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## Judiciary Committee

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### HB 1419

**Title:** An act relating to restrictions on outings from state facilities.

**Brief Description:** Concerning restrictions on outings from state facilities.

**Sponsors:** Representative Ormsby.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Repeals certain restrictions on the circumstances under which a person committed to a state facility for competency evaluation, competency restoration, or following an insanity acquittal may leave the facility.</li></ul>
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**Hearing Date:** 1/29/15

**Staff:** Omeara Harrington (786-7136).

**Background:**

Forensic Commitments to State Facilities.

Persons may be committed to state facilities under a variety of circumstances. In addition to civil commitment under the Involuntary Treatment Act, a court may order a person's commitment to a state hospital facility for forensic purposes. A forensic system commitment may be for evaluation to determine whether or not a person is competent to stand trial, for restoration of a person's competency so that the person may stand trial, or as a result of a finding of not guilty by reason of insanity (NGRI).

*Competency.* A person is incompetent to stand trial in a criminal case if, due to a mental disease or defect, he or she lacks the capacity to understand the nature of the proceedings or is unable to assist in his or her own defense. If a person is deemed incompetent to stand trial for a felony or serious misdemeanor, the person may be court-ordered to undergo a period competency restoration, lasting from up to 29 days for a misdemeanor charge to up to one year in some felony cases.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

*NGRI Commitment.* A person is NGRI of a criminal offense if, at the time of the act, as a result of mental disease or defect, he or she was unable to perceive the nature and quality of the act or unable to tell right from wrong. A person may be committed following an acquittal on grounds of NGRI if the fact finder determines that the acquitted person presents a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions. The maximum permitted term of commitment following a NGRI acquittal is equal to the maximum possible sentence for any offense with which the person was charged.

#### Authorized Absences From State Facilities.

A person committed following an acquittal on grounds of NGRI may petition for conditional release or final release by making an application to the Secretary of the Department of Social and Health Services (DSHS) or by making a direct petition to the court. All DSHS proposals for release and conditional release must go before an independent public safety review panel. The panel provides written determinations of the public safety risk presented by any release or conditional release recommendation, and may offer alternative recommendations. The panel's recommendations are submitted to the court with the DSHS recommendations. If the court grants conditional release, the terms and conditions of release are identified in the court order. A person may also be granted a temporary furlough, which allows the person to leave the facility unescorted for a period of time.

At least 45 days before a person is authorized to leave on furlough or other unescorted leave, notice must be given to the prosecuting attorney of any county to which the person is released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. The prosecuting attorney may seek a temporary restraining order to prevent the release under certain circumstances. At least 30 days prior to unescorted leave or furlough, the superintendent of the state institution must provide notice to appropriate law enforcement agencies, and others identified in statute.

#### Additional Restrictions Placed on Leave from State Facilities by Substitute House Bill 2717 (2010).

Legislation enacted in 2010 placed specific leave restrictions on persons who are committed to state facilities for purposes of determining or restoring competency, or as the result of an acquittal on grounds of NGRI. A person committed to a state facility for one of these reasons, unless in accordance with conditional release or furlough authorized by the court, is not allowed to leave the state institution where he or she has been committed except for:

- necessary medical or legal proceedings not available in the facility where he or she is confined;
- visits to the bedside of a member of an immediate family member who is seriously ill; or
- attendance at the funeral of an immediate family member.

If a person is authorized to leave the facility for one of these reasons, he or she must be escorted by a person approved by the DSHS, and the escort must be in visual or auditory contact at all times with the person on leave unless otherwise authorized by the court.

Prior to any authorized release, the DSHS must give notification to any county or city law enforcement agency having jurisdiction in the location of the person's destination.

**Summary of Bill:**

The 2010 statute limiting the circumstances under which a person committed to a state facility for competency evaluation or restoration or following an insanity acquittal may leave the facility without a court order is repealed, removing the restrictions instituted pursuant to that legislation.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.