

SENATE FILE 366
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1107)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the timing of a mental competency hearing for
2 a person accused of a criminal offense.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 366

1 Section 1. Section 812.4, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. A hearing shall be held within fourteen days of the
4 filing of the order for an evaluation, or within five days of
5 the court's motion or the filing of an application, if the
6 defendant has had a psychiatric evaluation within thirty days
7 of the probable cause finding, and upon which the court
8 decides to rely. If the court orders an evaluation, the clerk
9 of the district court shall send a copy of the order to the
10 department of human services within twenty-four hours of the
11 court ordering such an evaluation. Pending the hearing, no
12 further proceedings shall be taken under the complaint or
13 indictment and the defendant's right to a speedy indictment
14 and speedy trial shall be tolled until the court finds the
15 defendant competent to stand trial.

16 EXPLANATION

17 This bill relates to a mental competency hearing for a
18 person accused of a criminal offense.

19 The bill provides that upon the court ordering a person
20 accused of a crime to undergo a psychiatric evaluation, the
21 clerk of the district court shall send a copy of the order to
22 the department of human services within 24 hours of the court
23 ordering such an evaluation.

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Horn Co-chair
Tinsman Co-chair
Quirmbach
Larson

Succeeded By
SR/HF 366

SSB# 1107
Judiciary

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the timing of a mental competency hearing for
2 a person accused of a criminal offense.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 812.4, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. A hearing shall be held within ~~fourteen~~ twenty days of
4 the filing of the order for an evaluation, or within five days
5 of the court's motion or the filing of an application, if the
6 defendant has had a psychiatric evaluation within thirty days
7 of the probable cause finding, and upon which the court
8 decides to rely. Pending the hearing, no further proceedings
9 shall be taken under the complaint or indictment and the
10 defendant's right to a speedy indictment and speedy trial
11 shall be tolled until the court finds the defendant competent
12 to stand trial.

13 EXPLANATION

14 This bill relates to a mental competency hearing for a
15 person accused of a criminal offense.

16 Under the bill, once it is determined a person accused of a
17 crime may not appreciate the criminal proceedings, a hearing
18 shall be held within 20 days of the filing of the order for an
19 evaluation to determine if the person is mentally competent.
20 Current law provides that the hearing be held within 14 days
21 of the filing of the order for an evaluation to determine if
22 the person is mentally competent.

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STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

January 24, 2005

TO: Members of the General Assembly

FROM: Kate Walton

The Iowa Department of Human Services is proposing legislation relating to Section 812.4, subsection 1, Code of Iowa regarding the mental competency hearing for a person accused of a criminal offense.

Current law provides for the hearing to be held within 14 days of the filing of an order for evaluation. The intent of the 14 days is to give evaluators a similar amount of time to complete the evaluation as is provided for in Section 229.13 in which a medical officer has 15 days after the respondent is placed to complete the evaluation. The change requested would extend this time period from 14 to 20 days to allow adequate time for an evaluation in the event the facility is not made aware of the order and does not receive the patient immediately.

The request for the change is to give the evaluator the full 14 days to complete the evaluation if necessary. The change takes into account that an order may be completed and filed in advance of the patient's admission to a Mental Health Institute or other placement location. Immediate admission to a facility is not always possible. A delay may occur for several reasons including the time it takes to arrange transportation from jail to MHI or because the placement facility is already at capacity and cannot immediately admit the person.

For additional information regarding this proposal, or other questions, please contact Kate Walton, Legislative Liaison, at 281-4387 or E-mail at kwalton@dhs.state.ia.us.