

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB1908

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Hope

3. Committee: Passed Both Houses

4. Title: Criminal proceedings; disposition when defendant found incompetent; evaluation.

5. Summary: Requires a competency evaluation report, when ordered to determine whether a defendant charged with certain misdemeanors lacks capacity to stand trial, to identify whether the defendant should be evaluated to determine whether he meets the criteria for temporary detention in the event he is found incompetent but restorable or incompetent for the foreseeable future. The bill allows the court, when an evaluation for temporary detention is recommended, to order the local community services board or behavioral health authority to conduct an evaluation of the defendant and, if the defendant meets the criteria for temporary detention, file a petition for a temporary detention order. The substitute bill requires the community services board or behavioral health authority to notify the court, in writing, within 72 hours upon completion of the evaluation. In cases in which the defendant fails or refuses to appear for the evaluation, the bill requires the community services board or behavioral health authority to notify the court of such failure or refusal and requires the court to issue a mandatory examination order and capias directing the local primary law-enforcement agency to transport the defendant to the location designated by the community services board or behavioral health authority for examination. The bill repeals the sunset on the provisions of Chapter 508 of the Acts of Assembly of 2022, which also relate to competency and temporary detention evaluations.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate.

8. Fiscal Implications: This legislation makes several technical changes and clarifies the role of Community Services Boards and forensic evaluators in the restoration for competency process, however no significant fiscal impact is anticipated. The bill does allow for some individuals to be civilly committed as opposed to being sent for restoration of competency treatment at a state facility, thus there may be some cost avoidance for those individuals depending on location of civil commitment and length of stay.

The legislation also repeals the sunset provision on previous legislation that established the process that is being amended by the proposed legislation.

The legislation also requires that if a defendant for whom an evaluation has been ordered fails or refuses to appear for the evaluation, the community services board or behavioral health authority shall notify the court and the court shall issue a mandatory examination order and capias directing the primary law-enforcement agency for the jurisdiction in which the defendant resides to transport the defendant to the location designated by the community services board or behavioral health authority for examination. It is unclear as to the fiscal impact the bill would have on courts or local law enforcement agencies, as comment was not available at the time this fiscal impact statement was issued.

9. Specific Agency or Political Subdivisions Affected: Department of Behavioral Health and Developmental Services, Community Services Boards.

10. Technical Amendment Necessary: No.

11. Other Comments: None.