

HOSPITALIZATION IN CONNECTION WITH A CRIMINAL CASE IN MASSACHUSETTS

Prepared by the Mental Health Legal Advisors Committee
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Under Massachusetts General Laws Chapter 123, a court may order you to enter a hospital during some stages of a criminal proceeding. Evaluations and commitments should take place at a mental health facility, unless the judge specifically finds that the strict security of Bridgewater State Hospital (Bridgewater) is required.

- **Section 15(b)**

The criminal court may require a period of examination and observation at a mental health facility to determine whether you are **competent to stand trial* and/or criminally responsible**** for the crimes with which you are charged. To make this determination, the court may order you hospitalized for 20 days, and for an additional 20 days if needed. **You are strongly advised to speak with your attorney before you meet with hospital staff.** During this period of observation, the hospital may petition the court for your involuntary commitment. You have a right to a commitment hearing at which you are represented by an attorney. In order to commit you, the judge must find, *beyond a reasonable doubt, that you pose a present danger to yourself or others by virtue of a mental illness and that no less restrictive alternative is appropriate or available.* The court initially may commit you for up to six months. Subsequent commitments, heard in district court at the hospital where you are located, are valid for one year.

- **Section 15(e)**

If you are found guilty of criminal charges, the criminal court may require an evaluation at a mental health facility for up to 40 days as an **aid in sentencing**. During this period of observation, the hospital may petition the court for your involuntary commitment. You have a right to a commitment hearing at which you are represented by an attorney. In order to commit you, the judge must find, *beyond a reasonable doubt, that you pose a present danger to yourself or others by virtue of a mental illness and that no less restrictive alternative is appropriate or available.* The court initially may commit you for up to six months. Subsequent commitments, heard in district court at the hospital where you are located, are valid for one year. If the court decides against recommitment and you have time remaining on your sentence, the hospital will return you to a correctional facility.

* You will be found competent if you have sufficient present ability to consult with your attorney with a reasonable degree of rational understanding and if you have a rational as well as factual understanding of the proceeding against you.

** You will be found not criminally responsible if at the time of the incident, as a result of mental illness, you lacked the substantial capacity either to appreciate the wrongfulness of your conduct or to conform your conduct to the requirements of the law.

- **Section 16(a)**

If the criminal court finds you **incompetent to stand trial or not guilty by reason of mental illness**, it may order you hospitalized for examination and observation at a mental health facility. This hospitalization may last up to 40 days; however, total hospitalization under sections. 15(b) & 16(a) may not exceed 50 days.

- **Sections 16(b) & 16(c)**

If you are found **incompetent to stand trial or not criminally responsible**, the hospital or the district attorney may petition the criminal court for your involuntary commitment. The hospital or district attorney must act either during the period of observation described under Section 16(a) or within 60 days after you are found incompetent or not criminally responsible. You have a right to a commitment hearing at which you are represented by an attorney. In order to commit you, the judge must find, *beyond a reasonable doubt, that you pose a present danger to yourself or others by virtue of a mental illness and that no less restrictive alternative is appropriate or available*. The court initially may commit you for up to six months. Subsequent commitments, heard in district court at the hospital where you are located, are valid for one year. If you are committed after having been found not competent to stand trial, the criminal charges against you will be dismissed on the date you would have been eligible for parole had you been convicted.

- **Section 16(e)**

If the court commits you to a mental health facility under Section 16(b), it may **restrict your movements** to the buildings and grounds of the facility. If the superintendent of the facility believes you no longer need to be restricted, she must inform the court which ordered the commitment. If the court fails to respond within 14 days, the restrictions must be removed. If the superintendent intends to **discharge** you, she must notify the criminal court and the district attorney. The district attorney has 30 days within which she can petition for your commitment. During these 30 days, you will be held at the facility.

- **Section 18**

If the head of a correctional facility believes that you, as a **prisoner**, are in need of hospitalization by reason of mental illness, she may have you evaluated. A copy of the report will be sent to the court. The court may then order you to be evaluated at a mental health facility or Bridgewater for up to 30 days. The mental health facility, Bridgewater, or the correctional facility may petition for your commitment. You have a right to a commitment hearing at which you are represented by an attorney. An initial commitment is valid for six months. Subsequent commitments, held at the hospital where you are located, are valid for one year. If the court decides against recommitment and you have not yet stood trial or have time remaining on your sentence, the hospital will return you to the correctional facility.