



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1905

by Rep. William Cunningham

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-17

from Ch. 38, par. 104-17

Amends the Code of Criminal Procedure of 1963 relating to defendants found unfit to stand trial. Provides that 10 days is the maximum time the defendant may remain in jail until a determination is made of the defendant's appropriate placement. Provides that if the appropriate placement has not been determined in the 10 day period, the sheriff shall transport the defendant to the closest mental health facility and that mental health facility shall accept the placement of the defendant. Effective immediately.

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FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

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 changing Section 104-17 as follows:

6 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

7 Sec. 104-17. Commitment for Treatment; Treatment Plan.

8 (a) If the defendant is eligible to be or has been released  
9 on bail or on his own recognizance, the court shall select the  
10 least physically restrictive form of treatment therapeutically  
11 appropriate and consistent with the treatment plan.

12 (b) If the defendant's disability is mental, the court may  
13 order him placed for treatment in the custody of the Department  
14 of Human Services, or the court may order him placed in the  
15 custody of any other appropriate public or private mental  
16 health facility or treatment program which has agreed to  
17 provide treatment to the defendant. If the defendant is placed  
18 in the custody of the Department of Human Services, the  
19 defendant shall be placed in a secure setting unless the court  
20 determines that there are compelling reasons why such placement  
21 is not necessary. During the period of time required to  
22 determine the appropriate placement the defendant shall remain  
23 in jail if the period of time does not exceed 10 days. If the

1 appropriate placement has not been determined in the 10 day  
2 period, the sheriff shall transport the defendant to the  
3 closest mental health facility and that mental health facility  
4 shall accept the placement of the defendant. If upon the  
5 completion of the placement process the Department of Human  
6 Services determines that the defendant is currently fit to  
7 stand trial, it shall immediately notify the court and shall  
8 submit a written report within 7 days. In that circumstance the  
9 placement shall be held pending a court hearing on the  
10 Department's report. Otherwise, upon completion of the  
11 placement process, the sheriff shall be notified and shall  
12 transport the defendant to the designated facility. The  
13 placement may be ordered either on an inpatient or an  
14 outpatient basis.

15 (c) If the defendant's disability is physical, the court  
16 may order him placed under the supervision of the Department of  
17 Human Services which shall place and maintain the defendant in  
18 a suitable treatment facility or program, or the court may  
19 order him placed in an appropriate public or private facility  
20 or treatment program which has agreed to provide treatment to  
21 the defendant. The placement may be ordered either on an  
22 inpatient or an outpatient basis.

23 (d) The clerk of the circuit court shall transmit to the  
24 Department, agency or institution, if any, to which the  
25 defendant is remanded for treatment, the following:

26 (1) a certified copy of the order to undergo treatment;

1           (2) the county and municipality in which the offense  
2 was committed;

3           (3) the county and municipality in which the arrest  
4 took place;

5           (4) a copy of the arrest report, criminal charges,  
6 arrest record, jail record, and the report prepared under  
7 Section 104-15; and

8           (5) all additional matters which the Court directs the  
9 clerk to transmit.

10          (e) Within 30 days of entry of an order to undergo  
11 treatment, the person supervising the defendant's treatment  
12 shall file with the court, the State, and the defense a report  
13 assessing the facility's or program's capacity to provide  
14 appropriate treatment for the defendant and indicating his  
15 opinion as to the probability of the defendant's attaining  
16 fitness within a period of one year from the date of the  
17 finding of unfitness. If the report indicates that there is a  
18 substantial probability that the defendant will attain fitness  
19 within the time period, the treatment supervisor shall also  
20 file a treatment plan which shall include:

21           (1) A diagnosis of the defendant's disability;

22           (2) A description of treatment goals with respect to  
23 rendering the defendant fit, a specification of the  
24 proposed treatment modalities, and an estimated timetable  
25 for attainment of the goals;

26           (3) An identification of the person in charge of

1 supervising the defendant's treatment.

2 (Source: P.A. 95-296, eff. 8-20-07; 96-310, eff. 8-11-09.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.