

Amendment No. 6 to HB2389

**Fitzhugh
Signature of Sponsor**

AMEND Senate Bill No. 2357

House Bill No. 2389*

By inserting the word "reasonably" before the language "determined by the commissioner" in the amendatory language of Section 31.

AND FURTHER AMEND by deleting the amendatory language of Section 36 in its entirety and by substituting instead the following:

33-6-108. Admissions to a state-owned or operated hospital or treatment resource.

Notwithstanding any other provisions of the law to the contrary, all admissions or transfers to a state owned or operated hospital or treatment resource shall be subject to available suitable accommodations, as herein defined, and no admission to a state owned or operated hospital or treatment resource shall occur until the department has designated the state owned or operated facility as having available suitable accommodations; provided, if there are no suitable available accommodations at the time of the determination, then the commissioner shall expeditiously find a state-owned or operated hospital or treatment resource to accommodate the person upon the availability of suitable available accommodations.

AND FURTHER AMEND by inserting the following amendatory language after the language "or treatment resource has available suitable accommodations" in Section 42:

; provided, if there are no suitable available accommodations at the time of the determination, then the commissioner shall expeditiously find a state-owned or operated hospital or treatment resource to accommodate the person upon the availability of suitable available accommodations

AND FURTHER AMEND by deleting the amendatory language of Section 43 in its entirety and by substituting instead the following:

33-7-104. Admissions to a state owned or operated facility.

Notwithstanding any other provisions of the law to the contrary, all admissions or transfers to a state owned or operated hospital or treatment resource under this chapter shall be subject to available suitable accommodations as herein defined, and no admission to a state owned or operated hospital or treatment resource under this chapter shall occur until the commissioner has designated the state owned or operated facility as having available suitable accommodations; provided, if there are no suitable available accommodations at the time of the determination, then the commissioner shall expeditiously find a state-owned or operated hospital or treatment resource to accommodate the person upon the availability of suitable available accommodations. Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent shall determine that the receiving facility has available suitable accommodations.

AND FURTHER AMEND by deleting Section 46 in its entirety and by substituting instead the following:

SECTION 46. Tennessee Code Annotated, Section 33-7-301(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(4)

(A) Except as provided in subdivision (B), during the post-conviction stage of a criminal proceeding, if it is believed that a defendant is incompetent to assist counsel in preparation for, or otherwise participate in, the post-conviction proceeding, the court may, upon its own motion, order that the defendant be evaluated on either an outpatient or inpatient basis, as may be appropriate. If the defendant is indigent, the amount and payment of the costs for the evaluation shall be determined and paid for by the administrative office of the courts. If the defendant is

not indigent, the cost of the evaluation shall be charged as court costs. If the evaluation cannot be done on an outpatient basis and if it is necessary to hospitalize the defendant in a department facility, hospitalization shall not be for more than thirty (30) days and shall be subject to available suitable accommodations. Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent shall determine that the receiving department facility has available suitable accommodations. Any costs incurred by the administrative office of the courts shall be absorbed within the current appropriation for the indigent defense fund.

(B) In a post-conviction proceeding in a capital case, if there is a question on the defendant's mental condition at the time of the commission of the crime when there has been no such prior evaluation, or a question as to whether the defendant is mentally retarded, the court may, upon its own motion, or upon petition by the district attorney general or by the attorney for the defendant, and, if the matter is contested, after a hearing, order that the defendant be evaluated on an outpatient basis. If and only if the outpatient evaluator concludes that an inpatient evaluation is necessary, the court may order the defendant to be hospitalized for not more than thirty (30) days.

AND FURTHER AMEND by inserting the following amendatory language after the language "unit has available suitable accommodations" in Section 47:

; provided, if there are no suitable available accommodations at the time of the determination, then the commissioner shall expeditiously find a state-owned or operated hospital or treatment resource to accommodate the person upon the availability of suitable available accommodations

AND FURTHER AMEND by inserting the following amendatory language after the language

"that a facility has available suitable accommodations" in Section 50:

; provided, if there are no suitable available accommodations at the time of the determination, then the commissioner shall expeditiously find a state-owned or operated hospital or treatment resource to accommodate the person upon the availability of suitable available accommodations

AND FURTHER AMEND by deleting Section 63 (the effective date section) in its entirety and by substituting instead the following:

SECTION 63. Section 12 of this act shall take effect on July 1, 2009, and Section 46 of this act shall take effect at 12:01 a.m. on July 1, 2009, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.