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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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**2009 Wisconsin Act 214**  
[2009 Senate Bill 492]

**Competency of a Defendant**

*2009 Wisconsin Act 214*, suggested as remedial legislation by the Department of Health Services (DHS), relates to restoration to competency of a defendant.

In general, s. 971.14, Stats., provides that when a court doubts a criminal defendant's competency, the court must appoint an examiner to report upon the condition of the defendant. If a defendant ultimately is committed to the custody of the DHS, the department is required to determine whether treatment should occur in a designated location or as a condition of bail or bond.

Act 214 provides that:

1. DHS will not have the option to provide treatment as a condition of bail or bond. This amendment is made because once criminal proceedings are suspended for a competency determination, bail or bond is not an option.
2. Along with treatment in an inpatient facility, a jail, or a locked unit of a facility, treatment for a defendant determined to be incompetent may be made in a community-based treatment program under the supervision of DHS.
3. A defendant determined to be incompetent will be under the supervision of DHS. If the department believes that the defendant has violated a condition, or that permitting the defendant to remain in a community jeopardizes the safety of the defendant or another person, the department may designate an institution at which treatment will take place and may request further action with respect to the criminal proceeding.

**Effective date:** The Act takes effect on May 6, 2010.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.