

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 974 Session of 2023

INTRODUCED BY MASTRIANO, NOVEMBER 16, 2023

REFERRED TO JUDICIARY, NOVEMBER 16, 2023

AN ACT

1 Amending the act of July 9, 1976 (P.L.817, No.143), entitled "An
 2 act relating to mental health procedures; providing for the
 3 treatment and rights of mentally disabled persons, for
 4 voluntary and involuntary examination and treatment and for
 5 determinations affecting those charged with crime or under
 6 sentence," in determinations affecting those charged with
 7 crime, or under sentence, further providing for hearing and
 8 determination of incompetency to proceed, stay of proceedings
 9 and dismissal of charges.

10 The General Assembly of the Commonwealth of Pennsylvania
 11 hereby enacts as follows:

12 Section 1. Section 403(e) of the act of July 9, 1976
 13 (P.L.817, No.143), known as the Mental Health Procedures Act, is
 14 amended to read:

15 Section 403. Hearing and Determination of Incompetency to
 16 Proceed; Stay of Proceedings; Dismissal of Charges.--* * *

17 (e) Resumption of Proceedings or Dismissal.--When the court,
 18 on its own motion or upon the application of the attorney for
 19 the Commonwealth or counsel for the defendant, determines that
 20 such person has regained his competence to proceed, the
 21 proceedings shall be resumed. [If the court is of the opinion
 22 that by reason of the passage of time and its effect upon the

1 criminal proceedings it would be unjust to resume the
2 prosecution, the court may dismiss the charge and order the
3 person discharged.] Notwithstanding any provision of law to the
4 contrary and except where a court finds a charge is unlawful or
5 where jurisdiction includes the Attorney General of the
6 Commonwealth, only a district attorney or other individuals
7 statutorily authorized to charge may lawfully authorize a
8 criminal charge or dismiss a criminal charge against a
9 defendant.

10 * * *

11 Section 2. This act shall take effect in 60 days.