

## Committee on Criminal Justice

### **CS/CS/HB 769 — Mental Health Treatment**

by Judiciary Committee; Children, Families and Seniors Subcommittee; and Rep. Peters and others (CS/CS/SB 862 by Children, Families, and Elder Affairs Committee; Criminal Justice Committee; and Senator Legg)

The bill amends ss. 916.13 and 916.15, F.S., to require a competency hearing to be held within 30 days after the court has been notified that a defendant is competent to proceed, or no longer meets the criteria for continued commitment. The bill also requires that the defendant be transported to the committing court's jurisdiction for these hearings.

The bill amends s. 916.145, F.S., to require that all charges be dismissed if the defendant remains incompetent to proceed for 5 continuous, uninterrupted years after the initial determination. The bill also permits a court to dismiss charges for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 3 years after the original determination, unless the charge is:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, projecting, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery;
- Aggravated stalking;
- A forcible felony as defined in s. 776.08, F.S., that is not otherwise listed;
- An offense involving the possession, use, or discharge of a firearm;
- An attempt to commit any of these offenses;
- Any offense allegedly committed by a defendant who has had a forcible or violent felony conviction within the five years preceding the date of arrest for the nonviolent felony sought to be dismissed;
- Any offense allegedly committed by a defendant who, after having been found incompetent and under court supervision in a community-based program, is formally charged by a State Attorney with a new felony offense; or
- An offense for which there is an identifiable victim and the victim has not consented to the dismissal.

The bill requires jail physicians to provide a current psychotropic medication order at the time of an inmate's transfer to a forensic or civil facility. The bill authorizes an admitting physician at a state forensic or civil facility to continue the administration of psychotropic medication previously prescribed in jail, when a forensic client lacks the capacity to make an informed decision and, in the opinion of the physician, the abrupt cessation of medication could risk the health and safety of the client during the time a court order to medicate is pursued. This authority is for non-emergency situations and is limited to the time period required to obtain a court order for the medication.

The bill requires the administrator or designee of the civil or forensic facility to petition the committing court or the circuit court serving the county where the facility is located within 5 days of the inmate's admission, excluding weekends and legal holidays, for an order authorizing continued treatment.

If approved by the Governor, these provisions take effect July 1, 2016.

*Vote: Senate 40-0; House 119-0*