**A** **BILL**

TO AMEND SECTION 44‑23‑430 OF THE 1976 CODE, RELATING TO HEARINGS CONCERNING A PERSON’S FITNESS TO STAND TRIAL, TO EXTEND THE LENGTH OF TIME CERTAIN PERSONS UNFIT TO STAND TRIAL MAY BE HOSPITALIZED FOR RESTORATION TREATMENT TO ONE HUNDRED EIGHTY DAYS, TO ALLOW THE DEPARTMENT OF MENTAL HEALTH TO PROVIDE RESTORATION TREATMENT IN DETENTION CENTERS AND ON AN OUTPATIENT BASIS IN CERTAIN CIRCUMSTANCES, AND FOR OTHER PURPOSES; AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑23‑10 of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) ‘Restoration treatment’ means treatment provided to a person who has been determined unfit to stand trial but likely to become fit in the foreseeable future, and that has as part of its goals assisting the person to gain the capacity to understand the proceedings against him and to assist in his own defense.”

SECTION 2. Section 44‑23‑430 of the 1976 Code is amended to read:

“Section 44‑23‑430. (A) Upon receiving the report of the designated examiners, the court shall set a date for and notify the person and his counsel of a hearing on the issue of his fitness to stand trial. If, in the judgment of the designated examiners or the superintendent of the facility if the person has been detained, the person is in need of hospitalization, the court with criminal jurisdiction over the person may authorize his detention in a suitable facility until the hearing. The person shall be entitled to be present at the hearings and to be represented by counsel. If upon completion of the hearing and consideration of the evidence the court finds that:

(1) the person is fit to stand trial, it shall order the criminal proceedings resumed; or

(2) the person is unfit to stand trial for the reasons set forth in Section 44‑23‑410 and is unlikely to become fit to stand trial in the foreseeable future, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610 or Section 44‑20‑450 within fourteen days, excluding Saturdays, Sundays, and holidays, during which time the court may order the person hospitalized, may order the person to continue in detention if detained, or, if on bond, may permit the person to remain on bond; or

(3) the person is unfit to stand trial but likely to become fit in the foreseeable future, the court shall order him ~~hospitalized~~ to undergo restoration treatment by the department for up to ~~an additional sixty~~ one hundred eighty days from the commencement of restoration treatment. If the person is in detention, then the department has the discretion to provide the restoration treatment in a hospital or detention facility. If the person is on bond, then the department has the discretion to provide the restoration treatment in a hospital or on an outpatient basis. If the person is found to be unfit at the conclusion of the ~~additional~~ period of restoration treatment, then the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610 or Section 44‑20‑450 within fourteen days, excluding Saturdays, Sundays, and holidays~~, during which time the person shall remain hospitalized~~.

(B) Subject to the provisions of Section 44‑23‑460, persons against whom criminal charges are pending and who are hospitalized in accordance with this article shall have all the rights and privileges of other involuntarily hospitalized persons.

(C) Persons against whom criminal charges are pending but who are not involuntarily committed following judicial admission proceedings shall be released unless charged with a violent crime. If a pending charge is a violent crime, then a hearing must be held by the court in which the charges are pending prior to release on the issue of whether the person shall be released on bond, with terms and conditions appropriate for the safety of the community and the well‑being of the person. Any terms or conditions included in the person’s bond must be therapeutic in nature. Therapeutic terms and conditions may include, but shall not be limited to, a requirement that the person cooperate in any treatment indicated for his psychiatric or intellectual impairments, including keeping scheduled appointments, taking all prescribed medications, and abstaining from alcohol or illegal drug use, and a requirement that the person comply with random or scheduled drug screenings to ensure sobriety and medication compliance. For the purposes of this subsection, ‘violent crime’ means any offense included in Section 16‑1‑60.”

SECTION 3. This act takes effect upon approval by the Governor.

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