

§106. Involuntary medication of incompetent defendant

1. Definition. As used in this section, "commissioner" means the Commissioner of Health and Human Services or the commissioner's designee.

[PL 2015, c. 325, §1 (NEW).]

2. Notice required; contents. At any time after a defendant has been found incompetent to proceed and has been committed to the custody of the commissioner under section 101-D, subsection 5, the commissioner shall notify the court, prosecuting attorney and attorney for the defendant if the commissioner has determined that the defendant is not consenting to or responding to treatment and is unlikely to be restored to competency without the administration of psychiatric medication over the defendant's objection. The commissioner shall provide this notice only if there is no basis for involuntarily medicating the defendant other than to restore the defendant's competency. The commissioner shall state in the notice whether the commissioner believes that:

A. Medication is necessary to render the defendant competent; [PL 2015, c. 325, §1 (NEW).]

B. Medication is substantially likely to render the defendant competent; [PL 2015, c. 325, §1 (NEW).]

C. Medication is substantially unlikely to produce side effects that would significantly interfere with the defendant's ability to assist in the defendant's defense; [PL 2015, c. 325, §1 (NEW).]

D. No less intrusive means of treatment are available; and [PL 2015, c. 325, §1 (NEW).]

E. Medication is medically appropriate and is in the defendant's best medical interest in light of the defendant's medical condition. [PL 2015, c. 325, §1 (NEW).]

The commissioner shall also state in the notice whether less intrusive means of treatment have been attempted to render the defendant competent.

[PL 2015, c. 325, §1 (NEW).]

3. Court authorization. The following provisions govern court authorization for the involuntary medication of a defendant under this section.

A. Upon receipt of the notice under subsection 2, the prosecuting attorney shall assess whether important state interests are at stake in restoring the defendant's competency and shall promptly notify the commissioner of the result of that assessment. If the prosecuting attorney determines that important state interests are at stake, the prosecuting attorney shall file a motion seeking court authorization for involuntary medication of the defendant, and the court shall conduct a hearing within 30 days of the filing of the motion, unless the court extends the time for good cause. [PL 2015, c. 325, §1 (NEW).]

B. The court, in determining whether a defendant should be medicated over the defendant's objection, shall consider whether:

(1) Important state interests are at stake in restoring the defendant's competency;

(2) Involuntary medication will significantly further important state interests, in that the medication proposed:

(a) Is substantially likely to render the defendant competent to proceed; and

(b) Is substantially unlikely to produce side effects that would significantly interfere with the defendant's ability to assist the defense counsel in conducting the defendant's defense;

(3) Involuntary medication is necessary to further important state interests;

(4) Any alternate less intrusive treatments are unlikely to achieve substantially the same results; and

(5) The administration of the proposed medication is medically appropriate, as it is in the defendant's best medical interest in light of the defendant's medical condition. [PL 2015, c. 325, §1 (NEW).]

[PL 2015, c. 325, §1 (NEW).]

4. Findings; order. If the court finds by clear and convincing evidence that the involuntary administration of psychiatric medication to a defendant under this section is necessary and appropriate, it shall make findings addressing each of the factors in subsection 3, paragraph B and shall issue an order authorizing the administration of psychiatric medication to the defendant over the defendant's objection in order to restore the defendant to competency. When issuing the order, the court may order that medication may be administered by more intrusive methods only if the defendant has refused administration by less intrusive methods. The court may order that the commissioner report to the court within a reasonable period following entry of the order as to whether the authorized treatment remains appropriate.

[PL 2015, c. 325, §1 (NEW).]

5. Application. This section applies only if the prosecuting attorney seeks an order of involuntary medication for the purpose of rendering a defendant competent to proceed.

[PL 2015, c. 325, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 325, §1 (NEW).

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