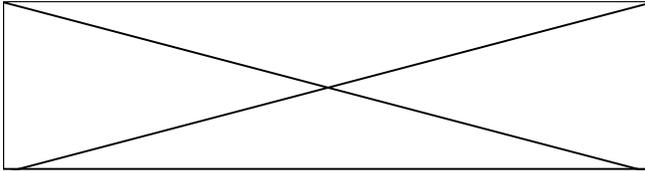


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State fights order to move prisoners needing psychiatric care into hospitals

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State officials say they can't obey a court order forcing them to move more than 150 mentally incompetent prisoners to psychiatric hospitals by June 1 because they don't have enough space, staff or money to do so.

The Texas attorney general's office has asked Austin-based state District Judge Orlanda Naranjo to review her January decision forcing the Department of State Health Services to start moving all current "forensic commitments" to state psychiatric hospitals by June 1. All such prisoners who arrive after that date would have to be moved to a psychiatric hospital within 21 days of a judge's order. Forensic patients are people accused of crimes who have been deemed incompetent to stand trial because of mental illness.

Complying with the court order would cost between \$39 million and \$55.2 million, according to a motion for a new trial filed by the attorney general's office this month.

"The short timelines set forth in the court's order makes it physically, fiscally and logistically impossible for DSHS to comply and indicates a lack of appreciation for the magnitude of the task and the complications inherent in implementing the terms of the order," the state wrote in its motion.

The attorney general has also appealed the ruling with the state's 3rd Court of Appeals.

Naranjo's ruling stemmed from a 2007 lawsuit filed by Disability Rights Texas, a federally funded organization that is an advocate for people with disabilities, including mental illness. In that lawsuit, the group claimed that the State Health Services agency — which oversees the 10 state-run psychiatric

facilities — regularly refuses to take forensic commitments because the hospitals do not have space for them. Instead, prisoners often spend months in jail while waiting for a hospital bed to become available. Once at such facilities, prisoners receive psychiatric drugs and services intended to restore their mental ability to face their criminal charges.

Over the past two years, the average prisoner spent six months in jail waiting for a hospital bed, Naranjo wrote in her order.

"Keeping incompetent pretrial criminal defendants confined in county jail for unreasonable periods of time ... violates the incompetent detainees' due process rights as guaranteed by the Texas Constitution," the order said.

But State Health Services said it doesn't have the money to comply with the order. It said it would need to construct fences, install security cameras, retrain staffers, change policies and hire more than 100 new full-time employees.

The state has also undertaken multiple efforts designed to get the forensic patients out of jail faster, such as developing outpatient competency programs and specifically designating some hospital beds for forensic patients, the state wrote in court papers. State Health Services Commissioner David Lakey has been committed to solving the problem for the past seven years, lawyers said.

But those efforts have been unsuccessful, said Beth Mitchell, an attorney with Disability Rights Texas. None of the state's arguments is a good enough reason to keep people in jail unnecessarily, she said.

"You can't violate people's constitutional rights, and money cannot be a reason to let people languish in jails where they don't get treatment," she said.

<http://www.statesman.com/news/local/state-fights-order-to-move-prisoners-needing-psychiatric-2268252.html>