

§2306. Disposition of charges -- Article V

1. Responsibility. Whenever the authorities responsible for the care and treatment of a mentally disordered offender, whether convicted or adjudicated in the state or subject to care, aftercare, treatment or rehabilitation pursuant to a contract, are of the opinion that charges based on untried indictments, informations or complaints in another party state present obstacles to the proper care and treatment of a mentally disordered offender or to the planning or execution of a suitable program for the mentally disordered offender, those authorities may petition the appropriate court in the state where the untried indictment, information or complaint is pending for prompt disposition thereof. If the mentally disordered offender is a patient in a receiving state, the appropriate authorities in the receiving state, shall, if they concur in the recommendation, file the petition contemplated by this subsection.

[RR 2023, c. 2, Pt. D, §90 (COR).]

2. Hearing on petition. The court shall hold a hearing on the petition within 30 days of the filing thereof. The hearing must be only to determine whether the proper safeguarding and advancement of the public interest, the condition of the mentally disordered offender and the prospects for more satisfactory care, treatment and rehabilitation of the mentally disordered offender warrant disposition of the untried indictment, information or complaint prior to termination of the defendant's status as a mentally disordered offender in the sending state. The prosecuting officer of the jurisdiction from which the untried indictment, information or complaint is pending, the petitioning authorities and such other persons as the court may determine are entitled to be heard.

[RR 2023, c. 2, Pt. D, §91 (COR).]

3. Adjournment or continuance. Upon any hearing pursuant to this Article, the court may order such adjournments or continuances as may be necessary for the examination or observation of the mentally disordered offender or for the securing of necessary evidence. In granting or denying any such adjournment or continuance, the court shall give primary consideration to the purposes of this compact and more particularly to the need for expeditious determination of the legal and mental status of a mentally disordered offender so that the mentally disordered offender's care, treatment and discharge to the community only under conditions that are consonant with the public safety may be implemented.

[RR 2023, c. 2, Pt. D, §92 (COR).]

4. Petition pending. The presence of a mentally disordered offender within a state wherein a petition is pending or being heard pursuant to this Article, or the mentally disordered offender's presence within any other state through which the mentally disordered offender is being transported in connection with such petition or hearing, is only for the purposes of this compact, and a court, agency or person may not have or obtain jurisdiction over such mentally disordered offender for any other purpose by reason of the mentally disordered offender's presence pursuant to this Article. The mentally disordered offender must, at all times, remain in the custody of the sending state. Any acts of officers, employees or agencies of the receiving state in providing or facilitating detention, housing or transportation for the mentally disordered offender are only as agents for the sending state.

[RR 2023, c. 2, Pt. D, §93 (COR).]

5. Untried indictment. Promptly upon conclusion of the hearing, the court shall dismiss the untried indictment, information or complaint, if it finds that the purposes enumerated in subsection 2 would be served thereby. Otherwise, the court shall make such order with respect to the petition and the untried indictment, information or complaint as may be appropriate in the circumstances and consistent with the status of the defendant as a mentally disordered offender in the custody of and subject to the jurisdiction of the sending state.

[PL 1979, c. 303 (NEW).]

6. Established or adjudicated. A fact or other matter established or adjudicated at any hearing pursuant to this Article, or in connection therewith, may not be considered established or adjudicated,

nor may the same be admissible in evidence, in any subsequent prosecution of the untried indictment, information or complaint concerned in a petition filed pursuant to this Article unless:

A. The defendant or the defendant's duly empowered legal representative requested or expressly acquiesced in the making of the petition, and was afforded an opportunity to participate in person in the hearing; or [RR 2023, c. 2, Pt. D, §94 (COR).]

B. The defendant personally offers or consents to the introduction of the determination or adjudication of such subsequent proceedings. [RR 2023, c. 2, Pt. D, §94 (COR).]
[RR 2023, c. 2, Pt. D, §94 (COR).]

SECTION HISTORY

PL 1979, c. 303 (NEW). RR 2023, c. 2, Pt. D, §§90-94 (COR).

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