



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1418

Introduced 2/9/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-17.5 new

Amends the Code of Criminal Procedure of 1963. Provides that involuntary medication may be administered to an adult defendant without the informed consent of the defendant by order of the circuit court pursuant to specified procedures and standards. Provides that a defendant in the custody of the Department of Human Services may also be administered medication as provided in the Mental Health and Developmental Disabilities Code. Provides that a defendant in the custody of the Department of Corrections may also be administered medication as provided in the rules and regulations of the Department of Corrections. Effective immediately.

LRB095 04444 RLC 24489 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 104-17.5 as follows:

6 (725 ILCS 5/104-17.5 new)

7 Sec. 104-17.5. Fitness for trial; administration of
8 authorized involuntary medication upon application to a court.

9 (a) Generally. Involuntary medication may be administered
10 to an adult defendant without the informed consent of the
11 defendant by order of the circuit court pursuant to the
12 procedures and standards set forth in this Section.
13 Notwithstanding any other provisions of this Section, a
14 defendant in the custody of the Department of Human Services
15 may also be administered medication as provided in the Mental
16 Health and Developmental Disabilities Code. A defendant in the
17 custody of the Department of Corrections may also be
18 administered medication as provided in the rules and
19 regulations of the Department of Corrections.

20 (b) Definition. For purposes of this Section, "authorized
21 involuntary medication" means:

22 (1) Psychotropic medication whose use for
23 anti-psychotic, antidepressant, anti-manic, anti-anxiety,

1 behavioral modification, or behavioral management purposes
2 is listed in the latest edition of the AMA Drug Evaluations
3 or Physician's Desk Reference or that is administered for
4 any of these purposes.

5 (2) Tests and other related procedures that are
6 essential for the safe and effective administration of a
7 psychotropic medication.

8 (c) Petition. The State on behalf of a facility director
9 may petition the circuit court for an order authorizing the
10 administration of authorized involuntary medication to a
11 defendant. The petition shall include:

12 (1) A copy of the defendant's power of attorney for
13 health care under the Illinois Power of Attorney Act, a
14 declaration for mental health under the Mental Health
15 Treatment Preference Declaration Act, or a statement by the
16 petitioner that a good faith attempt was made to determine
17 whether such instruments exist and that none were found to
18 exist.

19 (2) A treatment plan with diagnosis, proposed
20 medications and their dosages and side effects, any
21 alternative medications and their dosages and side
22 effects, testing and procedures essential for the safe and
23 effective administration of the authorized involuntary
24 medication, and the staff members responsible for
25 implementing the treatment plan.

26 (3) If applicable, specific testing and procedures

1 sought to be administered and a request that the court
2 authorize such testing and procedures as may be essential
3 for the safe and effective administration of the authorized
4 involuntary medication sought to be administered.

5 (4) A statement that other, less restrictive services
6 have been explored and found inappropriate or, taking
7 account of less intrusive alternatives, the authorized
8 involuntary medication is necessary to render the
9 defendant fit.

10 If the defendant is in the custody of the Department of
11 Human Services, the statement shall include a statement that
12 the defendant was evaluated and could not be medicated under
13 Section 2-102, 2-107, or 2-107.1 of the Mental Health and
14 Developmental Disabilities Code.

15 (d) Service of petition and notice. No later than 7 days
16 prior to the date of the hearing, the petitioner shall deliver
17 a copy the petition and notice of the time and place of the
18 hearing to the defendant, his or her attorney, any known agent
19 or attorney-in-fact, if any, and the guardian, if any. Service
20 may be made by facsimile transmission, mail, or in person. Upon
21 receipt of the petition and notice, the party served, or the
22 person delivering the petition and notice to the party served,
23 shall acknowledge service. If the sending party does not
24 receive acknowledgment of service within 24 hours, service must
25 be made by personal service.

26 (e) Hearing. The court shall hold a hearing within 14 days

1 after the filing of the petition. The People or the petitioner
2 shall be entitled to a continuance of not more than 7 days as
3 of right. An additional continuance of not more than 7 days may
4 be granted to any party (i) upon a showing that the continuance
5 is needed in order to adequately prepare for or present
6 evidence in a hearing under this Section or (ii) under
7 exceptional circumstances. The court may grant an additional
8 continuance not to exceed 21 days when, in its discretion, the
9 court determines that such a continuance is necessary to
10 provide the defendant an examination, a trial by jury, or
11 substitution of counsel as provided for by the Illinois Supreme
12 Court Rules.

13 (f) Evidence. Authorized involuntary medication shall not
14 be administered to the defendant unless it has been determined
15 by clear and convincing evidence that all of the following
16 factors are present:

17 (1) The defendant has a serious mental illness or
18 developmental disability.

19 (2) The authorized involuntary medication is medically
20 appropriate.

21 (3) The authorized involuntary medication is
22 substantially likely to render the defendant fit to stand
23 trial.

24 (4) The authorized involuntary medication is
25 substantially unlikely to have side effects that may
26 undermine the fairness of the trial.

1 (5) Other, less restrictive services have been
2 explored and found inappropriate or, taking account of less
3 intrusive alternatives, the authorized involuntary
4 medication is necessary significantly to further important
5 governmental trial-related interests.

6 (6) If the petition seeks authorization for testing and
7 other procedures, such testing and procedures are
8 essential for the safe and effective administration of the
9 medication.

10 (g) Order. An order issued under this Section shall
11 designate the persons authorized to administer the authorized
12 involuntary medication under the standards and procedures of
13 this Section. Those persons shall have complete discretion not
14 to administer any medication authorized under this Section. The
15 order shall also specify the medication and the anticipated
16 range of dosages that have been authorized and may include a
17 list of any alternative medications and range of dosages deemed
18 necessary. Alternatively, the court may order the proposed
19 treatment plan that was presented in the petition.

20 (h) Duration of order. In no event shall an order issued
21 under this Section be effective for more than 90 days. A second
22 90-day period of involuntary medication may be authorized
23 pursuant to this Section. Thereafter, additional 180-day
24 periods of involuntary medication may be authorized pursuant to
25 the standards and procedures of this Section without limit. If
26 a new petition is filed at least 15 days prior to the

1 expiration of the prior order and the defendant agrees to a
2 hearing continuance, the administration of the medication may
3 continue in accordance with the prior order pending the
4 completion of a hearing under this Section.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.