

**Department of State Hospitals
Proposed Trailer Bill Legislation (TBL)**

FACT SHEET

Issue Title: Early Stabilization & Community Care Coordination - Care Coordination and Waitlist Management

The purpose of this TBL is to clarify the records in the commitment packet that are necessary for preadmission evaluation and admission, as well as refine requirements for the Re-Evaluation Services for Felony Incompetent to Stand Trial (IST) Patients program. This program was implemented in July 2021 to help address the growing list of IST patients awaiting placement to a Department of State Hospitals (DSH) facility for competency restoration. This TBL would eliminate the 60-day threshold to initiate re-evaluations and clarify the requirements for county jails regarding DSH receipt of IST defendant information.

Background and History:

Beginning in fiscal year (FY) 2012-13, DSH began to experience an increase in the number of IST defendants committed and referred to the department which, over the subsequent years, has continued to grow and outpace the number of new beds, programs and process efficiencies implemented by DSH in response to this growing population. As of January 2022, the number of IST defendants pending placement to a DSH treatment program is over 1,700. While the high number of individuals pending placement can be partially attributed to protective measures implemented by DSH in response to COVID-19, the ISTs pending placement to a DSH program prior to COVID-19 was over 800.

Recently, new timelines for admission were ordered by the Superior Court and DSH must comply with a 28-day timeline to substantive treatment by early 2024, with the first phase-in milestone of 60 days by August 27, 2022. Maximizing efficiency in the preadmission process is one critical piece in meeting this order. Currently, DSH's Patient Management Unit expends significant effort and resources in collecting documents that are statutorily required and detailing the needs of DSH with the committing county when there are challenges in receiving the necessary records.

In July 2021, DSH implemented the Re-Evaluation Services program. DSH recognized the effectiveness of conducting re-evaluation when observing outcomes of the IST Re-Evaluation pilot program. The program, initiated in the early stages of the COVID-19 pandemic, provided assessment and medication consultation regarding patients whose transfers had been halted due to the pandemic. Early indicators showed that approximately 30% of patients evaluated were competent. As such, a substantial number of patients could be removed

from the list and returned to court. Data from the statutorily authorized program (WIC 4335.2) collected from its inception in July 2021 through the end of December 2021 mirror that result. Over 30% have been found by a DSH evaluator to be competent or as having no substantial likelihood of restoration and subsequently that finding was approved by a court. Thus, nearly one third of those evaluated could be returned to court without admission to a DSH IST treatment program. This demonstrates that the program is an effective and efficient way to expedite the Defendant returning to court. The program also considers the need for medication orders and alternative pathways for restoration, which could benefit all patients, not just those who have been committed to DSH for more than 60 days waiting admission. Regarding collateral contacts, DSH has found that county staff are reluctant to discuss the defendant's behavior, mental state, and treatment with DSH evaluators due to medical-legal privacy concerns.

Justification for the Change:

Through this TBL, language would be amended and added in PC Section 1370 to clarify the various documents that comprise the commitment packet.

- Add Section 1370 (3)(C)(i) to request amended credit computations or statements in the event of a court rejecting DSH's 1372 certification, as well as the court order or minute order for the rejection.
- Clarify Section 1370 (3)(D) to include jail classification records as part of the existing requirement for criminal history information.
- Clarify Section 1370 (3)(I) to include jail mental health records as part of the existing requirement for medical records.

Without this clarification, referrals are sent to DSH without proper documentation to make expedient placements in an appropriate setting; time and resources are spent in collecting and collating the items from the intent of the statute rather than offering clear statutory expectations to committing counties at the time of referral submission. DSH has found obtaining classification records and jail mental health records to be particularly challenging. Though the documents are often provided, in many cases multiple requests over a period of weeks must be made prior to receipt, greatly impacting processing efficiency.

Additionally, DSH is seeking to eliminate the 60-day post-IST commitment order time frame for re-evaluation. Many patients could immediately benefit from medication, or an alternative, less restrictive and more appropriate placement recommendation made by this program. Expanded access to those with less than 60 days on the list is warranted. Patients with substance induced psychotic disorders and patients who are treated with medication in jail often regain competency within weeks and eliminating the 60-day requirement would expedite assessment for access back to court and for other programs from which patients may benefit.

This proposal also includes requirements for county jails to provide records and receive collateral information from jail staff. Including statutory language to require collateral consultation will eliminate jail staff concerns regarding medical privacy violations from these consultations. Access to collateral information will improve the reliability and accuracy of the evaluations by filling potential gaps in information and addressing information not documented in medical records and custody reports.

Summary of Arguments in Support:

Clarification of Commitment Packet Records

- The records that comprise a commitment packet are necessary to ensure the health and safety of IST defendants admitted to facilities for treatment, as well as current resident patients and staff at DSH facilities.
- These documents provide the essential information to allow DSH staff to properly account and report to the committing court at the appropriate times, with the appropriate material, as defined in the law or further ordered by the Court.
- When documents are not received at the time of the initial referral submission, additional time and resources are spent in acquiring the critical records. This creates risk for inefficiency in the preadmission process when each day is critical in meeting court-imposed timelines to treatment.
- With improved clarity in statute itself, DSH expects improved compliance with initial submission, and consequently more efficient packet processing.

IST Re-Evaluation Services Program

A significant percentage of defendants deemed IST on the DSH waitlist (over 30 percent) have been found competent through current re-evaluation efforts.

- Others would benefit from a medication order (approximately 17%) or could benefit from an alternative treatment and placement pathway.
- Expanding access to the re-evaluation program to all patients on the waitlist would provide all patients access to these benefits, such as expedited assessments, speedy return to court, or less restrictive, more appropriate treatment interventions.
- DSH anticipates that expanding access could substantially reduce the DSH waitlist, not only by identifying competent defendants on the list, but also by accelerating access to needed treatment (medications) and identifying appropriate alternatives to inpatient hospitalization.
- Eliminating the 60-day post commitment requirement will ensure the Re-Evaluation Services program can continue its work once the waitlist has been reduced.

Requiring collateral consultation and information enhances evaluation accuracy. It also assures jail medical and custody staff consultation is legally permissible.