



Rep. Justin Slaughter

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10200HB3616ham001

LRB102 11834 KMF 25499 a

1 AMENDMENT TO HOUSE BILL 3616

2 AMENDMENT NO. _____. Amend House Bill 3616 by replacing
3 everything after the enacting clause with the following:

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. The
12 placement may be ordered either on an inpatient or an
13 outpatient basis. The court shall order that the placement be
14 on an outpatient basis unless the court determines: (1) that
15 outpatient treatment will not provide reasonable assurances
16 for the safety of the defendant and others or provide

1 reasonable assurances that the defendant can be restored to
2 fitness on an outpatient basis, or (2) that clinically
3 appropriate outpatient treatment is not accessible, or
4 optimal, due to cost, waiting lists, treatment limits or other
5 barriers. If the court determines that placement on an
6 outpatient basis is not appropriate ~~(b) If the defendant's~~
7 ~~disability is mental,~~ the court shall ~~may~~ order the defendant
8 ~~him~~ placed for treatment in the custody of the Department of
9 Human Services which shall place and maintain the defendant in
10 a suitable treatment facility or program, or the court may
11 order him or her placed in the custody of any other appropriate
12 public or private inpatient mental health facility ~~or~~
13 ~~treatment program~~ which has agreed to provide treatment to the
14 defendant. Unless there are no beds available in a
15 State-operated facility, the defendant shall be placed in such
16 a facility. If the court determines that placement on an
17 outpatient basis is appropriate, the court shall order the
18 defendant placed in the custody of any appropriate public or
19 private outpatient treatment program which has been approved
20 by the Department of Human Services and has agreed to provide
21 treatment to the defendant.

22 (b) If the defendant is in custody and ~~If~~ the court orders
23 the defendant placed in the custody of the Department of Human
24 Services, the Department shall evaluate the defendant to
25 determine to which secure facility the defendant shall be
26 transported and, within 20 days of the transmittal by the

1 clerk of the circuit court of the placement court order,
2 notify the sheriff of the designated facility. Upon receipt of
3 that notice, the sheriff shall promptly transport the
4 defendant to the designated facility. If the defendant is
5 placed in the custody of the Department of Human Services, the
6 defendant shall be placed in a secure setting. During the
7 period of time required to determine the appropriate placement
8 the defendant shall remain in jail. If during the course of
9 evaluating the defendant for placement, the Department of
10 Human Services determines that the defendant is currently fit
11 to stand trial, it shall immediately notify the court and
12 shall submit a written report within 7 days. In that
13 circumstance the placement shall be held pending a court
14 hearing on the Department's report. Otherwise, upon completion
15 of the placement process, the sheriff shall be notified and
16 shall transport the defendant to the designated facility. If,
17 within 20 days of the transmittal by the clerk of the circuit
18 court of the placement court order, the Department fails to
19 notify the sheriff of the identity of the facility to which the
20 defendant shall be transported, the sheriff shall contact a
21 designated person within the Department to inquire about when
22 a placement will become available at the designated facility
23 and bed availability at other facilities. If, within 20 days
24 of the transmittal by the clerk of the circuit court of the
25 placement court order, the Department fails to notify the
26 sheriff of the identity of the facility to which the defendant

1 shall be transported, the sheriff shall notify the Department
2 of its intent to transfer the defendant to the nearest secure
3 mental health facility operated by the Department and inquire
4 as to the status of the placement evaluation and availability
5 for admission to such facility operated by the Department by
6 contacting a designated person within the Department. The
7 Department shall respond to the sheriff within 2 business days
8 of the notice and inquiry by the sheriff seeking the transfer
9 and the Department shall provide the sheriff with the status
10 of the evaluation, information on bed and placement
11 availability, and an estimated date of admission for the
12 defendant and any changes to that estimated date of admission.
13 If the Department notifies the sheriff during the 2 business
14 day period of a facility operated by the Department with
15 placement availability, the sheriff shall promptly transport
16 the defendant to that facility. If the Department determines
17 that a defendant, who has been placed in the Department's
18 custody for treatment on an inpatient basis, can be treated on
19 an outpatient basis, the Department shall provide written
20 notification to the court, the State's Attorney, and counsel
21 for defendant of that determination, which notification shall
22 set forth in detail the basis for the Department's
23 determination. If the court determines: (1) that outpatient
24 treatment will provide reasonable assurances for the safety of
25 the defendant and others and provides reasonable assurances
26 that the defendant can be restored to fitness on an outpatient

1 basis or (2) that clinically appropriate outpatient treatment
2 is not accessible, or optimal, due to cost, waiting lists,
3 treatment limits or other barriers, the court shall order the
4 defendant to undergo treatment on an outpatient basis as
5 provided in subsection (a) of this Section ~~The placement may~~
6 ~~be ordered either on an inpatient or an outpatient basis.~~

7 (c) If the defendant is not in custody and the court orders
8 defendant placed in the custody of the Department of Human
9 Services, the Department shall notify the defendant of the
10 facility to which he or she must report and the date and time
11 that the defendant must report to that facility. If the
12 defendant fails to report to the facility, the Department
13 shall notify the sheriff who shall transport the defendant to
14 the designated facility. ~~If the defendant's disability is~~
15 ~~physical, the court may order him placed under the supervision~~
16 ~~of the Department of Human Services which shall place and~~
17 ~~maintain the defendant in a suitable treatment facility or~~
18 ~~program, or the court may order him placed in an appropriate~~
19 ~~public or private facility or treatment program which has~~
20 ~~agreed to provide treatment to the defendant. The placement~~
21 ~~may be ordered either on an inpatient or an outpatient basis.~~

22 (c-5) If the defendant has been placed in an outpatient
23 treatment program, that program shall promptly notify the
24 court, the Department, the State's Attorney and counsel for
25 defendant should the defendant fail to comply with the
26 provisions of the court order for treatment or should the

1 defendant no longer be appropriate for outpatient fitness
2 restoration. If the court determines that outpatient treatment
3 is no longer appropriate pursuant to the standard in
4 subsection (a), the court shall order the defendant to receive
5 treatment on an inpatient basis as provided in subsection (c).
6 Nothing in this Section shall limit a court's contempt powers
7 or any other powers of a court.

8 (d) The clerk of the circuit court shall within 5 days of
9 the entry of the order transmit to the Department, agency or
10 institution, if any, to which the defendant is remanded for
11 treatment, the following:

12 (1) a certified copy of the order to undergo
13 treatment. Accompanying the certified copy of the order to
14 undergo treatment shall be the complete copy of any report
15 prepared under Section 104-15 of this Code or other report
16 prepared by a forensic examiner for the court;

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

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

21 (4) a copy of the arrest report, criminal charges,
22 arrest record; and

23 (5) all additional matters which the Court directs the
24 clerk to transmit.

25 (e) Within 30 days of entry of an order to undergo
26 treatment, the person supervising the defendant's treatment

1 shall file with the court, the State, and the defense a report
2 assessing the facility's or program's capacity to provide
3 appropriate treatment for the defendant and indicating his
4 opinion as to the probability of the defendant's attaining
5 fitness within a period of time from the date of the finding of
6 unfitness. For a defendant charged with a felony, the period
7 of time shall be one year. For a defendant charged with a
8 misdemeanor, the period of time shall be no longer than the
9 sentence if convicted of the most serious offense. If the
10 report indicates that there is a substantial probability that
11 the defendant will attain fitness within the time period, the
12 treatment supervisor shall also file a treatment plan which
13 shall include:

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

15 (2) A description of treatment goals with respect to
16 rendering the defendant fit, a specification of the
17 proposed treatment modalities, and an estimated timetable
18 for attainment of the goals;

19 (3) An identification of the person in charge of
20 supervising the defendant's treatment.

21 (Source: P.A. 99-140, eff. 1-1-16; 100-27, eff. 1-1-18.)".