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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2023	.	
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	.	

The Committee on Children, Families, and Elder Affairs (Bradley) recommended the following:

Senate Amendment

Delete lines 181 - 280
and insert:
safety of the defendant and the community.

(c) The treatment or treatments appropriate for the mental illness of the defendant and an explanation of each of the possible treatment alternatives, including, at a minimum, mental health services, treatment services, rehabilitative services, support services, and case management services as those terms



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11 are defined in s. 394.67(16), which may be provided by or within
12 multidisciplinary community treatment teams, such as Florida
13 Assertive Community Treatment, conditional release programs,
14 outpatient services or intensive outpatient treatment programs,
15 and supportive employment and supportive housing opportunities
16 in treating and supporting the recovery of the defendant. ~~in~~
17 ~~order of choices;~~

18 (d) ~~(e)~~ The availability of acceptable treatment, and, if
19 treatment is available in the community, the expert shall so
20 state in the report. ~~;~~ and

21 (e) ~~(d)~~ The likelihood of the defendant's attaining
22 competence under the treatment recommended, an assessment of the
23 probable duration of the treatment required to restore
24 competence, and the probability that the defendant will attain
25 competence to proceed in the foreseeable future.

26
27 The examining expert's report to the court must include a full
28 and detailed explanation regarding why the alternative treatment
29 options referenced in the evaluation are insufficient to meet
30 the needs of the defendant.

31 Section 4. Section 916.13, Florida Statutes, is amended to
32 read:

33 916.13 Involuntary commitment of defendant adjudicated
34 incompetent.—

35 (1) Every defendant who is charged with a felony and who is
36 adjudicated incompetent to proceed may be involuntarily
37 committed for treatment upon a finding by the court of clear and
38 convincing evidence that:

39 (a) The defendant has a mental illness and because of the



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40 mental illness:

41 1. The defendant is manifestly incapable of surviving alone
42 or with the help of willing and responsible family or friends,
43 including available alternative services, and, without
44 treatment, the defendant is likely to suffer from neglect or
45 refuse to care for herself or himself and such neglect or
46 refusal poses a real and present threat of substantial harm to
47 the defendant's well-being; or

48 2. There is a substantial likelihood that in the near
49 future the defendant will inflict serious bodily harm on herself
50 or himself or another person, as evidenced by recent behavior
51 causing, attempting, or threatening such harm;

52 (b) All available, less restrictive treatment alternatives,
53 including treatment in community residential facilities, ~~or~~
54 community inpatient or outpatient settings, or any other mental
55 health services, treatment services, rehabilitative services,
56 support services, or case management services as those terms are
57 defined or described in s. 394.67(16) which would offer an
58 opportunity for improvement of the defendant's condition have
59 been judged to be inappropriate; and

60 (c) There is a substantial probability that the mental
61 illness causing the defendant's incompetence will respond to
62 treatment and the defendant will regain competency to proceed in
63 the reasonably foreseeable future.

64
65 Before issuing a commitment order, the court must review the
66 examining expert's report to ensure alternative treatment
67 options have been fully considered and found insufficient to
68 meet the needs of the defendant.



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69 (2) A defendant who has been charged with a felony and who
70 has been adjudicated incompetent to proceed due to mental
71 illness, and who meets the criteria for involuntary commitment
72 under this chapter, may be committed to the department, and the
73 department shall retain and treat the defendant.

74 (a) Immediately after receipt of a completed copy of the
75 court commitment order containing all documentation required by
76 the applicable Florida Rules of Criminal Procedure, the
77 department shall request all medical information relating to the
78 defendant from the jail. The jail shall provide the department
79 with all medical information relating to the defendant within 3
80 business days after receipt of the department's request or at
81 the time the defendant enters the physical custody of the
82 department, whichever is earlier.

83 (b) Within 60 days ~~6 months~~ after the date of admission and
84 at the end of any period of extended commitment, or at any time
85 the administrator or his or her designee determines that the
86 defendant has regained competency to proceed or no longer meets
87 the criteria for continued commitment, the administrator or
88 designee shall file a report with the court pursuant to the
89 applicable Florida Rules of Criminal Procedure.

90 (c) ~~A competency hearing must be held within 30 days after~~
91 ~~the court receives notification that the defendant is competent~~
92 ~~to proceed or no longer meets the criteria for continued~~
93 ~~commitment.~~ The defendant must be transported in accordance with
94 s. 916.107 to the committing court's jurisdiction within 7 days
95 after notification that the defendant is competent to proceed or
96 no longer meets the criteria for continued commitment. A
97 determination on the issue of competency must be made at a



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98 hearing within 30 days after the notification ~~for the hearing.~~
99 If the defendant is receiving psychotropic medication at a
100 mental health facility at the time he or she is discharged and
101 transferred to the jail, the administering of such medication
102 must continue unless the jail physician documents the need to
103 change or discontinue it. To ensure continuity of care, the
104 referring mental health facility shall transfer the defendant
105 with