

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 104-17 as follows:

6 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

7 Sec. 104-17. Commitment for Treatment; Treatment Plan.

8 (a) If the defendant is eligible to be or has been released
9 on bail or on his own recognizance, the court shall select the
10 least physically restrictive form of treatment therapeutically
11 appropriate and consistent with the treatment plan.

12 (b) If the defendant's disability is mental, the court may
13 order him placed for treatment in the custody of the Department
14 of Human Services, or the court may order him placed in the
15 custody of any other appropriate public or private mental
16 health facility or treatment program which has agreed to
17 provide treatment to the defendant. If the defendant is placed
18 in the custody of the Department of Human Services, the
19 defendant shall be placed in a secure setting unless the court
20 determines that there are compelling reasons why such placement
21 is not necessary or if the defendant is charged with a
22 misdemeanor and the Department of Human Services determines
23 that the defendant could be appropriately placed in a

1 non-secure setting operated by the Department of Human
2 Services. During the period of time required to determine the
3 appropriate placement the defendant shall remain in jail. If
4 upon the completion of the placement process the Department of
5 Human Services determines that the defendant is currently fit
6 to stand trial, it shall immediately notify the court and shall
7 submit a written report within 7 days. In that circumstance the
8 placement shall be held pending a court hearing on the
9 Department's report. Otherwise, upon completion of the
10 placement process, the sheriff shall be notified and shall
11 transport the defendant to the designated facility. The
12 placement may be ordered either on an inpatient or an
13 outpatient basis.

14 (c) If the defendant's disability is physical, the court
15 may order him placed under the supervision of the Department of
16 Human Services which shall place and maintain the defendant in
17 a suitable treatment facility or program, or the court may
18 order him placed in an appropriate public or private facility
19 or treatment program which has agreed to provide treatment to
20 the defendant. The placement may be ordered either on an
21 inpatient or an outpatient basis.

22 (d) The clerk of the circuit court shall transmit to the
23 Department, agency or institution, if any, to which the
24 defendant is remanded for treatment, the following:

25 (1) a certified copy of the order to undergo treatment;

26 (2) the county and municipality in which the offense

1 was committed;

2 (3) the county and municipality in which the arrest
3 took place;

4 (4) a copy of the arrest report, criminal charges,
5 arrest record, jail record, and the report prepared under
6 Section 104-15; and

7 (5) all additional matters which the Court directs the
8 clerk to transmit.

9 (e) Within 30 days of entry of an order to undergo
10 treatment, the person supervising the defendant's treatment
11 shall file with the court, the State, and the defense a report
12 assessing the facility's or program's capacity to provide
13 appropriate treatment for the defendant and indicating his
14 opinion as to the probability of the defendant's attaining
15 fitness within a period of one year from the date of the
16 finding of unfitness. If the report indicates that there is a
17 substantial probability that the defendant will attain fitness
18 within the time period, the treatment supervisor shall also
19 file a treatment plan which shall include:

20 (1) A diagnosis of the defendant's disability;

21 (2) A description of treatment goals with respect to
22 rendering the defendant fit, a specification of the
23 proposed treatment modalities, and an estimated timetable
24 for attainment of the goals;

25 (3) An identification of the person in charge of
26 supervising the defendant's treatment.

1 (Source: P.A. 95-296, eff. 8-20-07; 96-310, eff. 8-11-09.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.