

## **Descriptive Comments**

### **Sanity Order 6.**     Order Mandating the Periodic Review of the Continuing Commitment of a Defendant Who Remains Unfit to Proceed to Trial and 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 a defendant, who is both unfit to proceed to trial and dangerous to self and others, has not regained the fitness to proceed to trial and continues to be dangerous after the first court- ordered three-month period of commitment. After these three months, the court must hold a hearing pursuant to N.J.S.A. 2C:4-6c and hold the charges in abeyance. The charges may be dismissed only if the court it finds that “continuing the criminal prosecution under the particular circumstances of the case would constitute a constitutionally significant injury to the defendant attributable to undue delay in being brought to trial.” Ibid.

If the charges are held in abeyance and the court finds that the defendant is so dangerous to self, others or property as a result of mental illness that he continues to require institutionalization, the court may order, pursuant to N.J.S.A. 2C:4-6c, that the defendant remains committed to the custody of the Commissioner to be confined in an appropriate institution and that the court shall order periodic review of the case at six-month intervals, upon notice to the prosecutor. The proposed order requires the professional staff at the institution to notify the court should they determine that the defendant's condition has changed within the six-month period such that he is no longer dangerous to self, others or property as a result of mental illness. If the court agrees with the professional staff's determination that he is no longer dangerous to self, others or property as a result of mental illness, continued institutional commitment is no longer warranted and the defendant must be transferred out of the psychiatric hospital to a placement deemed appropriate by the court. Such placements may include a correctional facility, a supervised outpatient facility, unsupervised release, etc. See descriptive comments for Orders 7 & 8 and Orders 7 & 8.