



REPRESENTATIVE ANDY JOSEPHSON

HB 80: Incompetency; Civil Commitment Sponsor Statement

In February 2022, Angela Harris was randomly stabbed in the back while returning books at the Anchorage Loussac Library. The alleged assailant was Corey L. Ahkivgak, a man who only two months earlier had seen the dismissal of assault charges brought against him on behalf of two women victims. While those cases were dismissed without prejudice and could be re-filed, Ahkivgak was deemed incompetent to stand trial. It is possible Mr. Ahkivgak may never face charges.

How is this possible? Under federal Supreme Court case law, a defendant cannot be tried in a court of law until they are *competent to stand trial*. Additionally, a defendant undergoing competency restoration is protected from being held for restoration for more than a “reasonable amount of time.” Therefore, if a defendant is incompetent to stand trial and found not to be restorable within a reasonable amount of time, their charges must be dismissed. This results in the possibility that a judge must require the release of persons like Mr. Ahkivgak even where they pose a danger to the public.

Reform is essential to better protect the public, because the current state of Alaska’s statutory language makes cases like Mr. Ahkivgak’s more common. It does this by failing to clearly and vigilantly articulate how cases will move from the criminal law to the civil law. The competency process is rife with limited resources, long wait times, and potential lawsuits, therefore making a “reasonable amount of time” almost impossible to achieve for those needing the most care. Almost all defendants either sit in jail waiting for a forensic bed at Alaska Psychiatric Institute or their charges are dismissed before they even receive care.

House Bill 80 makes careful surgical changes. By revising the competency process, defendants and the public can be assured that due process is being adequately applied to all cases, while simultaneously protecting the public. This bill does that.

Below lists the most notable actions of the bill:

- Automatic petition for civil commitment

- Extends restoration period
- Codifies Sell v. United States
- Option to rely on previously conducted evaluations for misdemeanor cases
- Option to conduct evaluations telephonically
- Grants victims access to commitment proceedings
- Requires a discharge plan
- Easily defines who can conduct evaluations
- Includes Arson, child endangerment, and harassment as charges which require restoration

The issues expressed in this statement are not unique to Alaska—states all over the US struggle to address this problem. Alaska has an opportunity to pave a path forward, not with cutting edge legislation but with prudent reforms that better protect victims while ensuring defendants' rights are recognized.