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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/09

SPONSOR Chasey LAST UPDATED _____ HB 212

SHORT TITLE Repeal Guilty but Mentally Ill Verdict SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Public Defender (PD)

SUMMARY

Synopsis of Bill

HB212 repeals the plea and verdict of guilty but mentally ill in criminal cases and the associated sentencing provision.

SIGNIFICANT ISSUES

A jury may return a verdict of guilty, a not guilty verdict or a guilty but mentally ill (GBMI) verdict. A person who is found GBMI is sentenced to the same term of imprisonment under the same conditions as any other guilty inmate. The GBMI verdict does not mean that the defendant is entitled to treatment nor does it mean that a defendant will receive a lesser sentence, as its name suggests. Unfortunately, juries are not told this. Consequently, they often believe that entering a GBMI verdict will result in more humane treatment for a mentally ill defendant and consider that "fact" when they are determining guilt or innocence. Eliminating the GBMI option will mean that juries will determine guilt or innocence of a mentally ill person just as it would any other defendant.

According to the Public Defender, it is important to note that the GBMI verdict has nothing to do

with a jury finding that a defendant is not guilty by reason of insanity. That verdict is an acquittal based on proof that the defendant was so clinically insane at the time of the commission of the crime that he was incapable of knowing what he was doing and was incapable of controlling his impulse. This is an extremely high standard and "insanity" verdicts are extremely rare. If a person is acquitted on that basis, he is generally found to be "dangerous to himself or others" and is civilly committed to a hospital.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

According to the AOC, there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. If the plea and verdict of guilty but mentally ill is eliminated it is conceivable that defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials would require additional judge time, courtroom staff time, and courtroom availability and jury fees. However, AOC data indicates that this plea/verdict is almost never used.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without HB 212 Juries will continue to be misled and believe that a guilty but mentally ill verdict is different than a guilty verdict and it is not. Often, jurors believe a guilty but mentally ill verdict results in non incarceration and treatment which is a misunderstanding of their verdict.

POSSIBLE QUESTIONS

Will this bill lead to more treatment for the mentally ill?

Will this bill make jury verdict instructions more accurate?

CS/mc