



SCDMH's Primary Bill for the 2022 Legislative Session

House Bill 3773 Restoration

What is it?

The text of the bill can be found here: <https://www.scstatehouse.gov/billsearch.php?billnumbers=3773>.

Where is it?

The bill passed the SC House last session and is now in the Senate Medical Affairs Committee.

What needs to happen?

It must pass the Senate Medical Affairs Subcommittee, then the full Medical Affairs Full Committee, and finally the Senate before going to the Governor for his consideration.

What is the next step?

SCDMH is asking the Senate Medical Affairs Chairman *to schedule the bill for a subcommittee hearing as soon as possible next session*. This bill must compete with many other important bills related to health and medical issues affecting South Carolina.

How can you help?

The members of Senate Medical Affairs need to understand how crucial this bill is for SCDMH to continue its statutory mission. The members of the Committee need to hear from stakeholders about the need to schedule this bill for consideration early in the session to ensure its passage this spring.

The members of the Senator Medical Affairs Committee and their contact information can be found here: <https://www.scstatehouse.gov/CommitteeInfo/senatemedical.php>.

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Request to Support H.3773 (companion bill S.79 and Proviso 35.FST)

This bill makes 3 changes to the existing law for restoring a criminal defendant's capacity to stand trial. https://www.scstatehouse.gov/sess124_2021-2022/prever/3773_20210415.htm

Existing Law: In SC all defendants are ordered to SCDMH's secure forensic hospital for restoration treatment.

- For 20 years, SCDMH has been ***under court-ordered judicial monitoring*** of the admission list and wait times.
- Nationwide states struggle with this issue and many are in litigation or under court order.
- ***South Carolina remains at risk for litigation.***
- This bill would improve the efficiency and effectiveness of the state's restoration process.

Changes the time period for restoration treatment from 60 to 180 days.

- SC's 60 days is one of the shortest in the nation.
- Many defendants are not restored in that time (cannot stand trial and are civilly committed in probate court).
- Research indicates most defendants need 6 months of treatment.

Permits restoration in settings other than SCDMH's forensic hospital when appropriate.

- Current law requires hospitalization for *all* restoration.
- Limited hospital beds should be used only for those defendants who need it.
- Jail-based and community-based restoration services for defendants who don't require hospitalization (successfully used in many states).

Closes the loophole in *Ex Parte: SC Department of Disabilities and Special Needs, In re: State of South Carolina v. Rocky A. Linkhorn*,ⁱ

- Defendants with brain injuries/impairments who lack capacity to stand trial and cannot be restored do not fall under the existing state involuntary civil commit law (must be released from jail).
- The bill would require defendants charged with a violent crime to come back before the Court for a hearing about whether the person shall be released on bond and under what conditions.

This bill was **sponsored by all the members of the House Legislative Oversight Committee, Healthcare Subcommittee in 2020.*

*Portions of this bill were recommended by the SC Legislative Audit Council.

*This bill was shared with The SC Prosecution Commission; the SC Attorney General's Office; the SC DDSN; Laura Hudson, Victim Advocate; Disability Rights of SC (formerly P&A). The bill is also supported by the SCHA and SCDC.

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ⁱ <https://caselaw.findlaw.com/sc-supreme-court/1754503.html>