

## ASSEMBLY JUDICIARY COMMITTEE

### STATEMENT TO

#### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 450 and 686**

# STATE OF NEW JERSEY

DATED: MAY 20, 1996

The Assembly Judiciary Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 450 and 686.

This substitute clarifies the procedures used in cases where a criminal defendant is found mentally incompetent to stand trial. Under the law, a person who lacks the fitness to proceed may be committed to a psychiatric institution for a period of time while the court waits to determine whether he will recover sufficiently in order to stand trial on the charges. If the defendant does not become competent within an amount of time determined by the court, the court then decides whether to dismiss the charges, to release the defendant to the community, or to continue the defendant's civil commitment to a psychiatric institution.

However, the statutes do not provide clear guidelines to the courts to assist in the determination as to whether the charges pending against a particular defendant should be dismissed or held in abeyance under these circumstances.

A recent New Jersey Supreme Court report (the "Report of the Committee to Review the Conrad Jeffrey Matter," dated October, 1995) recommended imposing severe limitations on the circumstances under which the charges would be dismissed. If the charges are held in abeyance and not dismissed, the State would still be able to prosecute the matter at a later date when a once-incompetent defendant regains competence.

In accordance with the report's recommendation, this substitute establishes a presumption that charges against a defendant who is incompetent to stand trial will not be dismissed. The presumption could be overcome only if the court determines that continuing the criminal prosecution under the particular circumstances would constitute a constitutionally significant injury to the defendant attributable to undue delay in being brought to trial.

The substitute provides that the factors to be weighed by the court in making this determination include the defendant's prospects for regaining competency; the period of time during which the defendant has remained incompetent; the nature and extent of the defendant's institutionalization; the nature and gravity of the crimes charged; the

effects of delay on the prosecution; the effects of delay on the defendant, including any likelihood of prejudice to the defendant in the trial arising out of the delay; and the public interest in prosecuting the charges. Following this determination, the court would be required to hold hearings, with notice to the prosecutor, at six-month intervals, on the issue of the disposition of the pending charges.

The Jeffrey report also noted that defendants who are committed to psychiatric institutions on grounds of incompetence to stand trial have a somewhat unclear status. According to the report, mental health professionals working in the institutions are not always aware of the criminal charges against these persons and prosecutors are not always aware of the procedures used in the institutions. Consequently, these defendants may end up administratively discharged from confinement in the psychiatric institutions without input from the criminal justice system.

This substitute would clarify the roles of prosecutors and mental health professionals with regard to these defendants. The substitute requires that prosecutors and victims be notified prior to the proposed release of these persons from confinement in the institutions and establishes standards and procedures to be followed to insure adequate communication between criminal justice and mental health professionals.