

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

January 30, 2024  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB24-1034 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 2 through 10.
- 2 Renumber succeeding sections accordingly.
- 3 Page 4, line 12, before "(8)" insert "(1)(b) and".
- 4 Page 4, strike line 13 and substitute:
  - 5 **"16-8.5-103. Determination of competency to proceed.**
  - 6 (1) (b) On or before the date when a court orders that a defendant be
  - 7 evaluated for competency, a BRIDGES court liaison for the district hired or
  - 8 contracted pursuant to article 95 of title 13 may be assigned to the
  - 9 defendant.
  - 10 (8) If the".
- 11 Page 5, line 6, after "attorney," insert "THE BRIDGES COURT LIAISON,".
- 12 Page 5, line 11, after "court," insert "BRIDGES COURT LIAISON,".
- 13 Page 7, after line 18 insert:
  - 14 "(4) (a) NOTWITHSTANDING THE CONFIDENTIALITY OF RECORDS
  - 15 PURSUANT TO ARTICLE 65 OF TITLE 27, WHEN THE ISSUE OF COMPETENCY
  - 16 IS RAISED OR AFTER A DEFENDANT HAS BEEN FOUND INCOMPETENT TO
  - 17 PROCEED, AND UPON THE REQUEST OF THE DEFENSE ATTORNEY, THE
  - 18 COURT SHALL ISSUE A COURT ORDER AUTHORIZING THE COURT CLERK TO
  - 19 PROVIDE THE DEFENSE ATTORNEY:
  - 20 (I) A LIST OF THE JURISDICTIONS AND CASE NUMBERS OF ANY

1 CURRENT OR PRIOR PROCEEDINGS, INCLUDING SEALED PROCEEDINGS,  
2 BROUGHT PURSUANT TO ARTICLE 65 OF TITLE 27 IN WHICH THE  
3 DEFENDANT IS THE RESPONDENT; AND

4 (II) A COPY OF THE DEFENDANT'S RECORDS, INCLUDING SEALED  
5 RECORDS, FROM EITHER A DISTRICT COURT CRIMINAL MATTER INVOLVING  
6 COMPETENCY OR THE DISTRICT COURT RESPONSIBLE FOR THE DEFENDANT'S  
7 CASE BROUGHT PURSUANT TO ARTICLE 65 OF TITLE 27; AND

8 (b) THE COURT CLERK SHALL PROVIDE THE DEFENSE ATTORNEY  
9 THE LIST OF JURISDICTIONS AND CASE NUMBERS PURSUANT TO SUBSECTION  
10 (4)(a)(I) OF THIS SECTION OR INFORM THE DEFENSE ATTORNEY THAT NO  
11 CURRENT OR PRIOR RECORDS, INCLUDING SEALED RECORDS, EXIST IF THE  
12 DEFENSE ATTORNEY PROVIDES THE COURT CLERK WITH A COURT ORDER  
13 PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION.

14 (c) THE COURT CLERK WHO IS THE CUSTODIAN OF RECORDS FOR  
15 THE DEFENDANT'S CASE BROUGHT PURSUANT TO ARTICLE 65 OF TITLE 27  
16 SHALL PROVIDE THE DEFENSE ATTORNEY A COPY OF THE RECORDS IF THE  
17 DEFENSE ATTORNEY PROVIDES THE COURT CLERK WITH:

18 (I) THE DEFENDANT'S WRITTEN RELEASE FOR THE RECORDS; OR  
19 (II) A COURT ORDER ISSUED PURSUANT TO SUBSECTION (4)(a)(II)  
20 OF THIS SECTION."

21 Page 7, line 20, strike "(1)(b.7)," and substitute "(1)(a)(III), (1)(b.7),  
22 (1)(d),".

23 Page 7, lines 20 and 21, strike "and (5)(f);" and substitute "(5)(f), and  
24 (6);".

25 Page 8, after line 10 insert:

26 "(III) The court shall determine the type of bond and the  
27 conditions of release after consideration of the presumptions and factors  
28 enumerated in article 4 of this title 16, which include consideration of the  
29 information received from any pretrial services program pursuant to ~~the~~  
30 ~~provisions of~~ section 16-4-106 and any information provided by the  
31 BRIDGES court liaison hired or contracted pursuant to article 95 of title 13.  
32 As a condition of any bond, the court shall require the defendant's  
33 cooperation with the competency evaluation on an outpatient and  
34 out-of-custody basis. In setting the bond, the court shall not consider the  
35 need for the defendant to receive an evaluation pursuant to this article 8.5  
36 as a factor in determining any monetary condition of bond."

37 Page 8, after line 21 insert:

1           "(d) If a defendant is in the department's custody for purposes of  
2 the competency evaluation ordered pursuant to this article 8.5 and the  
3 defendant has completed the competency evaluation and the evaluator has  
4 concluded that the defendant is competent to proceed, the department may  
5 return the defendant to a county jail or to the community, as determined  
6 by the defendant's bond status. If the evaluator has concluded that the  
7 defendant is incompetent to proceed and that inpatient restoration services  
8 are not clinically appropriate, and outpatient restoration services are  
9 available to the defendant in the community, the department shall notify  
10 the court and the BRIDGES court liaison, and the department shall develop  
11 a discharge plan and a plan for community-based restoration services in  
12 coordination with the community restoration services provider. The court  
13 shall hold a hearing within seven days after receiving the notice, at which  
14 the department shall provide to the court the plan for community-based  
15 restoration services, and the court may enter any appropriate orders  
16 regarding the custody of the defendant and ~~his or her~~ the DEFENDANT'S  
17 bond status. The department shall advise the defendant of the date and  
18 time of the court hearing. If the department is returning the defendant to  
19 a county jail, the county sheriff in the jurisdiction where the defendant  
20 must return shall take custody of the defendant within seventy-two hours  
21 after receiving notification from the department that the defendant's  
22 evaluation is completed. At the time the department notifies the sheriff,  
23 the department shall also notify the court and the BRIDGES court liaison  
24 that the department is returning the defendant to the custody of the jail."

25 Page 8, strike lines 22 through 26 and substitute:

26           "(4) A written report of the evaluation must be prepared in  
27 ~~triplicate and delivered~~ AND THE DEPARTMENT SHALL ELECTRONICALLY  
28 DELIVER THE REPORT to the COURT clerk ~~of the court~~ that ordered it. The  
29 clerk shall provide a copy of the report ~~both~~ to the prosecuting attorney  
30 ATTORNEY, THE BRIDGES COURT LIAISON, and the DEFENSE counsel ~~for the~~  
31 ~~defendant. The department may utilize~~ USING the e-filing system. ~~to~~  
32 ~~deliver the report to the court and serve it upon the"~~.

33 Page 8, line 27, strike "parties." and substitute "parties:".

34 Page 13, after line 9 insert:

35           "(6) Whenever a competency evaluation is ordered upon the  
36 request of either party, the court may notify the county attorney or district  
37 attorney required to conduct proceedings pursuant to section 27-65-113  
38 (6) for the county in which the charges are pending and the BRIDGES court

- 1 liaison hired or contracted pursuant to article 95 of title 13 of all court  
2 dates for return of the report on competency to ensure that all parties are  
3 on notice of the expected need for coordinated services and planning with  
4 consideration of possible civil certification."
- 5 Page 16, line 10, after "COURT" insert "MAY APPOINT A BRIDGES COURT  
6 LIAISON OR".
- 7 Page 16, line 12, after "SERVICES" and insert "OR A BRIDGES COURT  
8 LIAISON, OR BOTH,".
- 9 Page 20, line 19, after "OPINION" insert "PURSUANT TO THIS SUBSECTION  
10 (4)".
- 11 Page 20, strike lines 25 through 27 and substitute "LIKELY INCLUDES A  
12 NEUROCOGNITIVE OR NEURODEVELOPMENTAL IMPAIRMENT THAT".
- 13 Page 21, line 1, strike "DISEASE, ANY OF WHICH".
- 14 Page 21, line 8, after "OPINION" insert "PURSUANT TO THIS SUBSECTION  
15 (4)".
- 16 Page 21, strike lines 20 through 22 and substitute "DIAGNOSIS LIKELY  
17 INCLUDES A NEUROCOGNITIVE OR NEURODEVELOPMENTAL IMPAIRMENT  
18 THAT".
- 19 Page 21, line 23, strike "DISEASE, ANY OF WHICH".
- 20 Page 22, line 10, strike "MODERATE TO".
- 21 Page 22, strike lines 11 and 12 and substitute "NEUROCOGNITIVE OR  
22 NEURODEVELOPMENTAL IMPAIRMENT,".
- 23 Page 22, line 13, strike "DEGENERATIVE BRAIN DISEASE,".
- 24 Page 23, line 9, strike "16-8.5-116.5 (8);" and substitute "16-8.5-116.5  
25 (9);".
- 26 Page 23, line 25, strike "16-8.5-116.5 (8)," and substitute "16-8.5-116.5  
27 (9),".
- 28 Page 24, line 4, strike "NOT".

- 1 Page 25, line 3, before "AND" insert "THE BRIDGES COURT LIAISON,".
- 2 Page 25, line 15, after "A" insert "BRIDGES".
- 3 Page 25, line 16, after "THE" insert "BRIDGES".
- 4 Page 26, line 3, after "PROGRAM." add "THE DEPARTMENT SHALL NOTIFY  
5 THE COURT, THE BRIDGES COURT LIAISON, THE PROSECUTING ATTORNEY,  
6 AND THE DEFENSE ATTORNEY WHEN THE DEFENDANT IS PLACED OR MOVED  
7 TO A DIFFERENT PROGRAM.".
- 8 Page 26, line 10, after "THE" insert "BRIDGES".
- 9 Page 27, line 6, after the first "THE" insert "BRIDGES".
- 10 Page 27, line 18, after "TO" insert "THE BRIDGES COURT LIAISON AND".
- 11 Page 27, strike lines 19 and 20 and substitute "WILL PROVIDE CONTINUED  
12 RESTORATION, IF APPLICABLE, OR SERVICES;".
- 13 Page 27, line 21, strike "COURT LIAISON, IF APPLICABLE," and substitute  
14 "BRIDGES COURT LIAISON".
- 15 Page 27, line 25, strike "COURT LIAISON, IF APPLICABLE" and substitute  
16 "BRIDGES COURT LIAISON".
- 17 Page 28, line 7, strike "COURT LIAISON, IF APPLICABLE," and substitute  
18 "BRIDGES COURT LIAISON".
- 19 Page 28, line 10, strike "SHERIFF" and substitute "SHERIFF, THE BRIDGES  
20 COURT LIAISON,".
- 21 Page 28, line 18, strike "MUST" and substitute "MAY".
- 22 Page 32, line 22, before "court" insert "BRIDGES".
- 23 Page 32, line 23, before "court" insert "BRIDGES".
- 24 Page 34, line 17, strike "(8)" and substitute "(9)".
- 25 Page 35, line 2, strike "(8)" and substitute "(9)".
- 26 Page 35, line 15, strike "(8)" and substitute "(9)".

- 1 Page 36, line 9, strike "(8)" and substitute "(9)".
- 2 Page 36, strike lines 20 and 21 and substitute "FELONY OR A LEVEL 3  
3 DRUG FELONY AND THE".
- 4 Page 37, line 4, strike "(8)" and substitute "(9)".
- 5 Page 38, after line 11 insert:
- 6           "(8) THE COURT SHALL DISMISS THE DEFENDANT'S CASE IF:  
7           (a) THE DEFENDANT IS FOUND INCOMPETENT TO PROCEED;  
8           (b) THE CHARGES AGAINST THE DEFENDANT HAVE NOT BEEN  
9 DISMISSED PURSUANT TO THIS SECTION; AND  
10           (c) THE DEFENDANT'S PRESENTENCE CONFINEMENT CREDIT,  
11 INCLUDING ANY TIME PERIOD THE DEFENDANT WAS COMMITTED FOR  
12 INPATIENT RESTORATION, OR CONFINED IN JAIL OR ANOTHER DETENTION  
13 FACILITY AWAITING INPATIENT RESTORATION SERVICES, EXCEEDS THE  
14 MAXIMUM SENTENCE FOR THE DEFENDANT'S HIGHEST CHARGED OFFENSE.".
- 15 Page 38, line 12, strike "(8)" and substitute "(9)".
- 16 Page 38, line 27, strike "(9)" and substitute "(10)".
- 17 Page 39, strike lines 2 through 4 and substitute "NEUROCOGNITIVE OR  
18 NEURODEVELOPMENTAL IMPAIRMENT, THE COURT MAY STAY".
- 19 Page 39, strike lines 6 and 7 and substitute "DISMISSAL, THE COURT MAY  
20 ORDER THE BRIDGES COURT LIAISON TO ASSIST WITH CASE PLANNING AND  
21 COORDINATING WITH SERVICES, INCLUDING COORDINATING WITH  
22 GOVERNMENT ENTITIES OR COMMUNITY-BASED ORGANIZATIONS THAT ARE  
23 CAPABLE OF PROVIDING".
- 24 Page 39, line 9, strike "(10)" and substitute "(11)".
- 25 Page 39, line 14, strike "(11)" and substitute "(12)".
- 26 Page 39, line 17, strike "(12)" and substitute "(13)".
- 27 Page 39, line 20, strike "(13)" and substitute "(14)".
- 28 Page 39, line 22, after "department" insert "OR THE BRIDGES COURT  
29 LIAISON".

- 1 Page 39, line 25, strike "(14)" and substitute "(15)".
- 2 Page 40, line 3, strike "(15)" and substitute "(16)".
- 3 Page 40, line 13, strike "(16)" and substitute "(17)".
- 4 Page 40, line 18, strike "(17)" and substitute "(18)".

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