



2025-2026 General Assembly

HOUSE BILL 1104: Improve IVC Process and Enhance Public Safety, Sec. 13: Implement Inpatient Capacity Restoration Program

Analysis of: S.L. 2026-38, Sec. 13

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Prepared by: Legislative Analysis
Division Staff

Section 13 of S.L. 2026-38 (House Bill 1104) modifies various State laws governing capacity hearings to create and implement an inpatient capacity restoration program. These modifications reflect the State policy that persons found incapable to proceed should be provided with capacity restoration services whenever feasible and appropriate and that such services should be carried out in as efficient and timely a manner as possible in order to meet the needs of justice for victims, for the public, and for those persons who stand accused of crimes.

Generally, capacity restoration services that are directed toward a defendant gaining capacity to stand trial may include any or all of the following:

- Educational instruction regarding the criminal justice system, to include assisting the defendant in understanding his or her role in the proceedings.
- Psychoeducational instruction regarding the nature of a defendant's diagnosed condition and the resources and coping skills necessary to mitigate capacity deficits caused by the condition.
- Other mental health treatment or counseling which is medically reasonable and appropriate.

This section became effective December 1, 2026, and applies to any initial or supplemental capacity hearing conducted on or after that date.

Kara McCraw
Director



Legislative Analysis
Division
919-733-2578