



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 978 (Substitute S-1 as reported)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

CONTENT

The bill would amend the Mental Health Code to require that, 30 days before a defendant was to be discharged or released because of the expiration of a court order for treatment after an examination and determination that he or she was incompetent to stand trial, the treatment supervisor notify the prosecution by certified mail of the defendant's proposed discharge or release.

In addition, if a court ordered a person to be hospitalized for a mental illness or developmental disability under the Mental Health Code's civil admission and discharge provisions, and if that person had had felony charges dismissed due to an extended period of incompetence to stand trial and the time for refiling the charges had not elapsed, the court would have to include both of the following in its hospitalization order:

- A requirement that, 30 days before the person's scheduled release or discharge, the director of the treating facility notify the prosecutor's office in the county in which charges against the person were originally brought of the pending release or discharge.
- A requirement that, 30 days before the person's scheduled release or discharge, the person to be released or discharged undergo an examination by the personnel of the treating facility for competency to stand trial and that a copy of the written report of the examination, along with the notice of release or discharge, be submitted to the prosecutor's office in the county in which the charges against the person were originally brought, the court, the defense counsel, and the Center for Forensic Psychiatry.

The written report of the competency examination would be admissible as evidence in the hearing on the person's competency to stand trial, unless the defense or prosecution objected, but would not be admissible for any other purpose in the pending criminal proceeding. The written report would have to contain all of the following: the clinical findings of the supervisor of treatment; the facts, in reasonable detail, upon which the findings were based and, upon request of the court, defense, or prosecution, additional facts germane to the findings; the opinion of the supervisor of treatment on the issue of the defendant's incompetence to stand trial; and if the opinion of the supervisor of treatment were that the defendant was incompetent to stand trial, the supervisor's opinion on whether the defendant had made progress toward obtaining competency to stand trial during the course of treatment.

MCL 330.2034 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 11-15-96

Fiscal Analyst: S. Angelotti
M. Ortiz

floor\sb978

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.