

SENATE JUDICIARY COMMITTEE

STATEMENT TO

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

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1996

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

This substitute clarifies the procedures used in cases where a criminal defendant is found mentally incompetent to stand trial. Under present 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 in a psychiatric institution. The statutes do not, however, 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.

In accordance with the report's recommendations, this bill 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 bill 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 at 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, a defendant may end up administratively discharged from confinement in a psychiatric institution without input from the prosecution. The bill would clarify the roles of prosecutors and mental health professions with regard to these defendants. The substitute requires that prosecutors and victims be notified prior to the proposed release of these persons from confinement and establishes standards and procedures to be followed to insure adequate communication between criminal justice and mental health professionals.