

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB24-1034 be amended as follows:

1 Amend printed bill, page 2, strike lines 2 through 10.

2 Renumber succeeding sections accordingly.

3 Page 4, line 12, before "(8)" insert "(1)(b) and".

4 Page 4, strike line 13 and substitute:

5 **"16-8.5-103. Determination of competency to proceed.**

6 (1) (b) On or before the date when a court orders that a defendant be
7 evaluated for competency, a BRIDGES court liaison for the district hired or
8 contracted pursuant to article 95 of title 13 may be assigned to the
9 defendant.

10 (8) If the".

11 Page 5, line 6, after "attorney," insert "THE BRIDGES COURT LIAISON,".

12 Page 5, line 11, after "court," insert "BRIDGES COURT LIAISON,".

13 Page 7, after line 18 insert:

14 "(4) (a) NOTWITHSTANDING THE CONFIDENTIALITY OF RECORDS
15 PURSUANT TO ARTICLE 65 OF TITLE 27, WHEN THE ISSUE OF COMPETENCY
16 IS RAISED OR AFTER A DEFENDANT HAS BEEN FOUND INCOMPETENT TO
17 PROCEED, AND UPON THE REQUEST OF THE DEFENSE ATTORNEY, THE
18 COURT SHALL ISSUE A COURT ORDER AUTHORIZING THE COURT CLERK TO
19 PROVIDE THE DEFENSE ATTORNEY:

20 (I) A LIST OF THE JURISDICTIONS AND CASE NUMBERS OF ANY
21 CURRENT OR PRIOR PROCEEDINGS, INCLUDING SEALED PROCEEDINGS,
22 BROUGHT PURSUANT TO ARTICLE 65 OF TITLE 27 IN WHICH THE
23 DEFENDANT IS THE RESPONDENT; AND

24 (II) A COPY OF THE DEFENDANT'S RECORDS, INCLUDING SEALED
25 RECORDS, FROM EITHER A DISTRICT COURT CRIMINAL MATTER INVOLVING
26 COMPETENCY OR THE DISTRICT COURT RESPONSIBLE FOR THE DEFENDANT'S
27 CASE BROUGHT PURSUANT TO ARTICLE 65 OF TITLE 27; AND

28 (b) THE COURT CLERK SHALL PROVIDE THE DEFENSE ATTORNEY
29 THE LIST OF JURISDICTIONS AND CASE NUMBERS PURSUANT TO SUBSECTION
30 (4)(a)(I) OF THIS SECTION OR INFORM THE DEFENSE ATTORNEY THAT NO
31 CURRENT OR PRIOR RECORDS, INCLUDING SEALED RECORDS, EXIST IF THE
32 DEFENSE ATTORNEY PROVIDES THE COURT CLERK WITH A COURT ORDER
33 PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION.

1 (c) THE COURT CLERK WHO IS THE CUSTODIAN OF RECORDS FOR
2 THE DEFENDANT'S CASE BROUGHT PURSUANT TO ARTICLE 65 OF TITLE 27
3 SHALL PROVIDE THE DEFENSE ATTORNEY A COPY OF THE RECORDS IF THE
4 DEFENSE ATTORNEY PROVIDES THE COURT CLERK WITH:
5 (I) THE DEFENDANT'S WRITTEN RELEASE FOR THE RECORDS; OR
6 (II) A COURT ORDER ISSUED PURSUANT TO SUBSECTION (4)(a)(II)
7 OF THIS SECTION."

8 Page 7, line 20, strike "(1)(b.7)," and substitute "(1)(a)(III), (1)(b.7),
9 (1)(d),".

10 Page 7, lines 20 and 21, strike "and (5)(f);" and substitute "(5)(f), and
11 (6);".

12 Page 8, after line 10 insert:

13 "(III) The court shall determine the type of bond and the
14 conditions of release after consideration of the presumptions and factors
15 enumerated in article 4 of this title 16, which include consideration of the
16 information received from any pretrial services program pursuant to ~~the~~
17 ~~provisions of~~ section 16-4-106 and any information provided by the
18 BRIDGES court liaison hired or contracted pursuant to article 95 of title 13.
19 As a condition of any bond, the court shall require the defendant's
20 cooperation with the competency evaluation on an outpatient and
21 out-of-custody basis. In setting the bond, the court shall not consider the
22 need for the defendant to receive an evaluation pursuant to this article 8.5
23 as a factor in determining any monetary condition of bond."

24 Page 8, after line 21 insert:

25 "(d) If a defendant is in the department's custody for purposes of
26 the competency evaluation ordered pursuant to this article 8.5 and the
27 defendant has completed the competency evaluation and the evaluator has
28 concluded that the defendant is competent to proceed, the department may
29 return the defendant to a county jail or to the community, as determined
30 by the defendant's bond status. If the evaluator has concluded that the
31 defendant is incompetent to proceed and that inpatient restoration services
32 are not clinically appropriate, and outpatient restoration services are
33 available to the defendant in the community, the department shall notify
34 the court and the BRIDGES court liaison, and the department shall develop
35 a discharge plan and a plan for community-based restoration services in
36 coordination with the community restoration services provider. The court
37 shall hold a hearing within seven days after receiving the notice, at which

1 the department shall provide to the court the plan for community-based
2 restoration services, and the court may enter any appropriate orders
3 regarding the custody of the defendant and ~~his or her~~ the DEFENDANT'S
4 bond status. The department shall advise the defendant of the date and
5 time of the court hearing. If the department is returning the defendant to
6 a county jail, the county sheriff in the jurisdiction where the defendant
7 must return shall take custody of the defendant within seventy-two hours
8 after receiving notification from the department that the defendant's
9 evaluation is completed. At the time the department notifies the sheriff,
10 the department shall also notify the court and the BRIDGES court liaison
11 that the department is returning the defendant to the custody of the jail."

12 Page 8, strike lines 22 through 26 and substitute:

13 "(4) A written report of the evaluation must be prepared in
14 ~~triplicate and delivered~~ AND THE DEPARTMENT SHALL ELECTRONICALLY
15 DELIVER THE REPORT to the COURT clerk ~~of the court~~ that ordered it. The
16 clerk shall provide a copy of the report both to the prosecuting attorney
17 ATTORNEY, THE BRIDGES COURT LIAISON, and the DEFENSE counsel ~~for the~~
18 ~~defendant. The department may utilize~~ USING the e-filing system. ~~to~~
19 ~~deliver the report to the court and serve it upon the~~".

20 Page 8, line 27, strike "parties." and substitute "parties:".

21 Page 13, after line 9 insert:

22 "(6) Whenever a competency evaluation is ordered upon the
23 request of either party, the court may notify the county attorney or district
24 attorney required to conduct proceedings pursuant to section 27-65-113
25 (6) for the county in which the charges are pending and the BRIDGES court
26 liaison hired or contracted pursuant to article 95 of title 13 of all court
27 dates for return of the report on competency to ensure that all parties are
28 on notice of the expected need for coordinated services and planning with
29 consideration of possible civil certification."

30 Page 16, line 10, after "COURT" insert "MAY APPOINT A BRIDGES COURT
31 LIAISON OR".

32 Page 16, line 12, after "SERVICES" and insert "OR A BRIDGES COURT
33 LIAISON, OR BOTH,".

34 Page 20, line 19, after "OPINION" insert "PURSUANT TO THIS SUBSECTION
35 (4)".

- 1 Page 21, line 8, after "OPINION" insert "PURSUANT TO THIS SUBSECTION
2 (4)".
- 3 Page 23, line 9, strike "16-8.5-116.5 (8);" and substitute "16-8.5-116.5
4 (9);".
- 5 Page 23, line 25, strike "16-8.5-116.5 (8)," and substitute "16-8.5-116.5
6 (9),".
- 7 Page 24, line 4, strike "NOT".
- 8 Page 25, line 3, before "AND" insert "THE BRIDGES COURT LIAISON,".
- 9 Page 25, line 15, after "A" insert "BRIDGES".
- 10 Page 25, line 16, after "THE" insert "BRIDGES".
- 11 Page 26, line 3, after "PROGRAM." add "THE DEPARTMENT SHALL NOTIFY
12 THE COURT, THE BRIDGES COURT LIAISON, THE PROSECUTING ATTORNEY,
13 AND THE DEFENSE ATTORNEY WHEN THE DEFENDANT IS PLACED OR MOVED
14 TO A DIFFERENT PROGRAM.".
- 15 Page 26, line 10, after "THE" insert "BRIDGES".
- 16 Page 27, line 6, after "THE" insert "BRIDGES".
- 17 Page 27, line 18, after "TO" insert "THE BRIDGES COURT LIAISON AND".
- 18 Page 27, strike lines 19 and 20 and substitute "WILL PROVIDE CONTINUED
19 RESTORATION, IF APPLICABLE, OR SERVICES;".
- 20 Page 27, line 21, strike "COURT LIAISON, IF APPLICABLE," and substitute
21 "BRIDGES COURT LIAISON".
- 22 Page 27, line 25, strike "COURT LIAISON, IF APPLICABLE" and substitute
23 "BRIDGES COURT LIAISON".
- 24 Page 28, line 7, strike "COURT LIAISON, IF APPLICABLE," and substitute
25 "BRIDGES COURT LIAISON".
- 26 Page 28, line 10, strike "SHERIFF" and substitute "SHERIFF, THE BRIDGES
27 COURT LIAISON,".

- 1 Page 28, line 18, strike "MUST" and substitute "MAY".
- 2 Page 32, line 22, before "court" insert "BRIDGES".
- 3 Page 32, line 23, before "court" insert "BRIDGES".
- 4 Page 34, line 17, strike "(8)" and substitute "(9)".
- 5 Page 35, line 2, strike "(8)" and substitute "(9)".
- 6 Page 35, line 15, strike "(8)" and substitute "(9)".
- 7 Page 36, line 9, strike "(8)" and substitute "(9)".
- 8 Page 36, strike lines 20 and 21 and substitute "FELONY OR A LEVEL 3
9 DRUG FELONY AND THE".
- 10 Page 37, line 4, strike "(8)" and substitute "(9)".
- 11 Page 38, after line 11 insert:
- 12 "(8) THE COURT SHALL DISMISS THE DEFENDANT'S CASE IF:
13 (a) THE DEFENDANT IS FOUND INCOMPETENT TO PROCEED;
14 (b) THE CHARGES AGAINST THE DEFENDANT HAVE NOT BEEN
15 DISMISSED PURSUANT TO THIS SECTION; AND
16 (c) THE DEFENDANT'S PRESENTENCE CONFINEMENT CREDIT,
17 INCLUDING ANY TIME PERIOD THE DEFENDANT WAS COMMITTED FOR
18 INPATIENT RESTORATION, OR CONFINED IN JAIL OR ANOTHER DETENTION
19 FACILITY AWAITING INPATIENT RESTORATION SERVICES, EXCEEDS THE
20 MAXIMUM SENTENCE FOR THE DEFENDANT'S HIGHEST CHARGED OFFENSE.".
- 21 Page 38, line 12, strike "(8)" and substitute "(9)".
- 22 Page 38, line 27, strike "(9)" and substitute "(10)".
- 23 Page 39, strike lines 6 and 7 and substitute "DISMISSAL, THE COURT MAY
24 ORDER THE BRIDGES COURT LIAISON TO ASSIST WITH CASE PLANNING AND
25 COORDINATING WITH SERVICES, INCLUDING COORDINATING WITH
26 GOVERNMENT ENTITIES OR COMMUNITY-BASED ORGANIZATIONS THAT ARE
27 CAPABLE OF PROVIDING".
- 28 Page 39, line 9, strike "(10)" and substitute "(11)".

- 1 Page 39, line 14, strike "(11)" and substitute "(12)".
- 2 Page 39, line 17, strike "(12)" and substitute "(13)".
- 3 Page 39, line 20, strike "(13)" and substitute "(14)".
- 4 Page 39, line 22, after "department" insert "OR THE BRIDGES COURT
- 5 LIAISON".
- 6 Page 39, line 25, strike "(14)" and substitute "(15)".
- 7 Page 40, line 3, strike "(15)" and substitute "(16)".
- 8 Page 40, line 13, strike "(16)" and substitute "(17)".
- 9 Page 40, line 18, strike "(17)" and substitute "(18)".

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