

SENATE JOINT RESOLUTION NO. 324

Directing the Joint Commission on Health Care, through its Behavioral Health Care Subcommittee, to study the needs of patients found not guilty by reason of insanity and persons found incompetent to stand trial. Report.

Agreed to by the Senate, February 25, 2005
 Agreed to by the House of Delegates, February 24, 2005

WHEREAS, the 2002 General Assembly enacted Senate Bill No. 482 that limited the amount of time that a person found not guilty by reason of insanity (NGRI) of a misdemeanor on or after July 1, 2002, could remain in the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services for no more than one year; and

WHEREAS, persons judged to be incompetent to stand trial usually lack the ability to understand, communicate, or make rational decisions; and

WHEREAS, persons who would normally spend many years in the custody of the Commissioner began to reenter the local community and be placed under the supervision of local community services boards; and

WHEREAS, persons found not guilty by reason of insanity of a felony and persons found incompetent to stand trial are still subject to an indeterminate sentence; and

WHEREAS, the Commissioner has identified 213 NGRI patients statewide whose cases are under consideration for conditional release; and

WHEREAS, the increasing number of NGRI patients and persons found incompetent to stand trial that are anticipated to reenter the community is likely to have both fiscal, and in a few instances, community safety implications upon localities; and

WHEREAS, the impact on the mental health state system is that most state hospitals do not have sufficient acute care beds partially due to NGRI patients taking longer to discharge even after their symptoms are in remission; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Commission on Health Care, through its Behavioral Health Care Subcommittee, be directed to study the needs of patients found not guilty by reason of insanity and persons found incompetent to stand trial.

In conducting the study, the Commission shall (i) determine the appropriate treatment of acquittees; (ii) review and revise diagnostic categories that are amenable to treatment and therefore eligible for inclusion as a possible NGRI defense; (iii) examine discharge alternatives that will expedite return to the community as well as free up acute care psychiatric beds; (iv) explore the advisability and feasibility of coordination between the Department of Mental Health, Mental Retardation and Substance Abuse Services, community services boards, and the criminal justice system when an acquittee violates conditions of release that are not related to a psychiatric illness and therefore not appropriate for rehospitalization, e.g., illegal drug use, refusal to take drug screens, and failure to keep appointments; (v) determine the needs and impact of persons found incompetent to stand trial on the mental health state system; and (vi) consider such other related issues as the Subcommittee deems appropriate to meet the objectives of this study.

All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

The Joint Commission on Health Care shall complete its meetings by November 30, 2005, and the Director shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2006 Regular Session of the General Assembly. The executive summary shall state whether the Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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