

# Aid/Assist flow chart July, 2019

*Defense attorney believes there is an aid/assist issue*

1. Obtain private evaluation
2. File 161.365 order from OSH, or
3. Refer to RAPID A/A docket if: i.) Def i/c. 2.) Non BM11. and 3.) Case @Annex or AJB

**If the court determines def is not able to aid/assist**, the court shall hold a hearing (161.370(2)(a)) and the court shall order a Community MH Consult order (161.365(1))

## At the hearing

The court shall consider (161.370(2)(c)):

- primary & secondary release criteria (135.230)
  - Victim input
- the least restrictive option appropriate for def
- the needs of def, and
- interests of justice

\*\* Shall notify of Federal firearm prohibition (161.370)(17)

Actions may include, but are not limited to (161.370(2)(c)):

- (A) i/c 370 order to OSH for restoration
- (B) Community Restoration
- (C) Release on supervision
- (D) Commencement of civil commitment
- (E) Commencement of guardianship
- (F) Dismissal

Ct may order i/c 370 if (161.370(3)(a)):

- 1) Def is dangerous to self or others as a result of qualifying mental d/o
- 2) A hospital level of care is necessary due to dangerousness and acuity of symptoms, **and**
- 3) Based on CMH Consult, services and supervision necessary to restore def are not available in the community.

If the most serious offense in the charging instrument is a **misdemeanor**, (161.370(2)(d)), hospital level of care findings shall be based on a recommendation of a certified evaluator or Community MH ((161.370(5)(b)).

No violations to OSH

If the court has not received such a recommendation, it shall order one by a certified evaluator or Community MH ((161.370(5)(c)).

OSH Commitment

In Custody

If i/c def is *\*not dangerous or\** does not require hospital care due to acuity, but *\*services not available in community*, the court shall set a review hearing every 7 days from original fitness determination while defendant waits in custody (161.370(2)(d))

Comm Rest'n

If i/c def is *\*not dangerous or\** does not require hospital care due to acuity, and *\*services are available in community*, the court may order defendant to participate in Community Restoration.

Civ Cmt

If court has probable cause that def is immediately dangerous to self or others or gravely ill due to qualifying MH disorder, the court may initiate civil commitment proceedings.