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SFA**BILL ANALYSIS**

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Senate Bill 181 (Substitute S-2)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 4-22-97

CONTENT

The bill would amend the Mental Health Code to provide that, if a court ordered a person to be hospitalized under an initial or continuing order after felony charges were dismissed due to the 15-month limit on treatment for a person deemed incompetent to stand trial, the court would have to include both of the following statements in the order, unless the time for petitioning to refile the dismissed charges had elapsed:

- A requirement that, at least 30 days before the patient's scheduled release or discharge, the director of the treating facility notify the prosecutor's office in the county in which charges against the person were originally brought that the patient's release or discharge was pending.
- A requirement that, at least 30 days before the scheduled release or discharge, the patient undergo an examination to determine competency to stand trial. A copy of the written report of that examination would have to be submitted to the prosecutor's office, along with the notification of pending release or discharge, and the report would be admissible in a competency hearing held by a court after completion of the exam.

In addition, a court would have to include those statements in an order if, after the dismissal of felony charges following 15 months of treatment after a person was determined incompetent to stand trial, the court had ordered a person 18 years of age or older to be judicially admitted to a treatment facility because he or she had been diagnosed as having mental retardation and could be reasonably expected to cause serious physical injury to himself or herself or another person within the near future, and had overtly acted in a manner substantially supportive of that expectation.

(Under the Mental Health Code, charges must be dismissed following 15 months of treatment after a person is determined incompetent to stand trial; the prosecutor may petition the court for permission to refile the charges within a period of time after the dismissal of charges that is equal to one-third of the maximum sentence that the defendant could receive on the charges. If the maximum penalty is imprisonment for life, the prosecutor may petition the court for permission to refile charges at any time.)

MCL 330.1476 & 330.1525

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would require that individuals who had been placed in an institution due to incompetence to stand trial undergo a competency examination before release from the institution. The results of such an examination would be provided to the relevant county prosecutor. As the cost of one examination for an institutionalized population undergoing constant intensive treatment is relatively small, the bill would result in a minor cost to the Department of Community Health.

Fiscal Analyst: S. Angelotti
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.