

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.2044 Dismissal of charge; filing same or other charges; examination of defendant as outpatient.

Sec. 1044. (1) The charges against a defendant determined incompetent to stand trial shall be dismissed:

(a) When the prosecutor notifies the court of his intention not to prosecute the case; or

(b) Fifteen months after the date on which the defendant was originally determined incompetent to stand trial.

(2) When charges are dismissed pursuant to subsection (1), the same charges, or other charges arising from the transaction which gave rise to the dismissed charges, shall not subsequently be filed against the defendant, except as provided in this section.

(3) If the charges were dismissed pursuant to subsection (1) (b) and if the crime charged was punishable by a sentence of life imprisonment, the prosecutor may at any time petition the court for permission to again file charges. In the case of other charges dismissed pursuant to subsection (1) (b), the prosecutor may, within that period of time after the charges were dismissed equal to 1/3 of the maximum sentence that the defendant could receive on the charges, petition the court for permission to again file charges.

(4) The court shall grant permission to again file charges if after a hearing it determines that the defendant is competent to stand trial. Prior to the hearing, the court may order the defendant to be examined by personnel of the center for forensic psychiatry or other qualified person as an outpatient, but may not commit the defendant to the center or any other facility for the examination.

History: 1974, Act 258, Eff. Aug. 6, 1975.