



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: June 23, 2014

TO: The Honorable Members of the Delaware General Assembly

**FROM: Terri Hancharick, Chairperson
GACEC**

RE: House Bill No. 344 with House Amendment No. 1(Criminal Mental Health Code)

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 344 which revises Delaware statutes which address procedural issues related to competency to stand trial, not guilty by reason of insanity and guilty but mentally ill. This legislation was prepared to implement the recommendations of a mental health code study group established by House Joint Resolution (HJR) 17. The effects of the bill are listed in the synopsis and include the following:

A. Individuals determined not guilty by reason of insanity would be authorized to petition the Superior Court to address their status and potential discharge from the Delaware Psychiatric Center (DPC). The Court would also enjoy discretion to authorize the individual's participation in "off campus" treatment, employment, and other activities.

B. The procedures for competency evaluations are specified. If the accused does not agree with the results of a court-ordered evaluation, the accused could solicit approval of a second competency evaluation. Individuals determined incompetent to stand trial may be confined at DPC until their competency is restored. If DPC determines after two years that competency is not likely to be restored, a court hearing would be scheduled to determine if the individual should be released or detained for further treatment.

House Amendment No. 1 gives the Director of the Delaware Psychiatric Center the ability to petition the court for release from its competency restoration responsibilities in less than two years in the case where the accused person's maximum sentence on the charges would be less than two years, or at any time where the accused person's condition will not change (i.e., intellectual disability). Finally, this amendment restores Section 408's current process for addressing an individual who is found guilty but mentally ill and is released from prison or discharged prior to expiration of the person's sentence. This process is different from the process laid out in Section 403 for Not Guilty by Reason of Insanity, issues of competency to stand trial, and individuals who need treatment at DPC following conviction. Council **endorses** House Bill No. 344 as amended.

Thank you for your time and consideration of our position. Please feel free to contact me or Wendy Strauss should you have questions.