

Senator Bernard-Stevens' language here requires a judge to order somebody into a mental hospital upon a finding of being mentally incompetent and I'm not sure that the standard for mental incompetency to stand trial which may be absent any elements of danger to the community is the same as that which, in other parts of our statute, we would require for an involuntary commitment. Senator Bernard-Stevens, can you tell me whether you or your staff has analyzed the test required to establish mental incompetency to stand trial and compare that test to the test required to make an involuntary commitment into a mental hospital? And if those tests have been analyzed, are they the same or are there any differences between those tests, that you know of?

SENATOR BERNARD-STEVENS: Senator Landis, I don't mean to throw the question back, but I guess my answer in the beginning is in the form of a question, can you answer those questions?

SENATOR LANDIS: Yes, I can tell you that in my estimation those two things are different. The test for whether one is mentally competent to stand trial is whether or not an individual can understand that their liberty is at stake and that the proceedings...that they can understand the proceedings. That contains no element of danger to society or to themselves, but that's the standard. The standard for incarceration in a mental institution against one's will is establishing a danger either to oneself or to one's community and that has to be established. To me, those two standards are different. And, yes, I think the standards are different. Let me ask again, do you know whether they are the same or not?

SPEAKER BARRETT: Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Yeah, Senator Landis, I guess my response is the information that I've been getting from Judiciary staff and also my own is that in this particular situation when the circumstance that you have, if, in fact, and when it, in fact, arises, that once the alleged victim or in this case the person has been deemed mentally incompetent by the process, that the situation now changes. The situation is a little bit different now than what it was in a straight civil...a straight civil area, to the point that the judge will have to do some type of process where the judge will say, yes, we're mentally incompetent but we're not simply going to go outpatient here. It's a little bit different ball game in this