

SENATE, No. 4725

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

“Jillian’s Law,” Mandates institutional commitment for certain persons found not competent to stand trial under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning commitment of certain defendants and
2 amending N.J.S.2C:4-5 and N.J.S.2C:4-6.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. N.J.S.2C:4-5 is amended to read as follows:

8 2C:4-5. Psychiatric or Psychological Examination of Defendant
9 With Respect to Fitness to Proceed.

10 a. Whenever there is reason to doubt the defendant's fitness to
11 proceed, the court may on motion by the prosecutor, the defendant
12 or on its own motion, appoint at least **[one]** two qualified
13 **[psychiatrist]** psychiatrists or licensed **[psychologist]**
14 psychologists to examine and report upon the mental condition of
15 the defendant. The psychiatrist or licensed psychologist so
16 appointed shall be either:

17 (1) From a list agreed to by the court, the prosecutor and the
18 defendant; or

19 (2) Agreed to by the court, prosecutor and defendant.

20 Alternatively, the court may order examination of a defendant for
21 fitness to proceed by the Department of Human Services. The
22 department shall provide or arrange for examination of the
23 defendant at a jail, prison or psychiatric hospital. However, to
24 ensure that a defendant is not unnecessarily hospitalized for the
25 purpose of the examination, a defendant shall not be admitted to a
26 State psychiatric hospital for an examination regarding his fitness to
27 proceed unless a qualified psychiatrist or licensed psychologist
28 designated by the commissioner determines that hospitalization is
29 clinically necessary to perform the examination. Whenever the
30 qualified psychiatrist or licensed psychologist determines that
31 hospitalization is clinically necessary to perform the examination,
32 the court shall order the defendant to be committed to the custody
33 of the Commissioner of Human Services for placement in a State
34 psychiatric hospital designated for that purpose for a period not
35 exceeding 30 days.

36 A qualified psychiatrist or licensed psychologist retained by the
37 defendant or by the prosecutor shall, if requested, be permitted to
38 examine a defendant who has been admitted to a State psychiatric
39 hospital.

40 b. The report of the examination shall include at least the
41 following: (1) a description of the nature of the examination; (2) a
42 diagnosis of the mental condition of the defendant; (3) an opinion
43 as to the defendant's capacity to understand the proceedings against
44 him and to assist in his own defense. The person or persons
45 conducting the examination may ask questions respecting the crime

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 charged when such questions are necessary to enable formation of
2 an opinion as to a relevant issue, however, the evidentiary character
3 of any inculpatory statement shall be limited expressly to the
4 question of competency and shall not be admissible on the issue of
5 guilt.

6 c. If the examination cannot be conducted by reason of the
7 unwillingness of the defendant to participate therein, the report
8 shall so state and shall include, if possible, an opinion as to whether
9 such unwillingness of the defendant was the result of mental
10 incompetence. Upon the filing of such a report, the court may
11 permit examination without cooperation, may appoint a different
12 psychiatrist or licensed psychologist, or may commit the defendant
13 for observation for a period not exceeding 30 days except on good
14 cause shown, or exclude or limit testimony by the defense
15 psychiatrist or licensed psychologist.

16 d. The report of the examination shall be sent by the
17 psychiatrist or licensed psychologist to the court, the prosecutor and
18 counsel for the defendant.

19 (cf: P.L.1998, c.111, s.1)

20
21 2. N.J.S.2C:4-6 is amended to read as follows:

22 2C:4-6. Determination of Fitness to Proceed; Effect of Finding
23 of Unfitness; Proceedings if Fitness is Regained; Post-Commitment
24 Hearing.

25 a. When the issue of the defendant's fitness to proceed is
26 raised, the issue shall be determined by the court. If neither the
27 prosecutor nor counsel for the defendant contests the finding of the
28 report filed pursuant to section 2C:4-5, the court may make the
29 determination on the basis of such report. If the finding is contested
30 or if there is no report, the court shall hold a hearing on the issue.
31 If the report is received in evidence upon such hearing, either party
32 shall have the right to summon and examine the psychiatrists or
33 licensed psychologists who joined in the report and to offer
34 evidence upon the issue.

35 b. (1) If the court determines that the defendant lacks fitness to
36 proceed, the proceeding against him shall be suspended, except as
37 provided in subsection c. of this section. At this time, the court
38 **【may】 shall** commit him to the custody of the Commissioner of
39 Human Services to be placed in an appropriate institution if it is
40 found by the court, following evaluation by two qualified
41 psychiatrists or licensed psychologists, that the defendant is **【so**
42 **dangerous to himself or others,】** unfit to proceed so as to require
43 institutionalization**【,** or it shall proceed to determine whether
44 placement in an out-patient setting or release is appropriate;**】**
45 provided, however, that no commitment to any institution shall be
46 in excess of such period of time during which it can be determined
47 whether it is substantially probable that the defendant could regain
48 his competence within the foreseeable future.

1 (2) If the court determines that a defendant, who is charged with
2 any crime for which the defendant, if sentenced, would be
3 sentenced to a minimum period of parole ineligibility of 85 percent
4 of the sentence pursuant to section 2 of P.L.1997, c.117 (C.2C:43-
5 7.2), lacks fitness to proceed, the proceeding against him shall be
6 suspended, except as provided in subsection c. of this section. At
7 this time, the court shall commit him to the custody of the
8 Commissioner of Human Services to be placed in an appropriate
9 institution; provided, however, that no commitment to any
10 institution shall be in excess of such period of time during which it
11 can be determined whether it is substantially probable that the
12 defendant could regain competence within the foreseeable future.

13 (3) If the court finds that the defendant, though not immediately
14 or imminently dangerous to himself or others, cannot be released
15 with or without supervision or conditions without posing a danger
16 to the community or to himself in the reasonably foreseeable future,
17 the court shall refer the person to the Commissioner of Human
18 Services for evaluation to determine if the person is in need of
19 involuntary commitment. As used in this subsection, "Reasonably
20 foreseeable future" means a time frame that may be beyond the
21 immediate or imminent, but not longer than a time frame as to
22 which reasonably certain judgments about a person's likely behavior
23 can be reached.

24 If the court determines that the defendant is fit to proceed, but
25 suffers from mental illness, as defined in section 2 of P.L.1987,
26 c.116 (C.30:4-27.2), that does not require institutionalization, the
27 court shall order the defendant to be provided appropriate treatment
28 in the jail or prison in which the defendant is incarcerated. Where
29 the defendant is incarcerated in a county correctional facility, the
30 county shall provide or arrange for this treatment. The Department
31 of Corrections shall reimburse the county for the reasonable costs of
32 treatment, as determined by the Commissioner of Corrections,
33 provided that the county has submitted to the commissioner such
34 documentation and verification as the commissioner shall require.

35 c. If the defendant has not regained his fitness to proceed
36 within three months, the court shall hold a hearing on the issue of
37 whether the charges against him shall be dismissed with prejudice
38 or held in abeyance.

39 The hearing shall be held only upon notice to the prosecutor and
40 with an opportunity for the prosecutor to be heard. When the
41 charges are not dismissed, each defendant's case shall be
42 specifically reviewed by the court at six-month intervals until an
43 order is made by the court that the defendant stand trial or that the
44 charges be dismissed.

45 There shall be a presumption that charges against a defendant
46 who is not competent to proceed shall be held in abeyance. The
47 presumption can be overcome only if the court determines, using
48 the factors set forth in this subsection, that continuing the criminal

1 prosecution under the particular circumstances of the case would
2 constitute a constitutionally significant injury to the defendant
3 attributable to undue delay in being brought to trial.

4 In determining whether the charges shall be held in abeyance or
5 dismissed, the court shall weigh the following factors: the
6 defendant's prospects for regaining competency; the period of time
7 during which the defendant has remained incompetent; the nature
8 and extent of the defendant's institutionalization; the nature and
9 gravity of the crimes charged; the effects of delay on the
10 prosecution; the effects of delay on the defendant, including any
11 likelihood of prejudice to the defendant in the trial arising out of the
12 delay; and the public interest in prosecuting the charges.

13 d. When the court, on its own motion or upon application of the
14 commissioner, his designee or either party, determines after a
15 hearing, if a hearing is requested, that the defendant has regained
16 fitness to proceed, the proceedings shall be resumed.

17 e. (Deleted by amendment, P.L.1996, c.133).

18 f. The fact that the defendant is unfit to proceed does not
19 preclude determination of any legal objection to the prosecution
20 which is susceptible of fair determination prior to trial and without
21 the personal participation of the defendant.

22 (cf: P.L.1999, c.16, s.1)

23
24 3. This act shall take effect immediately.

25 26 27 STATEMENT

28
29 This bill addresses instances where a defendant lacks fitness, or
30 competence, to proceed with a criminal trial. Under N.J.S.A.2C:4-
31 4, a person is deemed fit to or competent to stand trial when the
32 defendant has the mental capacity to appreciate his presence in
33 relation to time, place and things, and his elementary mental
34 processes permit him to appreciate the circumstances and
35 participate in an adequate presentation of his defense.

36 The bill amends N.J.S.A.2C:4-5 to permit the court to appoint at
37 least two psychiatrists or two licensed psychologists to examine and
38 report upon the mental condition of the defendant to aid in the
39 fitness to proceed determination. Under current law, one medical
40 expert is required to make this determination. This determination
41 by two professionals will also aid in the institutionalization
42 determination under N.J.S.A.2C:4-6.

43 Under current law, when a defendant is deemed incompetent, the
44 proceedings against that defendant is suspended pursuant to
45 subsection b. of N.J.S.A.2C:4-6. Under those circumstances, the
46 court may commit the person to the custody of the Commissioner of
47 Human Services to be placed in an appropriate institution if it is
48 found that the defendant is so dangerous to himself or others as to

1 require institutionalization. Alternately, the court can determine
2 whether placement in an out-patient setting or release is
3 appropriate.

4 This bill would eliminate the options of placement in an out-
5 placement setting, or release, allowing only commitment to an
6 institution for a person found by the court, following evaluation by
7 two psychiatrists, not competent to proceed and meets two
8 circumstances: (1) upon the finding of two medical experts, where
9 the person is so dangerous to himself or others as to require
10 institutionalization. (2) if the person is charged with an offense
11 enumerated in section 2 of P.L.1997, c.117 (C.2C:43-7.2) (NERA
12 offense) that includes a period of parole ineligibility of 85 percent
13 of the sentence. Under both circumstances, the court shall commit
14 that person to the custody of the Commissioner of Human Services
15 to be placed in an appropriate institution for an evaluation to
16 determine whether it is substantially probable that the person could
17 regain competence within the foreseeable future.

18 The bill adds a new provision where if the court finds the
19 defendant, though not immediately or imminently dangerous to
20 himself or others, but the person cannot be released with or without
21 supervision or conditions without posing a danger to the community
22 or to himself in the reasonably foreseeable future, the court shall
23 refer the person to the care of the Commissioner of Human Services
24 for evaluation to determine if the person is in need of involuntary
25 commitment. Under the bill, "Reasonably foreseeable future"
26 means a time frame that may be beyond the immediate or imminent,
27 but not longer than a time frame as to which reasonably certain
28 judgments about a person's likely behavior can be reached.

29 Subsection b. of N.J.S.A.2C:4-6 provides that no commitment to
30 any institution shall be in excess of such period of time during
31 which it can be determined whether it is substantially probable that
32 the defendant could regain his competence within the foreseeable
33 future. Accordingly, if it is found, upon the evaluation by two
34 psychiatrists, that a defendant has not regained fitness to proceed,
35 and criminal charges held in abeyance are dismissed, involuntary
36 civil commitment in an institutional setting under N.J.S.A.30:4-27.1
37 would remain an option for persons continuing to be in need of
38 involuntary commitment.