**A** **BILL**

TO AMEND SECTION 44‑23‑430, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS ON THE FITNESS OF A PERSON TO STAND TRIAL, SO AS TO REQUIRE THE DEPARTMENT OF MENTAL HEALTH TO REIMBURSE A SHERIFF OR A COUNTY OR MUNICIPAL GOVERNMENT FOR CERTAIN COSTS OF INCARCERATION OF PERSONS DETERMINED TO BE UNFIT TO STAND TRIAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑23‑430 of the 1976 Code, as last amended in Act 47 of 2011, is further amended to read:

“Section 44‑23‑430. Upon receiving the report of the designated examiners, the court shall set a date for and notify the person and his counsel of a hearing on the issue of his fitness to stand trial. If, in the judgment of the designated examiners or the superintendent of the facility if the person has been detained, the person is in need of hospitalization, the court with criminal jurisdiction over the person may authorize his detention in a suitable facility until the hearing. The person shall be entitled to be present at the hearings and to be represented by counsel. If upon completion of the hearing and consideration of the evidence the court finds that:

(1) the person is fit to stand trial, it shall order the criminal proceedings resumed; or

(2) the person is unfit to stand trial for the reasons set forth in Section 44‑23‑410 and is unlikely to become fit to stand trial in the foreseeable future, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610 or Section 44‑20‑450 within fourteen days, excluding Saturdays, Sundays, and holidays, during which time the court may order the person hospitalized, may order the person to continue in detention if detained, or, if on bond, may permit the person to remain on bond; or

(3) the person is unfit to stand trial but likely to become fit in the foreseeable future, the court shall order him hospitalized up to an additional sixty days. If the person is found to be unfit at the conclusion of the additional period of treatment, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610 or Section 44‑20‑450 within fourteen days, excluding Saturdays, Sundays, and holidays, during which time the person shall remain hospitalized.

The Department of Mental Health is responsible for and must reimburse any sheriff or county or municipal government for the actual costs of detention of a person confined in a local detention facility awaiting transfer to the department, beginning fifteen days from the date of an order issued by a court of general sessions pursuant to item (2) or (3).

Subject to the provisions of Section 44‑23‑460, persons against whom criminal charges are pending shall have all the rights and privileges of other involuntarily hospitalized persons.

Persons against whom criminal charges are pending but who are not involuntarily committed following judicial admission proceedings shall be released.”

SECTION 2. This act takes effect upon approval by the Governor.

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