

Descriptive Comments

Sanity Order 5. Order Mandating the Commitment of a Defendant Pursuant to N.J.S.A. 2C:4-6 Who Has Been Determined to Be Unfit to Proceed to Trial and Is Dangerous to Self, Others or Property As a Result of Mental Illness

The text of the following proposed order has been drafted for use when the court has already determined that the defendant does lack the fitness to proceed to trial and that the defendant is so dangerous to self, others or property as a result of mental illness as to require institutionalization. Under these circumstances, the court may commit the defendant pursuant to N.J.S.A. 2C:4-6 into the custody of the Commissioner to be confined in an appropriate institution where the defendant shall undergo an examination of and consensual treatment for, when professionally determined to be clinically appropriate, his psychiatric condition.

Pursuant to N.J.S.A.2C:4-6, the professionals evaluating the defendant shall notify the court if the defendant becomes fit to proceed to trial or if he is no longer dangerous to self, others or property as a result of mental illness. Pursuant to N.J.S.A. 2C:4-6c, the court must hold a hearing three months after the defendant was committed to determine whether the charges against the defendant shall be dismissed with prejudice or held in abeyance and whether the defendant continues to be dangerous to self, others or property as a result of mental illness and must, therefore, remain committed to an appropriate institution. If any of these changes have not occurred in the defendant's clinical condition during the initial three months of commitment, the professional staff must provide the court and counsel with an evaluation of the defendant's lack of fitness to proceed to trial, inform the court whether it is substantially probable that the defendant could regain his competence within the foreseeable future and state whether the defendant continues to be dangerous to self, others or property as a result of mental illness.