

2013 -- H 5851

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS - INCOMPETENCY TO STAND TRIAL AND PERSONS ADJUDGED NOT
GUILTY BY REASON OF INSANITY

Introduced By: Representatives Keable, Blazejewski, and Marcello

Date Introduced: March 06, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 40.1-5.3-6 and 40.1-5.3-9 of the General Laws in Chapter 40.1-5.3
2 entitled "Incompetency to Stand Trial and Persons Adjudged Not Guilty by Reason of Insanity"
3 are hereby amended to read as follows:

4 **40.1-5.3-6. Examination of persons awaiting trial or convicted and imprisoned for**
5 **crime.** -- On a petition of the director of the department of ~~mental health, retardation~~ behavioral
6 healthcare, developmental disabilities, and hospitals, or on the petition of the director of the
7 department of corrections, setting forth that any person awaiting trial or convicted of a crime and
8 imprisoned for the crime in the adult correctional institutions is mentally ill and requires
9 specialized mental health care and psychiatric in-patient services which cannot be provided in a
10 correctional facility, a justice of the district court or superior court may order the examination of
11 the person as in his or her discretion he or she shall deem appropriate.

12 **40.1-5.3-9. Return to confinement.** -- When any person transferred pursuant to section
13 40.1-5.3-7 has sufficiently recovered his or her mental health, he or she may, upon petition of the
14 director and by order of a justice of the district court or superior court in his or her discretion, be
15 transferred to the place of his or her original confinement, to serve out the remainder of his or her
16 term of sentence.

17 SECTION 2. Chapter 40.1-5.3 of the General Laws entitled "Incompetency to Stand Trial
18 and Persons Adjudged Not Guilty by Reason of Insanity" is hereby amended by adding thereto

1 the following section:

2 **40.1-5.3-9.1. Hearing on petition.** -- (a) Upon receipt of the petition and appropriate
3 notice to the attorney general and the person or his or her counsel, the court shall hold a hearing at
4 which the parties may introduce evidence bearing on the mental condition of the person. The
5 person who is the subject of the petition may testify, confront witnesses, and present evidence.

6 (b) If the court finds by clear and convincing evidence that the person has sufficiently
7 recovered his or her mental health, he or she shall, by order of a justice of the district or the
8 superior court in his or her discretion, be transferred from the facility as provided for in section
9 40.1-5.3-1 to the place of his or her original confinement, to serve out the remainder of his or her
10 term of sentence.

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
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1 This act would grant jurisdiction to the district court to order an examination of a person
2 who requires specialized mental healthcare services and would allow for additional procedural
3 due process rights for those individuals who have sufficiently recovered their mental health and
4 who are to be returned to their original place of confinement. It would furthermore grant authority
5 to the district court to conduct such hearings.

6 This act would take effect upon passage.

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