

1 competent to proceed. The charges against the defendant are
2 dismissed without prejudice to the state to refile the charges
3 ~~if should~~ the defendant ~~is be~~ declared competent to proceed in
4 the future.

5 (2) A defendant who is charged with a capital or life
6 felony and who has been adjudicated incompetent to proceed due
7 to the defendant's mental illness, whose charges have been
8 dismissed without prejudice to the state, and who does not
9 meet the criteria for involuntary hospitalization or
10 residential services must be placed on electronic monitoring
11 24 hours per day. The department shall supervise the
12 electronic monitoring for 24 months. The department shall
13 reevaluate the defendant 6 months after the defendant is
14 released from involuntary commitment, and once every 6 months
15 thereafter, in order to determine whether the defendant
16 remains incompetent to proceed. The department shall prepare a
17 report of its findings and deliver a copy of the report to the
18 office of the state attorney of the judicial circuit in which
19 the defendant was involuntarily committed.

20 Section 2. Section 916.303, Florida Statutes, is
21 amended to read:

22 916.303 Determination of incompetency due to
23 retardation or autism; dismissal of charges; community
24 monitoring.--

25 (1) The charges against any defendant found to be
26 incompetent to proceed due to retardation or autism shall be
27 dismissed without prejudice to the state if the defendant
28 remains incompetent to proceed within a reasonable time after
29 such determination, not to exceed 2 years, unless the court in
30 its order specifies its reasons for believing that the
31 defendant will become competent to proceed within the

1 foreseeable future and specifies the time within which the
2 defendant is expected to become competent to proceed. The
3 charges may be refiled by the state if the defendant is
4 declared competent to proceed in the future.

5 (2) If the charges are dismissed and if the defendant
6 is considered to lack sufficient capacity to give express and
7 informed consent to a voluntary application for services and
8 lacks the basic survival and self-care skills to provide for
9 his or her well-being or is likely to physically injure
10 himself or herself or others if allowed to remain at liberty,
11 the agency, the state attorney, or the defendant's attorney
12 shall apply to the committing court to involuntarily admit the
13 defendant to residential services pursuant to s. 393.11.

14 (3) If the defendant is considered to need involuntary
15 residential services for reasons described in subsection (2)
16 and, further, there is a substantial likelihood that the
17 defendant will injure another person or continues to present a
18 danger of escape, and all available less restrictive
19 alternatives, including services in community residential
20 facilities or other community settings, which would offer an
21 opportunity for improvement of the condition have been judged
22 to be inappropriate, the agency, the state attorney, or the
23 defendant's counsel may request the committing court to
24 continue the defendant's placement in a secure facility
25 pursuant to this part. Any placement so continued under this
26 subsection must be reviewed by the court at least annually at
27 a hearing. The annual review and hearing shall determine
28 whether the defendant continues to meet the criteria described
29 in this subsection and, if so, whether the defendant still
30 requires involuntary placement in a secure facility and
31 whether the defendant is receiving adequate care, treatment,

1 habilitation, and rehabilitation, including psychotropic
2 medication and behavioral programming. Notice of the annual
3 review and review hearing shall be given to the state attorney
4 and the defendant's attorney. In no instance may a defendant's
5 placement in a secure facility exceed the maximum sentence for
6 the crime for which the defendant was charged.

7 (4) A defendant who is charged with a capital or life
8 felony and who has been adjudicated incompetent to proceed due
9 to the defendant's retardation or autism, whose charges have
10 been dismissed without prejudice to the state, and who does
11 not meet the criteria for involuntary admission to residential
12 services under s. 393.11 must be placed on electronic
13 monitoring 24 hours per day. The agency shall supervise the
14 electronic monitoring for 24 months. The agency shall
15 revaluate the defendant 6 months after the release of the
16 defendant from involuntary commitment, and once every 6 months
17 thereafter, in order to determine whether the defendant
18 remains incompetent to proceed. The agency shall prepare a
19 report of its findings and deliver a copy of the report to the
20 office of the state attorney of the judicial circuit in which
21 the defendant was involuntarily committed.

22 Section 3. This act shall take effect July 1, 2007.
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25 SENATE SUMMARY

26 Requires that certain developmentally disabled and
27 mentally ill defendants who do not meet the criteria for
28 involuntary residential commitment be placed on
29 electronic monitoring while residing in the community.
30 Requires the Department of Children and Family Services
31 and the Agency for Persons with Disabilities to monitor
such mentally ill and developmentally disabled
defendants. Requires the department and the agency to
prepare reports concerning the defendants' incompetency
to proceed and to deliver a copy of the report to the
appropriate state attorney.