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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, 40.1-5.3-7 and 40.1-5.3-9 of the General Laws in
2 Chapter 40.1-5.3 entitled "Incompetency to Stand Trial and Persons Adjudged Not Guilty by
3 Reason of Insanity" 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~~ judge of the district court or justice of the superior court may order
11 the examination of the person as in his or her discretion he or she shall deem appropriate.

12 **40.1-5.3-7. Hearing on petition.** -- (a) Upon receipt of the petition and appropriate
13 notice to the director, the attorney general and the person or his or her counsel, the court having
14 jurisdiction over the case shall hold a hearing at which the parties may introduce evidence bearing
15 on the mental condition of the person. The person who is the subject of the petition may testify,
16 confront witnesses, and present evidence.

17 (b) If the court having jurisdiction over the case finds by clear and convincing evidence
18 that the person is mentally ill and requires specialized mental health care and psychiatric inpatient

1 services which cannot be provided in a correctional facility, the court may order the transfer of
2 the prisoner from the adult correctional institutions, to be detained in the facility provided for in
3 section 40.1-5.3-1.

4 **40.1-5.3-9. Return to confinement.** -- When any person transferred pursuant to section
5 40.1-5.3-7 has sufficiently recovered his or her mental health, he or she may, upon petition of the
6 director and by order of a ~~justice~~ judge of the district court or justice of the superior court in his or
7 her discretion, be transferred to the place of his or her original confinement, to serve out the
8 remainder of his or her term of sentence.

9 SECTION 2. Chapter 40.1-5.3 of the General Laws entitled "Incompetency to Stand Trial
10 and Persons Adjudged Not Guilty by Reason of Insanity" is hereby amended by adding thereto
11 the following section:

12 **40.1-5.3-9.1. Hearing on petition.** -- (a) Upon receipt of the petition and appropriate
13 notice to the attorney general and the person or his or her counsel, the court having jurisdiction
14 over the case shall hold a hearing at which the parties may introduce evidence bearing on the
15 mental condition of the person. The person who is the subject of the petition may testify, confront
16 witnesses, and present evidence.

17 (b) If the court having jurisdiction over the case finds by a preponderance of the evidence
18 that the person has sufficiently recovered his or her mental health, he or she shall, by order of the
19 court having jurisdiction over the case in the court's discretion, be transferred from the facility as
20 provided for in section 40.1-5.3-1 to the place of his or her original confinement, to serve out the
21 remainder of his or her term of sentence.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

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 further grant authority to
5 the district court to conduct such hearings. The authority to order such examinations is already
6 vested in the superior court.

7 This act would take effect upon passage.

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