

# HB3897



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB3897**

Introduced 2/26/2009, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-17

from Ch. 38, par. 104-17

Amends the Code of Criminal Procedure of 1963. Provides that if upon the completion of the placement process in the case of a defendant who has a mental disability the Department of Human Services determines that the defendant is currently fit to stand trial, it shall immediately notify the court and shall submit a written report within 7 days. Provides that in that circumstance the placement shall be held pending a court hearing on the Department's report. Effective immediately.

LRB096 04204 RLC 14248 b

FISCAL NOTE ACT  
MAY APPLY

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 upon the completion of the placement process the

1 Department of Human Services determines that the defendant is  
2 currently fit to stand trial, it shall immediately notify the  
3 court and shall submit a written report within 7 days. In that  
4 circumstance the placement shall be held pending a court  
5 hearing on the Department's report. Otherwise, upon ~~Upon~~  
6 completion of the placement process, the sheriff shall be  
7 notified and shall transport the defendant to the designated  
8 facility. The placement may be ordered either on an inpatient  
9 or an outpatient basis.

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

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

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

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

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

26 (4) a copy of the arrest report, criminal charges,

1           arrest record, jail record, and the report prepared under  
2           Section 104-15; and

3           (5) all additional matters which the Court directs the  
4           clerk to transmit.

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

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

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

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

23          (Source: P.A. 95-296, eff. 8-20-07.)

24          Section 99. Effective date. This Act takes effect upon  
25          becoming law.