1. providing other services to restore his or her competency,
2. (a) submitting to the court reports on the defendant's progress and (b) a written progress report to the medical professionals who initially decided the defendant's competency if he or she attains competency or a court determines he or she will not attain competency within the placement period, and
3. providing testimony at any hearing to reconsider the defendant's competency.

A court must determine whether to involuntarily medicate the defendant if it finds that he or she (1) will not attain competency during the placement period without psychiatric medication and (2) is unable or unwilling to consent to taking the medication. The court must appoint a health care guardian to represent the defendant and hold a hearing before making this decision.

BACKGROUND

Incompetency to Stand Trial

A criminal defendant is incompetent to stand trial if he or she cannot understand the charges or aid in his or her defense. In most cases, the defendant is placed in DMHAS custody for treatment meant to restore his or her competency. He or she may be held for the maximum length of the sentence for the crime with which he or she is charged or 18 months, whichever is less.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (04/02/2012)