

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 262, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 8, after "psychiatrists" delete "," and insert "**or**".
- 2 Page 1, line 9, strike "endorsed by the state psychology board as
- 3 health service" and insert "**who have expertise in criminal behavioral**
- 4 **disorders,**"
- 5 Page 1, line 10, strike "providers in psychology, or physicians".
- 6 Page 2, after line 12, begin a new paragraph and insert:
- 7 "SECTION 2. IC 35-36-3-1, AS AMENDED BY P.L.110-2009,
- 8 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2011]: Sec. 1. (a) If at any time before the final submission of
- 10 any criminal case to the court or the jury trying the case, the court has
- 11 reasonable grounds for believing that the defendant lacks the ability to
- 12 understand the proceedings and assist in the preparation of a defense,
- 13 the court shall immediately fix a time for a hearing to determine
- 14 whether the defendant has that ability. The court shall appoint two (2)
- 15 or three (3) competent, disinterested:
- 16 (1) psychiatrists; or
- 17 (2) psychologists **who have expertise in criminal behavioral**
- 18 **disorders.** ~~endorsed by the Indiana state board of examiners in~~
- 19 ~~psychology as health service providers in psychology.~~
- 20 ~~At least one (1) of the individuals appointed under this subsection must~~
- 21 ~~be a psychiatrist.~~ However, none may be an employee or a contractor

1 of a state institution (as defined in IC 12-7-2-184). The individuals who
 2 are appointed shall examine the defendant and testify at the hearing as
 3 to whether the defendant can understand the proceedings and assist in
 4 the preparation of the defendant's defense.

5 (b) At the hearing, other evidence relevant to whether the defendant
 6 has the ability to understand the proceedings and assist in the
 7 preparation of the defendant's defense may be introduced. If the court
 8 finds that the defendant has the ability to understand the proceedings
 9 and assist in the preparation of the defendant's defense, the trial shall
 10 proceed. If the court finds that the defendant lacks this ability, it shall
 11 delay or continue the trial and order the defendant committed to the
 12 division of mental health and addiction. The division of mental health
 13 and addiction shall provide competency restoration services or enter
 14 into a contract for the provision of competency restoration services by
 15 a third party in the:

- 16 (1) location where the defendant currently resides; or
 17 (2) least restrictive setting appropriate to the needs of the
 18 defendant and the safety of the defendant and others.

19 However, if the defendant is serving an unrelated executed sentence in
 20 the department of correction at the time the defendant is committed to
 21 the division of mental health and addiction under this section, the
 22 division of mental health and addiction shall provide competency
 23 restoration services or enter into a contract for the provision of
 24 competency restoration services by a third party at a department of
 25 correction facility agreed upon by the division of mental health and
 26 addiction or the third party contractor and the department of correction.

27 (c) If the court makes a finding under subsection (b), the court shall
 28 transmit any information required by the division of state court
 29 administration to the division of state court administration for
 30 transmission to the NICS (as defined in IC 35-47-2.5-2.5) in
 31 accordance with IC 33-24-6-3."

(Reference is to SB 262 as printed January 19, 2011.)

and when so amended that said bill do pass .

Committee Vote: Yeas 8, Nays 1.

Senator Steele, Chairperson