

SB2560



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2560

Introduced 1/11/2012, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-17

from Ch. 38, par. 104-17

Amends the Code of Criminal Procedure of 1963. Provides that if a defendant found unfit to stand trial is placed in the custody of the Department of Human Services, the defendant shall be placed in a secure setting unless: (1) the court determines that there are compelling reasons why such placement is not necessary or (2) the defendant is charged with a misdemeanor and the Department of Human Services determines that he or she could be appropriately placed in a civil setting operated by the Department. Effective immediately.

LRB097 14464 RLC 59316 b

A BILL FOR

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: (1) the
20 court determines that there are compelling reasons why such
21 placement is not necessary or (2) the defendant is charged with
22 a misdemeanor and the Department of Human Services determines
23 that he or she could be appropriately placed in a civil setting

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

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

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

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

25 (2) the county and municipality in which the offense
26 was committed;

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

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

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

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

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

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

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

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

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