

Senate Bill 533

By: Senator Strickland of the 17th

**AS PASSED SENATE**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 17-7-130 of the Official Code of Georgia Annotated, relating to  
2 proceedings upon plea of mental incompetency to stand trial, so as to provide for jail-based  
3 competency restoration programs; to provide for related matters; to repeal conflicting laws;  
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 17-7-130 of the Official Code of Georgia Annotated, relating to proceedings  
8 upon plea of mental incompetency to stand trial, is amended by revising subsection (b) as  
9 follows:

10 "(b)(1) If an accused files a motion requesting a competency evaluation, the court may  
11 order the department to conduct an evaluation by a physician or licensed psychologist to  
12 determine the accused's mental competency to stand trial and, if such physician or  
13 licensed psychologist determines the accused to be mentally incompetent to stand trial,  
14 ~~to make recommendations as to restoring~~ the Department of Behavioral Health and  
15 Developmental Disabilities, in its sole discretion, shall determine an appropriate  
16 treatment with the capability to restore the accused to competency, which may include

17 inpatient treatment in a secure facility designated by the department or a jail-based  
18 competency restoration program. If the accused is a child, the department shall be  
19 authorized to place such child in a secure facility designated by the department. The  
20 department's evaluation shall be submitted to the court, and the court shall submit such  
21 evaluation to the attorney for the accused or if pro se, to the accused, but otherwise, the  
22 evaluation shall be under seal and shall not be released to any other person absent a court  
23 order. As used in this paragraph, the term 'jail-based competency restoration' means  
24 clinical services for competency restoration that are provided in jails to persons found  
25 incompetent to stand trial pursuant to mutual agreements entered into between sheriffs  
26 and the department to offer such clinical services in jails.  
27 (2) If the accused files a special plea alleging that the accused is mentally incompetent  
28 to stand trial, it shall be the duty of the court to have a bench trial, unless the state or the  
29 accused demands a special jury trial, to determine the accused's competency to stand trial.  
30 Once a special plea has been filed, the court shall submit the department's evaluation to  
31 the prosecuting attorney."

32 **SECTION 2.**

33 All laws and parts of laws in conflict with this Act are repealed.