

# HOUSE BILL ANALYSIS

## SSB 5046

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**Title:** An act relating to creating an additional hearing procedure when the court disagrees with the mental health evaluation conducted by a professional person.

**Brief Description:** Revising hearing procedures for defendants receiving mental health evaluations.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove and Costa).

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**Staff:** Yvonne Walker (786-7841).

**Background:**

If a misdemeanor defendant pleads not guilty by reason of insanity (or incompetency), then the courts must order that person to be held for a 15-day evaluation. After the evaluation, if the person is found to be incompetent, the court may order the person to be treated to restore competency. This process is 14 days if inpatient and 90 days if on a less restrictive alternative. If the person cannot be made competent to stand trial the professional mental health provider will report its findings back to the court. The decision must be reviewed by the court on the next judicial day. The court may acquit the defendant by reason of insanity from the misdemeanor charge or dismiss charges for incompetency to stand trial. If the offender is still in custody and the mental health professional recommends unconditional release, the court can either order the defendant's release or, if the court disagree's with the professional's recommendation (for the defendant's unconditional release), then the court may hold that defendant in custody pending another mental health evaluation to determine if civil commitment should be pursued. If the defendant is held in custody, then a hearing must take place.

When a judge disagrees with a mental health professional's recommendation regarding a defendant's release, the state's current statute does not provide court procedures or guidance for the required hearing.

**Summary:**

On the day that the court is reviewing the evaluation and the mental health professional's

recommendation, if the court disagrees with the recommendation (regarding an offender's release) then the court may order the person held at an evaluation and treatment center for 72 hours prior to a hearing or may order the person conditionally released subject to a hearing within 11 days.

At the hearing, the prosecutor may file a direct petition for 90-day inpatient or outpatient treatment. If the prosecutor files a petition, the court may order the person detained at the evaluation and treatment facility that performed the evaluation or order the person to participate in outpatient treatment pending the final civil commitment decision.

If the court releases the individual subject to a hearing and the person fails to appear, the court must order the person taken into custody at an evaluation and treatment facility and brought to court the next judicial day.

**Fiscal Note:** Requested on February 24, 1999.

**Effective Date:** This bill contains an emergency clause and takes effect on March 1, 1999.

Office of Program Research