

Clearing the Legal Fog: Navigating Conflicting Interpretations of the Speedy Trial Act and the Insanity Defense Reform Act for Mentally Incompetent Defendants

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Jane, a 32-year-old individual, is facing federal criminal charges for an alleged white-collar offense that has a maximum punishment of one year in prison. On March 1, 2019, the court decides to assess Jane's mental competency to stand trial due to concerns raised in the initial proceedings. The court, relying on the standards set forth by the United States Supreme Court,¹ initiates a hearing to determine whether sufficient evidence exists to warrant a mental competency evaluation. After the competency hearing, the court concludes that there is a need for such a mental evaluation. Jane is

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1. See *Dusky v. United States*, 362 U.S. 402, 402 (1960), for the test the U.S. Supreme Court created to determine whether a defendant is competent to stand trial.

then sent for an initial competency determination.² After that first assessment, the court finds Jane mentally incompetent on April 1, 2019, and orders her to undergo competency restoration treatment.³

In accordance with the Insanity Defense Reform Act (“IDRA”), the court, having found Jane incompetent, commits her to the custody of the attorney general.⁴ The IDRA explicitly mandates a reasonable period of hospitalization, not to exceed four months, for the mental health treatment that will help Jane gain the capacity to proceed to trial.⁵ However, administrative delays and logistical challenges result in Jane’s waiting nine months in a state jail to receive the necessary mental health treatment. When Jane finally enters the hospital on January 1, 2020, the court starts the four-month mandatory timeline to rehabilitate Jane pursuant to the IDRA. However, the nine-month delay in Jane’s case contradicts the intent of the IDRA, which seeks to prevent the extended detention of defendants deemed incompetent.⁶ Jane could now be held in pretrial detention for an entire year, potentially exceeding the length of time of her sentence had she been competent and found guilty at the outset of the charges against her.

Complicating the problem, the Speedy Trial Act (“STA”) requires a federal criminal defendant’s trial to commence within seventy days of the indictment.⁷ This substantial delay in providing Jane with a mental evaluation, together with any mental health treatment that she might need, raises questions about whether certain exceptions to the STA for defendants found mentally incompetent might

2. See 18 U.S.C. § 4247(b) (stating that a court-ordered initial competency determination under Section 4241 may not continue for longer than thirty days).

3. See 18 U.S.C. § 4241(d)(1) (“The Attorney General shall hospitalize the defendant for treatment in a suitable facility for such a reasonable period of time, not to exceed four months . . .”).

4. *Id.*

5. *Id.*

6. See S. REP. NO. 98-225, at 236 (1983) (“[C]ommitment under Section 4241 may only be for a reasonable period of time . . .”).

7. See 18 U.S.C. § 3161(c)(1) (“[When] a plea of not guilty is entered, the trial of a defendant . . . shall commence within seventy days from the filing date . . . or from the date the defendant has appeared before a judicial officer . . . whichever date last occurs.”); see also 28 JAMES WM. MOORE ET AL., MOORE’S FEDERAL PRACTICE § 650.05 (2023) (“The [STA] was intended to ensure that criminal cases proceed to trial without unnecessary delay.”).

delay Jane’s trial indefinitely.⁸ As discussed in detail in this Note, the STA excludes time from the seventy-day clock for the following reasons: delays that result from proceedings or examinations related to the defendant’s competency; delays due to the defendant’s incompetency; and delays in transporting a defendant to a hospital for examination, in which case only ten days are considered reasonable.⁹ The STA was designed to protect defendants’ rights to a speedy trial¹⁰ by expediting the criminal justice process and decreasing the backlog in federal courts. Jane’s extended wait for mental health treatment challenges these core principles.¹¹

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8. See *infra* Section II.C (discussing the time that is excludable from the STA’s seventy-day window).

9. See 18 U.S.C. § 3161(h)(1)(a), (h)(4), (h)(1)(F).

10. See, e.g., *United States v. Noone*, 913 F.2d 20, 28 (1st Cir. 1990) (“The [STA] is designed to serve the public interest and the interests of the accused by requiring promptness in criminal proceedings.”); *Speedy Trial Act of 1974 Enacted*, INT’L ASSOC. OF CHIEFS OF POLICE, L. ENF’T & LIT. REP. (Feb. 1975) <https://www.ojp.gov/ncjrs/virtual-library/abstracts/speedy-trial-act-1974-enacted> (“The intention of the act is to reduce crime and the danger of recidivism by requiring speedy trials and by strengthening the supervision over persons released pending trial.”).

11. See *Noone*, 913 F.2d at 28.

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I. INTRODUCTION

In 2019, approximately 94,000 criminal defendants were subject to mental competency evaluations, the primary objective of which was to assess their ability to stand trial.¹² Among these defendants, between ten and thirty percent were formally deemed incompetent to stand trial.¹³ The magnitude of individuals facing the criminal justice system while grappling with issues of mental incompetency accentuates the debate on the most judicious approach to upholding justice and protecting the constitutional rights of these defendants.¹⁴

12. Nathaniel P. Morris et al., *Estimating Annual Numbers of Competency to Stand Trial Evaluations Across the United States*, 49 J. AM. ACAD. OF PSYCHIATRY & L. 530, 531 (2021). Presently, there is a dearth of dedicated statistical tracking for the frequency of mental competency evaluations in the United States. Existing data is drawn from studies and research conducted on the subject, with the most recent comprehensive statistics available dating back to 2019. *Id.*

13. Sharron E. Dawes et al., *Adjudicative Competence*, 21 CURRENT OP. IN PSYCHIATRY, 490–94 (2008).

14. While this Note focuses on the federal system, it is important to acknowledge that the issue of mental competency in state courts equally raises pertinent concerns. *See, e.g.*, Jan Ransom & Amy Julia Harris, *How Rikers Island Became New York's Largest Mental Institution*, N.Y. TIMES (Dec. 29, 2023), <https://www.nytimes.com/2023/12/29/nyregion/nyc-rikers-homeless-mental-illness.html> (illustrating instances at Rikers Island in New York where criminally accused individuals with mental health challenges languish for years without facing trial. The article highlights the case of a man who, in 2015, was charged with attempted murder, was adjudged mentally incompetent, and mandated to undergo mental competency restoration. As of December 2023, the accused still resided at Rikers Island, having never been afforded the opportunity for a trial.).

To be competent to stand trial, criminal defendants must possess the capacity to understand the proceedings against them, as well as the ability to assist their attorneys in preparing a defense.¹⁵ As such, competency differs from insanity—insanity looks at the defendant’s mental state at the time the crime was committed, not whether the defendant understands the legal proceedings.¹⁶ Judges have the initial burden of deciding whether sufficient evidence exists to permit defendants to undergo mental evaluations to determine their competency.¹⁷ If the judge does find adequate evidence demonstrating a need for a psychological evaluation,¹⁸ then the judge will order an evaluation in which mental health professionals will determine whether the defendant is mentally competent to stand trial.¹⁹

The Fifth and Fourteenth Amendments of the United States Constitution prohibit an incompetent criminal defendant from being held for “more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain competency in the foreseeable future.”²⁰ The importance of the timing

15. See *Dusky v. United States*, 362 U.S. 402, 402 (1960) (establishing the criteria for competency to stand trial); 18 U.S.C. § 4241(a) (codifying the Supreme Court’s ruling in *Dusky*).

16. W. J. Dunn, *Validity and Construction of Statutes Proving for Psychiatric Examination of Accused to Determine Mental Condition*, 32 A.L.R. 2d 434 (2023).

17. See *United States v. Davis*, 365 F.2d 251, 254–55 (6th Cir. 1966) (stating that the obligation to order a competency hearing rests with the trial judge if the court “is on notice that something is amiss”); *United States v. Anderson*, 329 F. App’x 878, 885 (11th Cir. 2009) (“The language of [IDRA Section 4241] is precatory rather than mandatory—the district court may, not must, provide for a court-ordered examination of the defendant—and the district court need only grant the hearing . . . when there is reasonable cause to believe the defendant is suffering from a mental defect.”).

18. See *Drope v. Missouri*, 420 U.S. 162, 180 (1975) (“[T]here are . . . no fixed or immutable signs which invariably indicate the need for further inquiry to determine fitness to proceed; the question is often a difficult one in which a wide range of manifestations and subtle nuances are implicated.”).

19. See 18 U.S.C. § 4247(b) (stating that a psychological evaluation will be administered by a licensed psychologist that is appointed by the court); John B. Meixner, Jr., *Neuroscience and Mental Competency: Current Uses and Future Potential*, 81 ALB. L. REV. 995, 1000 (2017) (explaining that mental health professionals use a combination of interview techniques and behavioral examinations during competency evaluations).

20. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); see also U.S. CONST. amend. V; U.S. CONST. amend. XIV.

limitation on a defendant's pretrial detention stems from the Sixth Amendment's guarantee of the right to a speedy trial.²¹ While the specific motivation behind the Framers' inclusion of the right to a speedy trial in the Bill of Rights remains uncertain, an examination of English law and history illuminates their intention to prevent prolonged pretrial detention.²² The United States Supreme Court has unequivocally affirmed the prohibition of holding a defendant endlessly in pretrial detention as a fundamental protection afforded by the speedy trial provision in the Bill of Rights.²³

Although the Supreme Court has ruled that due process prohibits subjecting mentally incompetent defendants to criminal trials²⁴ and holding them indefinitely solely due to incompetency,²⁵ these rulings have received inconsistent implementation.²⁶ In some instances, defendants, after being found incompetent, have languished in jails or state facilities awaiting competency restoration for periods that exceed the maximum sentence they would have received if found guilty, as in Jane's situation.²⁷ Despite Congress' efforts to address the

21. Alan L. Schneider, Note, *The Right to a Speedy Trial*, 20 STAN. L. REV. 476, 482–85 (1968).

22. John C. Godbold, *Speedy Trial—Major Surgery for a National Ill*, 24 ALA. L. REV. 265, 268 n.11 (1972); see also Note, *The Lagging Right to a Speedy Trial*, 51 VA. L. REV. 1587, 1594 (1965) (explaining that the right to a speedy trial was initially found within the Magna Carta in 1215, which was created to shield defendants from “interminable pretrial imprisonment”).

23. *Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967) (“[T]he right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment. That right has its roots at the very foundation of our English law heritage.”); see also Godbold, *supra* note 22, at 270 (stating that the Supreme Court's decision in *Klopfer* suggests that the interests of a criminal defendant may be hindered by lengthy pretrial detention, even when the defendant's ability to assist in their defense is not an issue).

24. *Drope v. Missouri*, 420 U.S. 162, 171–72 (1975).

25. *Jackson*, 406 U.S. at 720.

26. Compare *United States v. Donnelly*, 41 F.4th 1102, 1105 (9th Cir. 2022) (interpreting the IDRA's four-month provision as beginning upon the defendant's admission to the hospital, not upon the court's issuance of the IDRA Section 4241(d) order), with *United States v. Carter*, 583 F. Supp. 3d 94, 100 (D.D.C. 2022) (finding that the four-month timeline begins the moment the court orders the IDRA Section 4241(d) evaluation and cannot be delayed by holding a defendant in a facility other than a hospital).

27. See, e.g., *United States v. De Bellis*, 649 F.2d 1, 3 (1st Cir. 1981) (holding that an incompetent defendant accused of instigating a disturbance on federal property,

issue of pretrial detention of mentally incompetent defendants,²⁸ the legislation has not been interpreted to comprehensively resolve the conflict between the defendant's competency requirement and the right to a speedy trial.²⁹ This legislative ambiguity has allowed for the extended holding of incompetent defendants while awaiting competency examinations, potentially violating their due process and speedy trial rights.³⁰ The discrepancy in the timely provision of mental health treatment, coupled with the significant pre-hospitalization detention period, not only exposes a failure to adhere to the protections outlined in the IDRA and the STA but also underscores the pressing need for a reevaluation of existing procedures. This reevaluation is crucial to safeguarding defendants' constitutional rights, especially in cases where mental competency is at issue.

This Note examines the complex intersection of mental competency and pretrial detention within the United States criminal justice system, using the case of Jane as a lens to explore the challenges and discrepancies in the application of the IDRA and the STA. This Note advocates for reevaluating existing procedures and harmonizing legislative intent with pragmatic implementation to ensure the timely provision of mental health services for defendants deemed incompetent before trial. In doing so, it seeks to fortify the constitutional principles enshrined in the IDRA and the STA. Despite the complexities inherent in these statutes, this Note contends that a straightforward solution already exists—encouraging courts to implement and interpret the laws based on their plain text. This approach offers a clear pathway to avoid potential due process violations and reinforces the criminal justice system's integrity.

This Note will explore pertinent legislation and Supreme Court rulings pivotal in shaping protections for mentally incompetent

an offense with a maximum penalty of thirty days, cannot be detained for more than ninety days for competency restoration, and that the defendant be promptly released or subjected to an expedited hearing under IDRA Sections 4246 and 4247 to ascertain whether the defendant posed a threat to public safety).

28. See 18 U.S.C. § 3162 (listing sanctions for violations of the STA); 18 U.S.C. § 4241 (implementing six steps to a finding of incompetency and imposing a timeline on how long the government can take to restore a defendant's competency).

29. See discussion *infra* Part III (discussing the varying ways courts interpret the IDRA and the STA).

30. *Id.*

defendants. Part II discusses three landmark Supreme Court cases that have significantly influenced the current state of this legal area and key congressional legislation integral to the challenges criminal defendants face today. Part III discusses the differing interpretations of the STA and the IDRA, how these two statutes interact, and how courts' interpretations of these laws often deviate from Congress' intent. Part IV presents a solution to these conflicting interpretations. It provides recommendations on how courts can best navigate the adjudication of these cases, all while safeguarding defendants' due process and speedy trial rights. Part V concludes this Note.

II. BACKGROUND

The legal landscape surrounding mental competency in criminal trials has long been debated and scrutinized.³¹ However, few tenets are as firmly embedded in the fabric of Anglo-American criminal law as the prohibition against the trial of an incompetent defendant.³² The importance of competency in criminal trials is rooted in common law,³³ where a defendant could not be tried *in absentia*, meaning that

31. See Timothy S. Hall, *Legal Fictions and Moral Reasoning: Capital Punishment and the Mentally Retarded Defendant After Perry v. Johnson*, 35 AKRON L. REV. 327, 331–32 (2002) (examining the evolution of mental health considerations within the legal framework, stating that it is widely recognized that a fundamental consensus exists—when an individual, at the time of the offense, experiences a mental disorder, attributing criminal liability becomes untenable, and punishment is deemed unjust). Throughout history, there has been a pervasive neglect of the ramifications associated with being declared mentally incompetent, often leading to a deprivation of freedom akin to a prison sentence. Note, *Incompetency to Stand Trial*, 81 HARV. L. REV. 454, 455 (1967). This oversight has resulted in a noticeable lack of protective measures for incompetent individuals compared to those accompanying criminal convictions. *Id.*

32. For a broad perspective on the legal system in the Anglo-American tradition, see Liselotte van den Anker et al., *Fitness to Stand Trial: A General Principle of European Criminal Law?*, 7 UTRECHT L. REV. 120 (2011).

33. See Bruce J. Winick, *Reforming Incompetency to Stand Trial and Plead Guilty: A Restated Proposal and a Response to Professor Bonnie*, 85 J. CRIM. L. & CRIMINOLOGY 571, 574 (1995) (“Blackstone wrote that a defendant who becomes ‘mad’ after the commission of an offense should not be arraigned ‘because he is not able to plead . . . with the advice and caution that he ought,’ and not be tried, for ‘how can he make his defense?’” (quoting 4 WILLIAM BLACKSTONE, COMMENTARIES *24 (9th ed. 1783))).

defendants must be both physically present and mentally capable of assisting in their defense.³⁴ An often-cited reason supporting the incompetency rule is the belief that involving incompetent defendants in a judicial adversarial setting would be inherently unjust, because they, like unarmed combatants, lack the means to defend themselves adequately.³⁵

Over time, American jurisprudence has built upon these foundational principles to ensure the equitable treatment of incompetent defendants.³⁶ As early as 1899, the Sixth Circuit Court of Appeals held that “[i]t is not due process of law to subject an insane person to trial upon an indictment involving liberty or life.”³⁷ This concern for a mentally absent defendant was incorporated into the Fifth and Fourteenth Amendments³⁸ and required criminal defendants to be capable of assisting in their defense in a substantial manner.³⁹ Failure to meet this standard violates due process and raises questions about

34. Marian Kennedy Pollack, Comment, *An End to Incompetency to Stand Trial*, 13 SANTA CLARA L. REV. 560, 560–61 (1973).

35. See *King v. Frith*, 22 How. St. Tr. 307, 318 (1790) (“[T]he humanity of the law of England . . . has prescribed[] that no man shall be called upon to make his defence, at a time when his mind is in that situation, as to not appear capable of so doing; for however guilty he may be, the enquiring into his guilt[] must be postponed [until] . . . he shall be able so to model his defence[] as to ward off the punishment of the law.”).

36. *Incompetency to Stand Trial*, *supra* note 31, at 455 (“The broadened standard of incompetency and the power to determine the issue over a defendant’s objection have enabled courts to impose upon a defendant the consequences of the often unrealistic assumption that an incompetency commitment will be less onerous than subjection to the criminal process.”).

37. *Youtsey v. United States*, 97 F. 937, 941 (6th Cir. 1899); see also *United States v. Boylen*, 41 F. Supp. 724, 725 (D. Or. 1941) (stating that the general common law rule is that a defendant must be able to “appreciat[e] his peril and . . . rationally [assist] in his defense. If he is not, then [he] is of such unsound mind that he may not be tried, sentenced, or punished.”).

38. U.S. CONST. amend. V. (“[No person shall] be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law”); U.S. CONST. amend. XIV, § 1 (“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”).

39. Pollack, *supra* note 34, at 561.

the fairness of convicting individuals who are unable to contribute meaningfully to their defense.⁴⁰

The significance of competency is deeply rooted in the constitutional principles of effective assistance of counsel⁴¹ and due process.⁴² The Sixth Amendment, extended to the states through the Fourteenth Amendment, guarantees defendants effective assistance of counsel.⁴³ The Due Process Clause of the Fifth Amendment also ensures that no individual is deprived of life, liberty, or property without proper legal procedures.⁴⁴ The Fifth Amendment also provides substantive and procedural due process rights.⁴⁵ A court's failure to provide appropriate procedures for ascertaining competency violates a defendant's due process rights.⁴⁶

Three significant Supreme Court rulings have helped to determine the legal status of mental incompetency and the limitations on pretrial detention.⁴⁷ Additionally, two crucial congressional mandates—the IDRA and the STA—sought to determine the

40. *Id.*

41. U.S. CONST. amend. VI.

42. U.S. CONST. amend. XIV.

43. *Missouri v. Frye*, 566 U.S. 134, 138 (2012); *see also Strickland v. Washington*, 466 U.S. 688, 671 (1984) (stating that the criterion for assessing a claim of insufficient legal representation revolves around whether the attorney's conduct notably interfered with the effective operation of the adversarial process, thereby compromising the trial's reliability in achieving a fair outcome).

44. U.S. CONST. amend. V. This safeguard also extends to the states through the Fourteenth Amendment. *Malloy v. Hogan* 378 U.S. 1, 6 (1964) ("We hold today that the Fifth Amendment's exception from compulsory self-incrimination is also protected by the Fourteenth Amendment against abridgment by the States.").

45. *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985) ("[T]he Due Process Clause provides that certain substantive rights—life, liberty, and property—cannot be deprived except pursuant to constitutionally adequate procedures."); *Goldberg v. Kelly*, 397 U.S. 254, 267–68 (1970) (stating that procedural due process necessitates that governmental actions, which result in the deprivation of an individual's life, liberty, or property, be executed with fairness and adherence to established procedures).

46. *United States v. Renfro*, 825 F.2d 763, 766 (3d Cir. 1987) (citing *Drope v. Missouri*, 420 U.S. 162, 172 (1975)); *see also United States v. Leggett*, 162 F.3d 237, 241 (1998) ("The conviction of a legally incompetent defendant violates due process." (citing *Pate v. Robinson*, 383 U.S. 375, 378 (1966))).

47. *See infra* Sections II.A.1–3 (detailing these important Supreme Court cases).

guidelines for handling mentally incompetent defendants.⁴⁸ Collectively, these Supreme Court decisions and congressional statutes have helped shape the criminal justice system, providing a comprehensive approach to addressing the complexities surrounding mental incompetency in legal proceedings. Despite these measures, the criminal justice process has proven inadequate in thoroughly protecting the rights of mentally incompetent defendants, as demonstrated by Jane's story and discussed below.⁴⁹

A. United States Supreme Court Cases

Trial courts order mental competency evaluations for two separate reasons: (1) to determine defendants' mental conditions for the purposes of insanity and (2) to determine whether defendants can contribute to their defense meaningfully for competency purposes.⁵⁰ Though easily confused, insanity and incompetency differ substantially.⁵¹ Insanity looks at the time the crime was committed to determine whether the defendants understood the consequences of their actions and whether they should be held responsible.⁵² Mental competency looks at defendants' mental state after being charged with a crime, specifically concerning their ability to interact within the legal system.⁵³

48. See discussion *infra* Sections II.B, C (explaining the IDRA and the STA in detail).

49. See discussion *infra* Part III (discussing the varying interpretations of the STA and the IDRA and the impacts that these interpretations have on incompetent defendants).

50. *Psychiatry v. Law in the Pre-Trial Mental Examination: The Bifurcated Trial and Other Alternatives*, 40 FORDHAM L. REV. 827, 829–30 (1972).

51. Dunn, *supra* note 16. The assessment of defendants' legal culpability for the alleged criminal act commonly depends on their discernment between right and wrong. *Id.* (citing *Brown v. State*, 346 N.E.2d 559, 560 (Ind. 1976)). In contrast, the determination of whether defendants should proceed to trial is contingent on their capability to comprehend the charges brought against them and actively contribute meaningfully to their defense. *Id.*

52. *Psychiatry v. Law in the Pre-Trial Mental Examination: The Bifurcated Trial and Other Alternatives*, *supra* note 50, at 829.

53. Hall, *supra* note 31, at 332; see also Michael L. Perlin, "God Said to Abraham/Kill Me a Son": *Why the Insanity Defense and the Incompetency Status Are*

Defendants' abilities to effectively engage with the legal system are essential for two primary reasons. First, if defendants cannot assist in their defense, there is a heightened risk of overlooking critical evidence.⁵⁴ This inability of defendants to contribute to their defense increases the risk of wrongfully convicting an innocent person.⁵⁵ Second, if defendants cannot understand the criminal proceedings initiated, the punishment's rationale is greatly diminished, if not eliminated.⁵⁶ The assessment to ascertain a defendant's mental competency is a legal evaluation rather than a medical one.⁵⁷

The intersection of mental competency and the legal system has been a focal point of several Supreme Court cases, which have shaped the procedures surrounding the determination of defendants' mental fitness to stand trial.⁵⁸ These cases have addressed fundamental questions regarding the constitutional rights of defendants and the responsibilities of courts in safeguarding defendants' rights.⁵⁹ Examining the evolution of Supreme Court jurisprudence illuminates the dynamic relationship between mental health considerations and the criminal justice system, highlighting the effort to balance justice with individual rights.

Compatible with and Required by the Convention on the Rights of Persons with Disabilities and Basic Principles of Therapeutic Jurisprudence, 54 AM. CRIM. L. REV. 477, 489 ("It also needs to be stressed that incompetence is a status, not a defense, and raising it is in no way a concession of factual guilt like invocation of the insanity defense.").

54. Hall, *supra* note 31, at 332 ("[I]f the defendant cannot cooperate with counsel, potentially exculpatory evidence will be unavailable to the court.").

55. *Id.*

56. *Id.* ("[I]t does not further social policy to impose suffering needlessly; or where there is no understanding of its purpose."); *see also* Ford v. Wainright, 477 U.S. 399, 422 (1986) (Powell, J., concurring) (stating that when the accused recognizes the link between her wrongdoing and the ensuing punishment, the retributive objective of criminal law is fulfilled).

57. Gerald Bennett, *A Guided Tour Through Selected ABA Standards Relating to Incompetence to Stand Trial*, 53 GEO. WASH. L. REV. 375, 376 (1985).

58. *See* discussion *infra* Sections II.A.1–3 (discussing Dusky v. United States 362 U.S. 402 (1960); Drope v. Missouri, 420 U.S. 162 (1975); Jackson v. Indiana, 406 U.S. 715 (1972)).

59. *See infra* Sections II.A.1–3.

1. *Dusky v. United States*

In 1960, the Supreme Court established the test for mental competency in *Dusky v. United States*.⁶⁰ In that case, a defendant was charged with kidnapping a young girl.⁶¹ During the defendant's subsequent arraignment, defense counsel raised the question of his competency to stand trial, and the trial court ordered a mental evaluation.⁶² During the evaluation, the psychological professionals determined that the defendant had schizophrenia and would not be able to understand the proceedings or help in his defense.⁶³ Despite this finding, the district court deemed him competent, ultimately convicting him.⁶⁴ The Eighth Circuit affirmed the district court's ruling, but the Supreme Court reversed, stating:

It is not enough . . . to find that "the defendant [is] oriented to time and place and [has] some recollection of events," but . . . the "test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him."⁶⁵

Therefore, based on *Dusky*, defendants must (1) be able to cooperate with an attorney in their defense and (2) have a reasonable understanding of the charges against them.⁶⁶ If defendants lack either

60. *Dusky v. United States*, 362 U.S. 402, 402 (1960).

61. *Dusky v. United States*, 271 F.2d 385, 387 (8th Cir. 1959).

62. *Id.*

63. *Id.* at 389.

64. *Id.* at 401.

65. *Dusky*, 362 U.S. at 402 (1960) (quoting parties' arguments); see also Claudine Walker Ausness, Note, *The Identification of Incompetent Defendants: Separating Those Unfit for Adversary Combat from Those Who Are Fit*, 66 KY. L.J. 666, 672 (1978) ("By emphasizing the need for rationality, the *Dusky* case expands the meaning of the charge that the defendant must be able to understand the proceedings: not only must the defendant be oriented to time, space, and things and have some recollection of events, but he must also be able to appraise and assess the proceedings.").

66. *Dusky*, 362 U.S. at 402. The prevalence of states aligning their laws with *Dusky* is so pervasive that many scholars believe it represents a consensus among

of the two elements, they will be considered incompetent to stand trial.⁶⁷ If incompetency is established, the trial court must order a mental competency evaluation before the trial can begin.⁶⁸ If the competency evaluation finds the defendant incompetent, the court must order the defendant to be placed in the custody of the Attorney General for competency restoration.⁶⁹

2. *Drope v. Missouri*

In *Drope v. Missouri*, the Supreme Court further developed the law of mental incompetency and confirmed that due process prohibits subjecting a defendant who is mentally incompetent to stand trial.⁷⁰ The defendant in *Drope* faced charges for forcibly raping his wife.⁷¹ He sought a continuance from the trial court to receive a psychiatric exam, which the government did not oppose.⁷² However, no action was taken on the motion, and the trial proceeded.⁷³ During the trial, the defendant shot himself in the stomach and failed to appear in court.⁷⁴ Despite his absence, the jury found him guilty.⁷⁵ The defendant subsequently brought a claim arguing that his due process rights were violated based on his absence at trial and the trial court's denial of his

states to interpret their statutes in accordance with this standard. Grant H. Morris et al., *Competency to Stand Trial on Trial*, 4 HOUS. J. HEALTH L. & POL'Y 193, 208 (2004).

67. *Dusky*, 362 U.S. at 402.

68. 18 U.S.C. § 4241(d).

69. *Id.* § 4241(d)(1).

70. *Drope v. Missouri*, 420 U.S. 162, 171–72 (1975); *see also* *Pate v. Robinson*, 383 U.S. 375, 385 (1966) (holding that the state's neglect in employing sufficient procedures to protect an incompetent defendant's right to avoid trial infringes on the defendant's due process rights and right to a fair trial).

71. *Drope*, 420 U.S. at 164.

72. *Id.*

73. *Id.* The defendant's counsel retained a psychiatrist prior to trial to examine the defendant. The psychiatrist's report diagnosed the defendant with "(1) sociopathic personality disorder, sexual perversion. (2) Borderline mental deficiency. (3) Chronic [a]nxiety reaction with depression." *Id.* at 164 n.1.

74. *Id.* at 166.

75. *Id.* at 167.

psychiatric examination, which the appellate court rejected.⁷⁶ The Supreme Court reversed, remanding the case to permit the state to retry the defendant if he was found competent to stand trial.⁷⁷

The Supreme Court found that the “record reveal[ed] a failure to give proper weight to the information suggesting incompetence which came to light during trial.”⁷⁸ The Court also stated that the defendant’s absence from the trial was significant for two reasons: (1) it stemmed from an act that suggested a significant level of mental instability during the trial, and (2) due to his absence, the trial judge and the defense counsel were unable to observe his demeanor throughout the trial.⁷⁹ This limitation precluded them from evaluating his behavior and discerning whether he could effectively work with his attorney and understand the proceedings he faced.⁸⁰

In *Drope*, the Court added another element to the test for competency: a defendant must be able to “assist in preparing his defense.”⁸¹ *Drope* also held that when a defendant demonstrates competency at the trial’s outset, the trial court must remain vigilant for any changes that could compromise the defendant’s ability to maintain competency throughout the proceedings.⁸² Therefore, according to *Dusky* and *Drope*, mental competency is determined by defendants’ (1) understanding of the charges against them, (2) ability to work with their

76. *Id.* at 169–71. The Court of Appeals stated that it was important to examine the defendant’s competency during three different stages: (1) prior to trial, (2) after he shot himself in the stomach, and (3) when he filed the motion for a new trial. The appellate court found that the suicide attempt did not legally raise any questions as to his mental competency. *Id.* at 170.

77. *Id.* at 182–83.

78. *Id.* at 179.

79. *Id.* at 180–81.

80. *Id.* at 181.

81. *Id.* at 171. In *Drope*, the trial court neglected to consider evidence indicating the defendant’s incompetency. This oversight included disregarding the reports from medical professionals, the defendant’s wife’s testimony about his behavior, and evidence of a suicide attempt. *Id.* at 171–72; see also John B. Meixner Jr., *Neuroscience and Mental Competency: Current Issues and Future Potential*, 81 ALB. L. REV. 995, 998 (2018) (“[A]n explicit competency determination need not be made in every case, but rather, is necessary only when a court has reason to doubt the defendant’s competency.”).

82. *Drope*, 420 U.S. at 181–82.

attorneys in preparing their defense, and (3) ability to assist their attorneys with their defense.

3. *Jackson v. Indiana*

Perhaps the most important Supreme Court case on the issue of mental incompetency is *Jackson v. Indiana*.⁸³ In 1972, the *Jackson* Court struck down as unconstitutional an Indiana statute that allowed the state to detain defendants indefinitely based solely on their incompetency.⁸⁴ In that case, the defendant Jackson was deaf and mute, functioned at the level of a preschool child, and was incapable of communicating in any conventional manner, including reading and writing, except for minimal use of sign language.⁸⁵ He was indicted on two counts of robbery that together involved less than \$10.⁸⁶ Jackson was committed to Indiana's Department of Mental Health for over three-and-a-half years before the case reached the Supreme Court.⁸⁷

In holding the Indiana statute unconstitutional, the Court cautioned that a statute that allows for limitless detention of mentally incompetent individuals will not pass due process muster.⁸⁸ The

83. 406 U.S. 715 (1972).

84. *Id.* at 720.

85. *Id.* at 717.

86. *Id.*

87. *Id.* at 738.

88. *Id.* at 730 ("By subjecting a defendant to a more lenient commitment standard and to a more stringent standard of release than those generally applicable to all others not charged with offenses, and by thus condemning a defendant in effect to permanent institutionalization without the showing required for commitment or the opportunity for release afforded by [the Indiana statutes], Indiana deprives a defendant of equal protection of the laws under the Fourteenth Amendment."). The Court in *Jackson* centered its opinion on the defendant's due process claims, as the Sixth Amendment matter was not raised before the trial court, and Indiana's Supreme Court did not address the issue. The Supreme Court, however, stated that Indiana courts should be granted the initial opportunity to address and resolve these issues. *Id.* at 740. See also *Jones v. United States*, 463 U.S. 354, 361 (1983) ("[C]ommitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (quoting *Addington v. Texas*, 441 U.S. 418, 425 (1979))). Though this Note focuses on the federal system, it is important to note that state legislatures have enacted statutory regulations governing the rehabilitation of incompetent defendants, employing three general approaches. One method establishes a predetermined time limit, with variations ranging from six months to ten years. Others have tied the

Court's decision rested on two primary grounds. First, the statute's indefinite commitment period exceeded the reasonable time required to ascertain whether the defendant could gain competency.⁸⁹ Second, the indefinite commitment lacked a "reasonable relation" to its intended purpose of evaluating the defendant's restorability to competency, since it appeared that he would never attain the competency necessary to proceed to trial.⁹⁰

In *Jackson*, the Court held that absent a demonstrated danger posed by defendants, their confinement can only endure for a "reasonable period of time."⁹¹ If the prospect of improvement is scant or there is no tangible progress toward competency, the government must either release the defendant or initiate civil commitment proceedings.⁹² Likewise, should it be shown that the defendant is likely to gain the capacity to stand trial in the foreseeable future, the

duration of commitment to the term of the sentence for the alleged offense. Lastly, some legislatures have opted to evade setting specific limitations on the length of stay by permitting indefinite confinement, in violation of the Supreme Court's ruling in *Jackson*. Andrew R. Kaufman et al., *Forty Years After Jackson v. Indiana: States' Compliance With "Reasonable Period of Time" Ruling*, 40 J. AM. ACAD. PSYCHIATRY & L. 261, 262 (2012).

89. *Jackson*, 406 U.S. at 738.

90. *Id.* (holding that the Indiana statute that was challenged did not require the state to give the defendant any "'formal commitment proceedings addressed to [his] ability to function in society,' or to society's interest in his restraint, or to the State's ability to aid him in attaining competency through custodial care or compulsory treatment, the ostensible purpose of the commitment." (quoting *In Re Harmon*, 425 F.2d 916, 918 (Cal. Ct. App. 1970))).

91. *Id.* at 733; see also *United States v. Walker*, 335 F. Supp. 705, 708–09 (N.D. Cal. 1971) ("If read literally . . . [IDRA] Section 4246 permits long-term detention of a mentally deficient accused, *without treatment*, simply because he is incompetent. . . . Because of these constitutional problems, courts have attempted to read a 'rule of reason' into [IDRA] Section 4246. This rule states that commitment under this section is 'temporary' and the accused cannot be held for an 'unreasonable period of time.'" (quoting *Royal v. Settle*, 192 F. Supp. 176, 178 (W.D. Mo. 1959))).

92. *Jackson*, 406 U.S. at 733. See Steven K. Hoge, *Resistance to Jackson v. Indiana—Civil Commitment of Defendants Who Cannot Be Restored to Competence*, 38 J. AM. ACAD. PSYCHIATRY & L. 359 (2010), for a discussion on the history of unrestorable defendants and the civil commitment of incompetent defendants.

continuance of commitment is justifiable, contingent upon the observable progress made toward that objective.⁹³

These three landmark Supreme Court cases illustrate the Court's commitment to upholding the fundamental constitutional rights of defendants throughout the criminal process. The opinions underscore the crucial aspects of criminal defendants' rights, such as their ability to cooperate with and assist counsel in their defense, comprehend the charges they face,⁹⁴ and avoid indefinite detention based on their incompetency.⁹⁵ In aligning with the Supreme Court's directives on mental incompetency, Congress has enacted various measures to ensure the adequate protection of defendants' constitutional rights before they reach trial, as discussed below.⁹⁶

B. Insanity Defense Reform Act (IDRA)

Congress enacted the IDRA in 1984, spurred in part by the conditional release of John Hinckley, the assailant who shot President Ronald Reagan two years earlier.⁹⁷ The public's response to President Reagan's shooting prompted Congress to reevaluate the insanity defense.⁹⁸ Though prompted by concerns tied to the insanity defense, the IDRA went beyond those concerns. The IDRA comprehensively tackled broader issues related to mental incompetency by incorporating legislative rules governing competency.⁹⁹

93. *Jackson*, 406 U.S. at 738.

94. *Dusky v. United States*, 362 U.S. 402 (1960); *Drope v. Missouri*, 420 U.S. 162 (1975).

95. *Jackson*, 406 U.S. at 732–33.

96. *See* 18 U.S.C. § 3161 (enacting the STA); 18 U.S.C. § 4241 (enacting the IDRA).

97. Sheila E. Shea & Robert Goldman, *Ending Disparities and Achieving Justice for Individuals with Mental Disabilities*, 80 ALB. L. REV. 1037, 1038 (2017); *see also* Michael L. Perlin, "The Borderline Which Separated You from Me": *The Insanity Defense, the Authoritarian Spirit, the Fear of Faking, and the Culture of Punishment*, 82 IOWA L. REV. 1375, 1376 (1997) (discussing the aftermath of President Ronald Reagan's shooting and the impact that the events had on the insanity defense in the United States).

98. Perlin, *supra* note 97, at 1376.

99. *See* Rachel Anne Dwares, *Due Process Concerns with Delayed Psychiatric Evaluations and the Insanity Defense: Time Is of the Essence*, 64 B.U. L. REV. 861, 869–70 (1984) (explaining that the IDRA was the first time Congress enacted

In direct response to the Supreme Court's ruling in *Jackson*,¹⁰⁰ Congress promulgated Section 4241 of the IDRA to harmonize the federal statutory framework governing the confinement of incompetent defendants with the principles outlined in *Jackson*.¹⁰¹ As discussed earlier, *Jackson* limited detention periods for mental health in both duration and extent—in duration, by confining the period of custody to a “reasonable period of time,” and in extent, by requiring that confinement further the objective of restoring competency.¹⁰² Accordingly, the IDRA establishes rules that govern the process of competency determinations and the restoration of incompetent defendants to stand trial.¹⁰³ Additionally, it imposes time limits on the pretrial detention of defendants found to be incompetent.¹⁰⁴

Under the IDRA framework, the process for ascertaining competency begins with a judicial hearing on a defendant's competency to stand trial and, if found incompetent, culminates in a determination of incompetency and mandatory commitment to the custody of the Attorney General:

If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall

legislation concerning the insanity defense in federal courts and that it “transform[ed] the question of mental state from an element of the crime to be proved by the prosecution beyond a reasonable doubt into an affirmative defense to be proved by the defendant by clear and convincing evidence”).

100. S. REP. NO. 98-225, at 236 (1983); *see also Jackson*, 406 U.S. at 738 (stating that it was not suitable for the Court to set fixed limits, thus signaling to Congress that it is Congress' responsibility to decide such time limits).

101. *See e.g.*, *United States v. Anderson*, 679 F. App'x 711, 713 (10th Cir. 2017) (“Section 4241(d) is so limited. And the fact that the language tracks *Jackson* so closely is no surprise: the statute was revised in response to the Court's decision.”).

102. *Jackson*, 406 U.S. at 733.

103. 18 U.S.C. § 4241.

104. *Id.* § 4241(d).

commit the defendant to the custody of the Attorney General.¹⁰⁵

Subsequently, the Attorney General must “hospitalize the defendant for treatment in a suitable facility for such a *reasonable period of time, not to exceed four months*, as is necessary to determine whether there is a substantial probability” that the defendant will gain the mental capacity to proceed to trial.¹⁰⁶ This timeframe may be prolonged if the court finds “a substantial probability” that the defendant will attain the capacity to proceed to trial within the additional period.¹⁰⁷

Notably, the statute employs mandatory language, signifying that if a court determines that a defendant is mentally incompetent, it must—devoid of discretion—commit that defendant to the custody of the Attorney General.¹⁰⁸ If, after hospitalization under IDRA Section

105. *Id.* If a competency hearing is not requested by either the defendant or the government, the trial court has the authority to initiate one independently, so long as the court has reasonable cause to believe that the defendant is currently experiencing an impairment leading to mental incompetency. MARTIN C. CARLSON & MARY G. YOCUM, 1 THIRD CIR. CRIM. HANDBOOK § 5.03 (2024).

106. 18 U.S.C. § 4241(d) (emphasis added); *see also* United States v. Shawar, 865 F.2d 856, 863–64 (7th Cir. 1989) (finding that, although the word “may” in IDRA Section 4247(b) denotes a discretionary action, the word “must” in IDRA Section 4241(d) is mandatory, and therefore, the Attorney General has no discretion in committing a mentally incompetent defendant to a facility for treatment).

107. 18 U.S.C. § 4241(d)(2)(A); *see also* United States v. Magassouba, 544 F.3d 387, 391 (2d Cir. 2008) (“[U]pon expiration of a[n] [IDRA] § 4241(d)(1) order and in the absence of a[n] [IDRA] § 4241(d)(2) order . . . the Attorney General . . . lacks authority to hold the defendant . . . under [IDRA] § 4241(d). In such circumstances, the Attorney General must restore a defendant to the *status quo ante* his [IDRA] § 4241(d)(1) confinement.”). Throughout the mental restoration treatment provided to the defendant, the primary objective is not curative but rather to ensure that the defendant achieves the requisite competency to comprehend the legal proceedings. Bruce J. Winick, *Restructuring Competency to Stand Trial*, 32 UCLA L. REV. 921, 985 n.5 (1985).

108. *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998) (“[T]he mandatory ‘shall’ . . . normally creates an obligation impervious to judicial discretion.” (citing *Anderson v. Yungkau*, 329 U.S. 482, 485 (1947))); *see also* Pollack, *supra* note 34, at 563–64 (stating that in the United States, when an individual is found incompetent, the typical outcome involves commitment to a mental institution, either through obligatory commitment statutes or judicial procedures).

4241(d), it is determined that a defendant has gained the competency to understand the charges against them and assist in their defense, the hospital's director must file a certificate noting this finding with the court who ordered the competency restoration.¹⁰⁹ Subsequently, the court will hold a hearing to determine the defendant's competency.¹¹⁰ If the court finds by a preponderance of the evidence that the defendant is competent, the court must order the defendant to be immediately released from the hospital, and a trial date will be set.¹¹¹

The language of IDRA Section 4241's four-month period made concrete the Supreme Court's holding in *Jackson* that detentions must be limited to a "reasonable" timeframe.¹¹² Nevertheless, a conflict has arisen concerning how courts interpret IDRA Section 4241's four-month limitation.¹¹³ Most courts posit that the statute's text applies only to the time a defendant is hospitalized, excluding the interim period during which the defendant is held awaiting transfer to a hospital for restoration.¹¹⁴ These courts reason that as long as the delay in

109. 18 U.S.C. § 4241(e).

110. *Id.*

111. *Id.* ("Upon discharge, the defendant is subject to the provisions of chapters 207 and 227 [18 U.S.C. §§ 3141–3551].").

112. S. REP. NO. 98-225, at 236 (1983); *see Jackson v. Indiana*, 406 U.S. 720, 738 (1972) (setting forth the guideline of a "reasonable period" in holding a defendant for mental competency evaluation purposes); *United States v. McKnown*, 930 F.3d 721, 728 (5th Cir. 2019) (finding that § 4241(d) is aligned with the Due Process Clause and that "[a]side from the statutory cap of four months, the length of custody is restricted to 'such a reasonable period of time . . . as is necessary' to determine" if the defendant will gain mental competency to move forward with trial).

113. *See infra* notes 115–19 and accompanying text.

114. *See, e.g., United States v. Donnelly*, 41 F.4th 1102, 1105 (9th Cir. 2022) ("We think the text of the statute makes clear that the four-month time limit applies only to the period of hospitalization, and thus begins to run when the defendant has been hospitalized."); *United States v. Castrellon*, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *11 (D. Colo. Mar. 1, 2023) (holding that although the government had exceeded the four-month limit in getting the defendant to a facility, the waiting period was nevertheless reasonable); *United States v. Bauman*, No. 07-20052-01-KHV, 2008 U.S. Dist. LEXIS 98408, at *7 (D. Kan. Dec. 4, 2008) (finding that a delay after the defendant was found to be mentally incompetent was excludable time); *United States v. Lewis*, 484 F. Supp. 2d 380, 390–91 (W.D. Pa. 2007) ("[T]o the extent that there was unreasonable delay in transporting Defendant to [a hospital], the delay was also independently attributable to his state of incompetency and that time is thereby fully excludable under § 3161(h)(4)."); *United States v. Degideo*, No.

transporting the defendant to a suitable facility is related to the purpose of the pretrial detention, then it does not fall within the four-month timeframe for mental restoration—acknowledging the ruling in *Jackson* that any pre-hospitalization commitment must “bear some reasonable relation”¹¹⁵ to the identification of a suitable facility for the defendant’s hospitalization.¹¹⁶ For example, in Jane’s case, she was ordered to undergo IDRA Section 4241(d) mental restoration, and the government spent time processing her documentation and addressing ancillary matters before transporting her to the facility. These courts would not view this time as counting toward the four-month timeline delineated in the IDRA.¹¹⁷

04-100, 2004 U.S. Dist. LEXIS 9954, at *11 (E.D. Pa. May 18, 2004) (finding that the delay in that case was “primarily the result of this Court’s finding of mental incompetency, which is explicitly excluded under § 3161(h)(4). The delay in treatment was subsidiary to the prior finding that Defendant was mentally incompetent.”).

115. *United States v. Raja*, No. 1:21-cr-00368-TWP-MG-2, 2023 U.S. Dist. LEXIS 86139, at *11 (S.D. Ind. May 17, 2023); *see also Jackson*, 406 U.S. at 738 (“At the least, due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.”).

116. *Raja*, 2023 U.S. Dist. LEXIS 86139, at *13 (“[T]he court determines it would be eminently reasonable for the Government to expend time ascertaining the best facility for [the defendant’s] restoration, completing paperwork, and physically transporting him safely before the four-month statutory time period begins to run.”). *But see Donnelly*, 41 F.4th at 1106 (“We do not think *Jackson*’s ‘reasonable relation’ requirement permits a pre-hospitalization commitment period, whose purpose is simply to identify an appropriate treatment facility and arrange for the defendant’s transportation to that facility, to last longer than the maximum time Congress permitted for the period of hospitalization itself.”).

117. *See Raja*, 2023 U.S. Dist. LEXIS 86139, at *13 (holding that such administrative delays are reasonable); *see also United States v. Lara*, 671 F. Supp. 3d 1257, 1261 (D.N.M. 2023) (“This language is specific and expressly ties the stated timeframe (four months) to the period of *hospitalization*, not the period Defendant spends in the custody of the Attorney General before admittance to a Bureau of Prisons (BOP) facility. Thus, the ‘clock’ begins at the time Defendant arrives at [the hospital].”). These courts also contend that the placement of the phrase “the court shall commit the defendant for treatment in a suitable facility” prior to “[t]he Attorney General must hospitalize the defendant” implies separate meanings for “custody” and “hospitalization,” thus finding that the four-month limitation applies only to the time spent in the hospital. *See United States v. Vanarsdale*, No. 22-10103-JWB, 2023 U.S. Dist. LEXIS 139111, at *6 (D. Kan. Aug. 9, 2023); *United States v.*

Conversely, a minority of courts maintain that the four-month timeline commences the moment defendants are committed to the custody of the Attorney General under IDRA Section 4241(d) rather than when they are placed in a suitable facility for treatment.¹¹⁸ These courts argue that the plain text of IDRA Section 4241(d) explicitly requires the government to hospitalize the defendant as soon as the order is received.¹¹⁹ Once a court orders that a defendant be committed to the custody of the Attorney General, the four-month time clock begins, and absent the court-approved extension of the IDRA Section 4241(d) order, the defendant cannot be detained beyond that prescribed four-month period.¹²⁰ If an extension is not granted under IDRA Section 4241(d), and the defendant has not attained competency, then the defendant must be released or subjected to civil commitment proceedings.¹²¹

Bradley, No. 20-cr-10018-JES-JEH, 2022 U.S. Dist. LEXIS 197493, at *7 (C.D. Ill. Oct. 31, 2022) (“[T]here is a clear distinction between custody and hospitalization.”).

118. *See, e.g.*, United States v. Carter, 583 F. Supp. 3d 94, 100 (D.D.C. 2022) (holding that the four-month timeline starts the moment the court enters the IDRA Section 4241(d)(1) order); United States v. Baker, 807 F.2d 1315, 1320 (6th Cir. 1986) (“[T]his provision requires that a determination as to the individual’s mental condition be made within four months, and that the individual cannot be held pursuant to [IDRA] section 4241 in excess of four months unless the court finds that the individual is likely to attain competency within a reasonable time.”); United States v. Dellinger, 980 F. Supp. 2d 806, 817 n.4 (E.D. Mich. 2013) (rejecting the government’s use, in that case, of the four-month period as a “safety valve” in which it could request additional time once the four-months was nearing its end).

119. *Carter*, 583 F. Supp. 3d at 100 (“[T]he government may not delay the four-month timeline by detaining an incompetent defendant in a non-hospital setting.”); *see also* United States v. Gamarra, 308 F. Supp. 3d 230, 233 (D.D.C. 2018) (“The only manner by which a defendant can be kept in confinement beyond four months is through a court order . . .”).

120. *Carter*, 583 F. Supp. 3d at 100; *see also* United States v. Donofrio, 896 F.2d 1301, 1303 (11th Cir. 1990) (“The statute limits confinement to four months, whether more time would be reasonable or not. Any additional period of confinement depends upon the court’s finding there is a probability that within the additional time he will attain capacity to permit trial, 18 U.S.C.A. § 4241(d)(2)(A), or if he is found to create a substantial risk to himself and to others, pursuant to 18 U.S.C.A. § 4246.”).

121. 18 U.S.C. § 4241(d) (“If, at the end of the time period specified, it is determined that the defendant’s mental condition has not so improved as to permit proceedings to go forward, the defendant is subject to . . . [IDRA] sections 4246 and 4248.”).

In Jane's situation, assuming she was ordered to undergo competency restoration on April 1, 2019, these courts would hold that the government has until August 1, 2019, to transport her to a suitable facility and conduct any treatment she might need for restoration. After August 1, 2019, unless the court orders an extension under IDRA Section 4241(d), the government cannot hold Jane and must either institute civil commitment proceedings or release her.¹²² Therefore, these courts would hold that on August 2, 2019, the government exhausted its time for competency restoration, thus violating the IDRA,¹²³ allowing Jane to file a motion seeking a remedy for this violation.¹²⁴

Congress enacted the IDRA in response to the Supreme Court's ruling in *Jackson*, which declared that indefinite pretrial detention violates due process.¹²⁵ The IDRA's purpose is to guarantee fair and expeditious processing for mentally incompetent defendants.¹²⁶

122. See 18 U.S.C. § 4241(d)(2).

123. See *Gamarra*, 308 F. Supp. 3d at 233 (stating that Congress set the four-month time limit under the IDRA purposefully, in direct response to *Jackson*. The court went on to state “[n]or did Congress set any provision for extending the four-month period, as it did for the initial thirty-day evaluation, which can be extended for up to fifteen more days. The only manner by which a defendant can be kept in confinement beyond four months is through a court order finding that he has a substantial probability of attaining competency. [The defendant] has remained in [the hospital] for more than six months, without an order committing him ‘for an additional period of time’ [under IDRA Section 4241(d)(2)]. The government has therefore violated the [IDRA].”).

124. Notably, the IDRA, unlike the STA, does not provide a remedy for a violation of IDRA Section 4241(d)(1)'s time requirement. However, when confronted with these violations and considering the desired relief sought from the defendant, courts have turned to the guidance provided in *Jackson*. As echoed in *Jackson* and mirrored in the language of IDRA Section 4241(d)(1), the recognized remedy entails directing the government to either initiate civil commitment proceedings or release the defendant. *Carter*, 583 F. Supp. 3d at 102–03. However, one case brought under Oregon law found a breach analogous to IDRA Section 4241(d)(1) and ruled that the defendants' due process rights had been infringed. To remedy this, the court issued a statewide injunction, compelling defendants to be hospitalized within a seven-day timeframe. *United States v. Donnelly*, 41 F.4th 1102, 1106 (9th Cir. 2022).

125. S. REP. NO. 98-225, at 236 (1983).

126. See *United States v. Tinklenberg*, 563 U.S. 647, 657 (2011) (“[T]he [STA] seeks to achieve ‘efficiency in the processing of cases which is commensurate with due process.’” (quoting H.R. REP. NO. 93-1508, at 7408 (1974))).

Moreover, the IDRA's four-month provision intersects with the time constraints outlined in the STA,¹²⁷ as elaborated below.

C. Speedy Trial Act

The Sixth Amendment succinctly states: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial."¹²⁸ Nonetheless, courts have grappled with precisely defining a violation of the right to a speedy trial.¹²⁹ In an initial exploration of speedy trial violations, the Supreme Court attempted to describe the characteristics of such a violation.¹³⁰ In *Beavers v. Haubert*, the Court held that "[t]he right of a speedy trial is necessarily relative. It is consistent with delays and depends upon circumstances. It secures rights to a defendant. It does not preclude the rights of public justice."¹³¹

In a subsequent case, *Barker v. Wingo*, the Supreme Court refined the parameters of a speedy trial violation, establishing a comprehensive test for courts to assess whether a defendant's right to a speedy trial has been infringed.¹³² The Court considered a set of factors to determine the violation of a defendant's speedy trial rights, including the "[l]ength of the delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant."¹³³ The Court asserted that evaluating prejudice to a defendant should be conducted "in the light of the interests of defendants which the speedy trial right was designed to protect."¹³⁴ The interests articulated by the Court included (1) preventing onerous pretrial detention, (2)

127. See 18 U.S.C. § 3161(h) (listing the various enumerated exclusions from the seventy days given for a criminal case to be brought to trial).

128. U.S. CONST. amend. VI.

129. Seth Osnowitz, Note, *Demanding a Speedy Trial: Re-Evaluating the Assertion Factor in the Barker v. Wingo Test*, 67 CASE W. RES. L. REV. 273, 278 (2016).

130. *Beavers v. Haubert*, 198 U.S. 77, 87 (1905).

131. *Id.*; see also *United States v. Ewell*, 383 U.S. 116, 120 (1966) ("A requirement of unreasonable speed would have a deleterious effect both upon the rights of the accused and upon the ability of society to protect itself. Therefore . . . 'the right of a speedy trial is necessarily relative.'" (quoting *Beavers*, 198 U.S. at 87)).

132. *Barker v. Wingo*, 407 U.S. 514 (1972).

133. *Id.* at 530.

134. *Id.* at 532.

minimizing the anxieties of the defendant, and (3) diminishing the chance that the defense will be hindered.¹³⁵ Two years after this decision, Congress enacted the Speedy Trial Act of 1974.¹³⁶

Like the IDRA and the pivotal Supreme Court ruling in *Jackson*, the STA also outlines time constraints for the duration of a federal criminal trial and establishes parameters for the pretrial detention of a criminal defendant.¹³⁷ Enacted in 1974,¹³⁸ the STA serves as a

135. *Id.*

136. ANTHONY PARTRIDGE, LEGISLATIVE HISTORY OF TITLE I OF THE SPEEDY TRIAL ACT OF 1974, at 11 (Fed. Jud. Ctr. 1980) (<https://www.ojp.gov/pdffiles1/Digitization/73828NCJRS.pdf>) (explaining that in the latter part of the 1960s, it was suggested that society's interest in swift adjudication of criminal cases could be addressed by introducing statutory time limits along with a provision for dismissal in case of their violation).

137. 18 U.S.C. § 3161; *see also* United States v. Carter, 583 F. Supp. 3d 94, 100 (D.D.C. 2022) (“Whereas the Speedy Trial Act requires the parties to work quickly before a finding of incompetence, IDRA requires the government to work quickly thereafter.”).

138. Prior to the enactment of the STA, the Nixon administration advocated for “preventive detention” to address the issue of defendants committing crimes while on pretrial release. PARTRIDGE, *supra* note 136, at 13 (quoting 115 CONG. REC. 34335 (1969) (<https://www.congress.gov/91/crecb/1969/11/17/GPO-CRECB-1969-pt25-8-1.pdf>)). This approach involved allowing courts to detain defendants prior to trial if they had been charged with violent crimes. *Id.* However, Representative Mikva presented a bill as a solution to the problem, one that “avoid[ed] the repugnant, and probably unconstitutional, alternative of preventive detention.” *Id.* The groundwork for speedy trial laws was laid in June 1970 when Senator Sam. J. Ervin, Jr. introduced the concept in the Senate. *Id.* After years of refinement, the STA was eventually passed in the Senate on July 23, 1974. *Id.* at 13–15. Despite initial resistance from the Department of Justice, which objected to a provision mandating dismissal with prejudice for violations of the law, an amendment was made to grant judges discretion in dismissing cases with or without prejudice. *Id.* at 16–17. Finally, on January 3, 1975, President Ford signed the bill into law. *Id.* at 17–18. *See* Comment, *The Speedy Trial Act and Separation of Powers: United States v. Howard*, 91 HARV. L. REV. 1925, 1925 (1978) (stating that the [STA] was enacted in 1974, following the Supreme Court's refusal to construct specific time requirements outlining the right to a speedy trial for criminal defendants); *see also* Barker v. Wingo, 407 U.S. 514, 530 (1972) (“A balancing test necessarily compels courts to approach speedy trial cases on an *ad hoc* basis. We can do little more than identify some of the factors which courts should assess in determining whether a particular defendant has been deprived of his right.”). The court identified the following factors: length of the delay, reason for delay, whether the defendant asserted their right to a speedy trial, and any prejudice to the defendant. *Id.*

structural framework for federal cases, operating as a protective mechanism for defendants,¹³⁹ ensuring swift access to trials while concurrently expediting the delivery of justice for the broader public.¹⁴⁰ Under the STA, a defendant's trial must commence within seventy days of filing the information or indictment.¹⁴¹ Failure to adhere to this timeframe allows the defendant to seek dismissal of the indictment.¹⁴² However, the STA accommodates certain exceptions to the seventy-day limit, acknowledging the necessity for flexibility in certain enumerated circumstances.¹⁴³ Three specific provisions within the STA are relevant to mentally incompetent defendants. First, the STA excludes from the seventy-day limit "delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant."¹⁴⁴ Second, the STA distinguishes that general exclusion from the time associated with transporting a defendant for competency-related treatment.¹⁴⁵ The STA states that time spent transporting a defendant "to and from places of examination or hospitalization" is excluded from the seventy days—

139. *See United States v. Ewell*, 383 U.S. 116, 120 (1966) (identifying three interests that are protected by a defendant's right to a speedy trial: "prevent[ing] . . . oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself.").

140. *Bloate v. United States*, 559 U.S. 196, 211 (2010); *see also United States v. Tinklenberg*, 563 U.S. 647, 657 (2011) (The STA "seeks to achieve 'efficiency in the processing of cases which is commensurate with due process.'"); *Zedner v. United States*, 547 U.S. 489, 501 (2006) (The STA "was designed not just to benefit defendants but also to serve the public interest by, among other things, reducing defendants' opportunity to commit crimes while on pretrial release and preventing extended pretrial delay from impairing the deterrent effect of punishment." (citing S. REP. NO. 93-1021, at 6-8 (1974))).

141. 18 U.S.C. § 3161(c)(1).

142. *Id.* § 3162(a)(2) ("If a defendant is not brought to trial within the time limit required by [S]ection 3161(c) . . . the information or indictment shall be dismissed on motion of the defendant."); *see also Zedner*, 547 U.S. at 499 ("To promote compliance . . . the [STA] contains enforcement and sanctions provisions. If a trial does not begin on time, the defendant may move . . . to dismiss the charges, and if a . . . timely motion . . . is filed, the district court must dismiss the charges, though it may choose whether to dismiss with or without prejudice.").

143. 18 U.S.C. § 3161(h).

144. *Id.* § 3161(h)(1)(A).

145. *Id.* § 3161(h)(1)(F).

”except that any time consumed in excess of ten days . . . shall be presumed to be unreasonable.”¹⁴⁶ Stated differently, that provision allows the government a maximum of ten days to transport the defendant to competency treatment, extending the seventy-day timeframe to eighty days.¹⁴⁷ Third, the STA excludes from the seventy-day limit “[a]ny period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial.”¹⁴⁸

Interpretations of these STA provisions diverge among courts, particularly in the interplay between STA Section 3161(h)(1)(F) (excluding up to ten days for transportation) and STA Section 3161(h)(4) (excluding delays due to the defendant being deemed mentally incompetent).¹⁴⁹ For example, in Jane’s case, some courts

146. *Id.*

147. *Id.*

148. 18 U.S.C. § 3161(h)(4).

149. The First, Third, Fifth, and Sixth Circuits have held that STA Section 3161(h)(1)(F) overrides the general provision of STA Section 3161(h)(1)(A) and that any period of delay beyond ten days in transporting a defendant to a mental examination is unreasonable and not excludable time. *See United States v. Noone*, 913 F.2d 20, 25–26 (1st Cir. 1990) (finding that after the court ordered the mental evaluation to be conducted, forty days passed before the defendant arrived at the hospital, and thus “under [STA] section 3161(h)(1)(F), 30 days are presumed to have elapsed due to unreasonable delay and to be nonexcludable”); *United States v. Williams*, 917 F.3d 195, 202 (3d Cir. 2019) (“[P]eriods of unreasonable delay of more than ten days in the transport of a defendant to [a hospital] . . . to determine a defendant’s mental competency are non-excludable for purposes of computing the time within which the Government must commence a trial of a defendant under the [STA].”); *United States v. Castle*, 906 F.2d 134, 138 (5th Cir. 1990) (“The setting of ten days as presumptively unreasonable seems to have been a compromise with a deliberate limitation on flexibility in this section of the [STA], rather than leaving transportation time to be excluded under some general standard of reasonableness.”); *United States v. Tinklenberg*, 579 F.3d 589, 596 (6th Cir. 2009) (holding that STA Section 3161(h)(1)(F) must be read to be an exception to the more general provision of STA Section 3161(h)(1)(A), and thus “all delays caused by proceedings to determine a defendant’s competency are excluded, except for the time during which the defendant is supposed to be in transit, which is presumptively unreasonable if longer than ten days”). *But see United States v. Vasquez*, 918 F.2d 329, 333 (2d Cir. 1990) (holding that any period of delay while determining a defendant’s mental competency is excludable under STA Section 3161(h)(1)(A)); *United States v. Castellon*, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *14–15 (D. Colo. Mar. 1, 2023) (holding that, for a defendant who had been awaiting

believe that STA Section 3161(h)(4) overrides STA Section 3161(h)(1)(F).¹⁵⁰ According to this view, once the court ordered Jane to undergo mental competency restoration, STA Section 3161(h)(4) controls, and therefore, the STA places no limit on how long the government may take to transport Jane to the hospital.¹⁵¹ Conversely, other courts hold that following the court's order for Jane's competency evaluation on March 1, 2019, STA Section 3161(h)(1)(F), the more specific provision, should govern.¹⁵² According to this interpretation, the government must transport Jane to the hospital by March 11, 2019, at the latest. Regardless of how a court interprets the provisions of the STA, its overarching objective persists: to expedite the adjudication, prevent Sixth Amendment violations, and ensure the swift administration of justice.¹⁵³

Given the ramifications of non-compliance with the time constraints imposed by the STA, notably the potential filing of a dismissal motion by the defendant, the significance of meeting the required timeframe cannot be overstated.¹⁵⁴ At the time of the STA's enactment, the threat of dismissal was viewed "as the critical element that made the time limits more than merely precatory."¹⁵⁵ In fact, the American Bar Association standards at the time suggested that the STA include "absolute discharge" as the consequence of failing to abide by

transportation to a hospital for competency restoration for over four months, STA Section 3161(h)(4), not STA 3161(h)(1)(F), "provides the appropriate basis to toll the Speedy Trial clock for the entire period").

150. See, e.g., *Vasquez*, 918 F.2d at 333 (holding that any period of delay while determining a defendant's mental competency is excludable under STA Section 3161(h)(1)(A)).

151. See *id.*

152. See e.g., *Tinklenberg*, 579 F.3d at 596 (holding that STA Section 3161(h)(1)(F) must be read to be an exception to the more general provision of STA Section 3161(h)(1)(A)).

153. Madison Carvello, Note, *Right to a Speedy Trial for All, Unless You're Incarcerated: How Sixth Amendment Jurisprudence Allows for Prolonged Isolation—United States v. Bailey-Snyder*, 923 F.3d 289, 291 (3d Cir. 2019), 27 SUFFOLK J. TRIAL & APP. ADV. 111, 116 (2021).

154. 18 U.S.C. § 3162(a)(2).

155. PARTRIDGE, *supra* note 136, at 32.

the time limits of the STA.¹⁵⁶ Before the STA's enactment, there was a proposed amendment to include a provision within Section 3161(h) that would have allowed the court discretion to grant extensions to the enumerated provisions of the Act.¹⁵⁷ The fact that this was not included within the final text of the statute suggests that Congress did not wish to give courts this leeway.¹⁵⁸

The importance of promptly adjudicating criminal cases to preempt potential Sixth Amendment and due process violations is underscored by these pivotal Supreme Court decisions and congressional legislation. The IDRA and the STA are crafted to avert undue delay in the trial proceedings, concurrently attending to the rehabilitative needs of defendants grappling with a limited understanding of the charges levied against them.¹⁵⁹ These legal measures aim to strike a delicate balance between ensuring expeditious trials and the effective rehabilitation of defendants facing competency challenges. The following section will delve into the confusion and resulting dysfunction arising from the divergent interpretations of these statutes.

156. *Id.* (stating that American Bar Association Standard 4.1 recommended “discharge that ‘should forever bar prosecution for the offense charged and for any other offense required to be joined with that offense’”).

157. *Id.* at 95–96. The Judicial Conference recommended adding an amendment to STA Section 3161(h) that would allow the trial judge to increase the time limitations “to accommodate delays reasonably necessitated by the kinds of events that are now dealt with as exclusions, provided that the court makes written or oral findings stating its reasons for granting the extension.” *Id.* The Judicial Conference believed this amendment to be necessary to “avoid litigation based on highly technical grounds.” *Id.* at 96.

158. *See id.* at 32.

159. *See United States v. Tinklenberg*, 563 U.S. 647, 657 (2011) (The STA “seeks to achieve efficiency in the processing of cases which is commensurate with due process.”). While 18 U.S.C. Section 4241(d) (the IDRA) prevents undue delay, or endless confinement of an incompetent criminal defendant, 18 U.S.C. § 3161(h)(F) (the STA) works to expedite the process of transporting the defendant to a suitable facility for treatment. *United States v. Carter*, 583 F. Supp. 3d 94, 101 (2022).

III. IDRA AND STA: CREATING CONFUSION IN LOWER COURTS

The legislative history¹⁶⁰ and Supreme Court decisions on pretrial detention of mentally incompetent defendants underscore a significant concern for due process violations because of prolonged delays in competency restoration.¹⁶¹ Those courts that interpret the IDRA's four-month limitation as commencing upon a defendant's hospitalization,¹⁶² while also excluding time from the STA's seventy-day limit for a defendant's incompetency,¹⁶³ suggest a tolerance for indefinite pretrial detention for mental competency purposes. In Jane's situation, if the IDRA's four-month limitation began to run only upon her admission to the hospital, and if the STA's provision allowing delays due to a defendant's incompetency controlled, then there would be no statutory limitation on her pre-hospitalization detention period. As Jane's case represents, these various interpretations have profound implications for defendants deemed incompetent.¹⁶⁴

160. See PARTRIDGE, *supra* note 136, at 179 (“The [Senate] Committee believes that both delay and haste in the processing of criminal cases must be avoided; neither of these tactics inures to the benefit of the defendant, the Government, the courts nor society. The word speedy does not, in the Committee’s view, denote assembly-line justice, but efficiency in the processing of cases which is commensurate with due process.”).

161. See *supra* Section II.A. and accompanying text.

162. 18 U.S.C. § 4241(d)(1); see, e.g., *United States v. Donnelly*, 41 F.4th 1102, 1105 (9th Cir. 2022) (holding that IDRA Section 4241(d) begins when the defendant enters the hospital for restoration, not when the court orders the hospitalization).

163. 18 U.S.C. § 3161(h)(4); see, e.g., *United States v. Romero*, 833 F.3d 1151, 1155 (9th Cir. 2016) (holding that transportation delays that would otherwise be considered unreasonable under STA Section 3161(h)(1)(F) are not applicable when time is already excluded by STA Section 3161(h)(4)); *United States v. Pendleton*, 665 F. App’x 836, 839 (11th Cir. 2016) (“[I]f a defendant is mentally incompetent under [STA] § 3161(h)(4), that time is excludable even if there is also a transportation delay that is unreasonably long and thus not excludable under [STA] § 3161(h)(1)(F).”).

164. See, e.g., *United States v. Castrellon*, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *11 (D. Colo. Mar. 1, 2023) (holding that a defendant who was deemed incompetent and ordered to the custody of the Attorney General under IDRA Section 4241(d) on August 23, 2022, and who was not expected to arrive at the hospital for restoration until April 2023 due to a lack of bed space, did not have his rights under the IDRA violated. The court did not recommend the government expedite the process but rather stated that if the defendant did not reach the hospital by the promised date, the court would consider dismissing the indictment); *Donnelly*, 41 F.4th at 1104–06 (holding that a delay of six months in getting the defendant to the

A. District Courts' Varying Interpretations of the IDRA

Because of the high number of people ordered to undergo a competency evaluation before a criminal trial, the statutes protecting these defendants from undue delay are vital.¹⁶⁵ The IDRA was enacted following the Supreme Court's ruling in *Jackson* to ensure that defendants were not held indefinitely after being deemed incompetent.¹⁶⁶ By stipulating a compulsory four-month period for evaluating a defendant's competency, Congress established clear parameters, delineating what is considered a reasonable timeframe.¹⁶⁷

The IDRA seeks to balance the necessity of assessing mental competency with the equally vital imperative of preventing prolonged, unjust detention.¹⁶⁸ Section 4241(d) of the IDRA simply reads: "The Attorney General shall hospitalize the defendant for treatment in a suitable facility *for such a reasonable period of time*, not to exceed four months, as is necessary to determine . . . [whether the defendant] will attain the capacity to permit the proceedings to go forward."¹⁶⁹ The plain language states that the government "shall hospitalize the defendant" once the Attorney General gains "custody" of her.¹⁷⁰

appropriate facility for restoration violated *Jackson*'s reasonableness requirement and the Congressional mandate in IDRA Section 4241(d). However, despite this violation, the court found that dismissal of the indictment was not warranted because it did not rise to the level of "grossly shocking and outrageous government misconduct" that necessitates dismissal.).

165. Morris et al., *supra* note 12.

166. See, e.g., *United States v. Filippi*, 211 F.3d 649, 652 (1st Cir. 2000) ("[IDRA Section 4241(d)] is self-evidently built upon *Jackson*."); *United States v. Shawar*, 865 F.2d 856, 864 (7th Cir. 1989) ("Congress clearly was aware of the Court's decision in *Jackson*, and echoed its language in § 4241(d)."); *United States v. Donofrio*, 896 F.2d 1301, 1302 (11th Cir. 1990) (IDRA Section 4241(d) "was passed in response to the Supreme Court decision in *Jackson*.").

167. See, e.g., *United States v. Gamarra*, 308 F. Supp. 3d 230, 233 (D.D.C. 2018) (holding that the mandatory language of IDRA Section 4241(d) precludes the possibility that the four-month timeline can be extended).

168. See generally *Jackson v. Indiana*, 406 U.S. 715 (1972).

169. 18 U.S.C. § 4241(d) (emphasis added).

170. *Id.* § 4241(d)(1); see also *United States v. Carter*, 583 F. Supp. 3d 94, 101 (D.D.C. 2022) ("[T]he plain text of [IDRA] § 4241(d)(1) provides that the government 'shall hospitalize' an incompetent defendant as soon as the government obtains 'custody' over him.").

However, courts have competing views of IDRA Section 4241(d), particularly regarding the requirement for hospitalization: a “reasonable period of time, not to exceed four months.”¹⁷¹

Most courts interpret IDRA Section 4241(d) as indicating that the four-month limit applies solely to the duration of hospitalization and does not include the time before the defendant is hospitalized.¹⁷² Under this view, after the court orders the IDRA Section 4241(d) restoration, the four-month timeframe will not begin unless the defendant is immediately placed in a hospital for such treatment.¹⁷³ Conversely, the minority view holds that the plain text of IDRA Section 4241(d)(1) dictates that once the court orders the defendant’s commitment to the custody of the Attorney General, the government has a four-month window for hospitalization.¹⁷⁴ Under this interpretation, any delay in transporting the defendant to a hospital is considered within the four-month timeframe.¹⁷⁵ Thus, any time the defendant spends in pre-hospitalization custody counts toward the four months.¹⁷⁶ Because these two interpretations of the IDRA also intersect with views of the STA, a total of three composite perspectives are discussed in detail below.

171. See *infra* notes 172–76 and accompanying text.

172. E.g., *United States v. Delorme*, No. CR 19-2322 JB, 2023 U.S. Dist. LEXIS 200116 (D.N.M. Nov. 7, 2023).

173. *United States v. Castellon*, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *11–15 (D. Colo. Mar. 1, 2023); see also *United States v. Magassouba*, 544 F.3d 387, 410 (2d Cir. 2008) (holding that IDRA Section 4241(d) begins the moment a defendant is hospitalized, not upon the court’s order).

174. *Carter*, 583 F. Supp. 3d at 100 (D.D.C. 2022); see also *United States v. Donnelly*, 41 F.4th, 1102, 1108 (9th Cir. 2022) (Watford, J., concurring) (“Nothing in [IDRA Section 4241(d)] suggests that Congress envisioned the creation of two separate time periods, the first a period of pre-hospitalization commitment subject to no statutory time constraints whatsoever, to be followed by a period of hospitalization subject to a strict four-month time constraint.”).

175. *Carter*, 583 F. Supp. 3d at 100.

176. *Id.*

1. Fourth and Tenth Circuits: The IDRA Does Not Limit Pre-Hospitalization Custody and the STA Excludes Time After a Defendant Is Deemed Incompetent

Recently, a district court in the Tenth Circuit heard motions from a defendant who had remained unplaced for five months while awaiting IDRA Section 4241(d)(1) competency restoration.¹⁷⁷ After the defendant filed two motions to dismiss the charges for violations of both the IDRA and the STA,¹⁷⁸ the district court denied both motions, holding that any pre-hospitalization detention is not included within the four-month time limit under IDRA Section 4241(d).¹⁷⁹ The court also held that, under Section 3161(h)(4) of the STA, the Speedy Trial clock is tolled until the defendant's competency is restored under IDRA Section 4241(d)(1).¹⁸⁰

In Jane's situation, she was likewise ordered to undergo competency restoration on April 1, 2019, and was admitted to the hospital on January 1, 2020. If she brought an action for an IDRA violation, a court in the Tenth Circuit would find no violation, even though the government spent nine months on her restoration, instead of four months, the maximum amount of time allowed under the IDRA.¹⁸¹ Additionally, were Jane to bring a motion for an STA violation, a Tenth Circuit court would hold that, because Jane was deemed incompetent

177. *Castrellon*, 2023 U.S. Dist. LEXIS 35107 at *3 (“[T]he Government filed a Status Report, stating that Mr. Castrellon had been designated [to a facility] on July 22, 2022 . . . but that ‘[t]here are presently long waits for bed space [at the facility]’ and that Mr. Castrellon was not expected to arrive at the [facility] until April 2023.”).

178. *Id.* at *3–4.

179. *Id.* at *7. The district court, in not finding an IDRA violation, refused to order the government to place the defendant in a facility by a certain date. *Id.* at *11. The court believed that doing so could be “unduly disruptive or . . . [could] result in the Attorney General designating [the defendant] to a less-optimal facility.” *Id.* Instead, the court simply stated it would hold the government to its word that it would place the defendant in a facility by April 2023, by which time the defendant would have spent more than eight months in pre-hospitalization custody. *Id.*

180. *Id.* at *10–11; *see also* 18 U.S.C. § 3161(h)(1)(A) (“The following periods of delay shall be excluded in computing the time . . . within which the trial of any such offense must commence: Any period of delay resulting from other proceedings concerning the defendant, including . . . delay resulting from any proceeding, including any examinations, to determine the mental competency . . . of the defendant.”).

181. *See Castrellon*, 2023 U.S. Dist. LEXIS 35107, at *11.

on March 1, any delay in getting Jane the competency restoration she needs is excluded from the STA's seventy-day clock.¹⁸² Under the Tenth Circuit's view, once Jane is deemed incompetent under IDRA Section 4241(d), and if the government has not yet transported her to the hospital for treatment, neither the STA nor the IDRA's time limitations are applicable.¹⁸³

In a Fourth Circuit case with a similar set of facts, a defendant could not be placed in a hospital due to a shortage of bed space.¹⁸⁴ The court deemed this delay "automatically excludable, without time limit" because, under STA Section 3161(h)(4), the delay resulted from the defendant's mental incompetency.¹⁸⁵ The district court stated that the entirety of an incompetency delay is automatically excluded from the statutory timeframe since the STA does not impose any time constraint on the duration of such delays.¹⁸⁶ Again, in Jane's situation, a court in the Fourth Circuit would hold that the nine-month delay in getting her to the hospital was excludable time under the STA because the court ordered her to undergo competency restoration.¹⁸⁷ Therefore, any delay would be excludable under STA Section 3161(h)(4).¹⁸⁸ Additionally, a Fourth Circuit court would hold that because the STA does not contain a provision limiting pre-hospitalization detention, then there is no measure in place to limit this time.¹⁸⁹

2. Ninth Circuit: IDRA's Four-Month Limit Applies Only to Actual Hospitalization

In a Ninth Circuit case, the defendant, ordered to undergo competency restoration but held in pre-hospitalization detention for six

182. *See id.*

183. *See id.*

184. *United States v. Bashar*, 3 F. Supp. 3d 541, 543 (E.D. Va. 2014).

185. *Id.* at 542. The district court also stated, "If the delay is a transportation delay, only 10 days are automatically excludable. If the delay is an incompetence delay, the full length of the delay is automatically excludable." *Id.* Notably, this view implies that Congress, in enacting the STA, intended to limit the amount of time *competent* defendants spent in transportation to and from hospitals while not affording incompetent defendants the same protection.

186. *Id.* at 543.

187. *See id.*

188. *See id.*

189. *See id.*

months, brought a motion for a violation of the IDRA.¹⁹⁰ The court stated that, “[a]lthough Congress did not provide a specific time limit for a pre-hospitalization commitment period, *Jackson* requires the duration of any such commitment to ‘bear some reasonable relation’ to its purpose.”¹⁹¹ This means that the pre-hospitalization period must relate to the government’s efforts to achieve its directive under IDRA Section 4241(d)—assessing and restoring the defendant’s competency.¹⁹²

In *Donnelly*, the Ninth Circuit found a violation of the IDRA because, at the time of the opinion, the defendant had spent more than eight months in pre-hospitalization detention—more than double the maximum amount of time allowed by the IDRA.¹⁹³ In the Ninth Circuit’s view, the four-month limitation imposed by the IDRA strictly pertains to the defendant’s actual hospitalization, but it also delineates what qualifies as “reasonable” for pre-hospitalization custody.¹⁹⁴ Although the court declined to decide the maximum duration allowable, it found that an eight-months duration was certainly unreasonable.¹⁹⁵

The Ninth Circuit would likely find an IDRA violation in Jane’s situation. Jane spent nine months in pre-hospitalization custody, double the allowable time under the IDRA.¹⁹⁶ However, it would be a violation not because the four-month timeframe dictated by IDRA Section 4241(d) had passed, but rather because nine months is not “reasonable” under *Jackson*.¹⁹⁷ Therefore, to uphold due process and

190. United States v. Donnelly, 41 F.4th 1102, 1104 (9th Cir. 2022).

191. *Id.* at 1106 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

192. *Jackson*, 406 U.S. at 738.

193. 41 F.4th at 1106.

194. *Id.*

195. *Id.* at 1108.

196. *See id.* at 1106.

197. *Id.* at 1107 (“In sum, Congress requires the Attorney General to hospitalize a defendant after he is found incompetent. Whether he must do so immediately or is allowed a brief period of pre-hospitalization commitment reasonably limited to allow the Attorney General to identify a suitable facility and arrange for the defendant’s transportation to that facility, the government’s delay cannot exceed four months. We make no ruling as to the maximum allowable length of a pre-hospitalization commitment period, but hold that the eight months Donnelly has waited to be hospitalized in a suitable facility plainly exceeds whatever period the statute conceivably allows. In order to further Congress’s directive to determine whether

the Sixth Amendment, the Ninth Circuit holds that any period of delay, although not included in the four months outlined in IDRA Section 4241(d), must be “reasonable.”¹⁹⁸

3. D.C. Circuit: IDRA’s Four-Month Limit Includes Both Pre-Hospitalization and Hospitalization

Conversely, in a minority view, the D.C. District Court has held that failure to assess a defendant’s competency within four months of the date of the order committing the defendant to the custody of the Attorney General violates the IDRA.¹⁹⁹ In *Carter*, the court ordered the defendant to undergo IDRA Section 4241(d)(1) mental competency restoration on September 1, 2021, and the D.C. Circuit held that the government was required to make its competency restoration assessment by January 1, 2022.²⁰⁰ The court articulated its stance, stating:

The government obtained custody over [the defendant], within the meaning of [IDRA § 4241(d)(1)], on September 1, 2021. And § 4241(d)(1) does not mention delays in transporting defendants for hospitalization, let alone subject them to a different timetable. Accordingly, to the degree that § 4241(d)(1) allows the government to delay defendants’ transportation, those delays must be a part of the “reasonable period of time, not to exceed four months.” Likewise, the government may not delay the four-month deadline by detaining an incompetent defendant in a non-hospital setting.²⁰¹

restoration is substantially probable while at the same time respecting Donnelly’s due process interests, we remand to the district court with instructions to order the Attorney General to hospitalize Donnelly within seven days.”).

198. *Id.* at 1106; *see also* United States v. Castrellon, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *10–11 (D. Colo. Mar. 1, 2023) (“[G]enerally, delays of four, six, or eight months in designating defendants to a medical facility strain the bounds of what can be deemed ‘reasonable’ periods of detention under *Jackson*.”).

199. United States v. Carter, 583 F. Supp. 3d 94, 102–03 (D.D.C. 2022).

200. *Id.* at 100–01.

201. *Id.* (citations omitted) (quoting 18 U.S.C. § 4241(d)(1)).

Unlike courts in the Fourth, Tenth, Ninth, and Eighth Circuits, the D.C. District Court maintains that under the IDRA, the government has a strict four-month window for *both* transporting the defendant and conducting any necessary assessment or treatment.²⁰² Additionally, the D.C. District Court held that the government cannot prolong the four months by keeping the defendant in a local jail or state facility—the defendant must be placed in a hospital setting conducive to the mandated treatment required under IDRA Section 4241(d)(1).²⁰³

Further, the D.C. District Court also held that the delay did not violate the STA, because the defendant was deemed incompetent, and therefore, under STA Section 3161(h)(4), all time after the incompetency finding is excluded from the seventy-day window.²⁰⁴ The court reasoned that the STA and the IDRA work together: “The [STA] required the parties to proceed expeditiously ‘before [the defendant] was found to [be] incompetent.’ Now, after that finding, [the] ‘IDRA requires the government to reach a decision on whether he can be restored to competence within a period “not to exceed four months.”’”²⁰⁵ Thus, the D.C. District Court found that, in the interplay between the IDRA and the STA, the IDRA’s four-month mandate dictated how much time the government can spend on pre-hospitalization custody and actual hospitalization.²⁰⁶

The root of this confusion is that courts seemingly have the discretion to choose which statute to enforce.²⁰⁷ Courts can opt to apply IDRA’s plain-meaning text, interpreting it as they see fit, or defer to the STA, excluding all pre-hospitalization time from the Speedy Trial clock when a defendant is found incompetent.²⁰⁸ For example, in the Tenth Circuit, the four-month stipulation in the IDRA does not apply

202. *Id.*

203. *Id.*

204. *Id.* at 99.

205. *Id.* (citations omitted) (quoting 18 U.S.C. § 4241(d)(1)).

206. *Id.*

207. *See* United States v. Castellon, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *1–4 (D. Colo. Mar. 1, 2023) (holding that because the defendant was deemed incompetent under the STA, any time spent in pre-hospitalization custody was excluded from the seventy-day clock. Due to this, the IDRA essentially became irrelevant despite the defendant bringing motions for both IDRA and STA violations.).

208. *See id.*

when a defendant has not yet been hospitalized,²⁰⁹ and the STA excludes time due to a defendant's incompetency, allowing for no limitation on pre-hospitalization custody.²¹⁰ Similarly, in the Fourth Circuit, delays are acceptable from the Speedy Trial clock after a defendant has been deemed incompetent.²¹¹ In the Ninth Circuit, however, the plain meaning of the IDRA controls, and a pre-hospitalization custody exceeding four months violates the plain language of the IDRA.²¹² Finally, the D.C. District Court has taken the strictest stance, holding that the plain language of the IDRA applies the four-month limit to both the pre-hospitalization and hospitalization periods.²¹³

These varied interpretations make clear that courts disagree about the plain meaning of IDRA's language. Consequently, the next section will examine the methods utilized by courts in interpreting statutes.

B. Canons of Statutory Construction

The canons of statutory construction support the minority view espoused by the D.C. District Court. When courts engage in interpreting statutes, they begin with the plain language: "It is well established that 'when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.'"²¹⁴ A court cannot bypass a statute's plain language unless applying the literal language "would lead to absurd results . . . or thwart the obvious purpose of the

209. See *id.* at *10 ("[I]t is only upon the hospitalization that the four-month period begins to run."); see also *United States v. Marquez*, No. 1:21-cr-01510-KWR-1, 2024 U.S. Dist. LEXIS 88887, at *5–6 (D.N.M. May 16, 2024) ("Accordingly, while the time a defendant must wait is required to comply with due process, § 4241(d) does not place a specific timeframe on pre-hospitalization detention." (citing *Jackson v. Indiana*, 406 U.S. 715, 738–39 (1972))).

210. *Id.* at *12–13.

211. *United States v. Bashar*, 3 F. Supp. 3d 541, 543 (E.D. Va. 2014).

212. *United States v. Donnelly*, 41 F.4th 1102, 1106 (9th Cir. 2022).

213. *United States v. Carter*, 583 F. Supp. 3d 94, 100–01 (D.D.C. 2022).

214. See *Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004) (quoting *Hartford Underwriters Ins. Co. v. Union Planters Bank*, 530 U.S. 1, 6 (2000)).

statute.”²¹⁵ However, when the wording of a statute is susceptible to multiple interpretations, courts must address the ambiguity by examining the legislative intent.²¹⁶ This includes considering the purpose behind enacting the law—the concerns that Congress aimed to tackle, the objectives the law intended to fulfill, and the consequences of interpreting the statute in various ways.²¹⁷ Additionally, in cases where Congress does not address a specific provision in a statute, judges should refrain from adding “convenient language to yield the court’s preferred meaning.”²¹⁸ The significance of legislative history has waned in recent years as the Supreme Court has relied more on the textual-plain-meaning approach.²¹⁹ However, examining the intent of the IDRA alongside its plain meaning proves instructive.

1. IDRA Section 4241(d)(1): Plain Meaning and Legislative Intent

The enactment of the IDRA was prompted by the Supreme Court’s decision in *Jackson*, with the primary aim of realizing Congress’ vision to prevent due process violations when dealing with

215. *In re Trans Alaska Pipeline Rate Cases*, 436 U.S. 631, 643 (1978) (quoting *Comm’r v. Brown*, 380 U.S. 563, 571 (1965)); *see also* Jane S. Schacter, *Metademocracy: The Changing Structure of Legitimacy in Statutory Interpretation*, 108 HARV. L. REV. 593, 594 (1995) (“[N]o one will gain-say that the function in construing a statute is to ascertain the meaning of words used by the legislature. To go beyond it is to usurp a power which our democracy has lodged in its elected legislature.” (quoting Felix Frankfurter, *Some Reflections on the Reading of Statutes*, 47 COLUM. L. REV. 527, 533 (1947))).

216. *Blackstone v. Sharma*, 191 A.3d 1188, 1203 (Md. App. Ct. 2018) (citing *State v. Bey*, 156 A.3d 873 (Md. 2017)).

217. *Zellmer v. Facebook, Inc.*, No. 67, 2022 U.S. Dist. LEXIS 60239, at *8 (N.D. Cal. Mar. 31, 2022) (citing *Sigcho-Lopez v. Ill. State Bd. of Elections*, 201 N.E.3d 1077, 1085 (Ill. 2022)); *see also* *Harbor Island Marina, Inc. v. Bd. of Cnty. Comm’rs*, 407 A.2d 738, 742–43 (Md. Ct. App. 1979); *Booker v. State*, 808 S.W.2d 141, 144 (Tex. App. 1991) (“A statute susceptible of more than one construction is to be interpreted in the way which will best effect the legislative intent to secure the benefit intended by constitutional means.” (citing *Alobaidi v. State*, 433 S.W.2d 440, 442 (Tex. Crim. App. 1968))).

218. *Borden v. United States*, 593 U.S. 420, 436 (2021).

219. *See* David S. Romantz, *In Defense of Legislative History*, 90 MISS. L.J., 683, 684 (2021) (“[Recently] the so-called textualist approach championed by the late Justice Antonin Scalia succeeded by attrition to become the dominant interpretative approach on the Court.”).

incompetent criminal defendants.²²⁰ This is accomplished by establishing a precise and mandatory four-month timeframe, during which the government is obligated to undertake measures designed to restore the affected defendant's competency.²²¹ Interpreting the statute using its plain language, combined with understanding Congress' intent behind the IDRA, reveals that the four-month provision is intended to begin promptly upon the order for an incompetent defendant to undergo restoration under IDRA Section 4241(d).²²²

Currently, the majority of courts are either providing their own interpretations of IDRA Section 4241(d)(1), asserting that the four-month limit only applies to the hospitalization period,²²³ or bypassing the IDRA altogether by relying on the STA to govern such situations.²²⁴ However, Congress explicitly stipulated the four-month time for competency restoration under IDRA Section 4241(d)(1).²²⁵ If Congress intended to confine this time solely to the period of hospitalization, it would have done so.²²⁶ Instead, Congress specified

220. S. REP. NO. 98-225, at 236 (1983) ("In accord with the Supreme Court's holding in *Jackson v. Indiana*, commitment under [IDRA] Section 4241 may only be for a reasonable period of time Under [IDRA] Section 4241(d)(1) the period may not exceed four months.").

221. *Id.*

222. *See* *United States v. Anderson*, 679 F. App'x 711, 713 (10th Cir. 2017) ("[IDRA] Section 4241(d) is so limited. And the fact that the language tracks *Jackson* so closely is no surprise: the statute was revised in response to the Court's decision.").

223. *See, e.g., United States v. Donnelly*, 41 F.4th 1102, 1106 (9th Cir. 2022) ("In sum, Congress requires the Attorney General to hospitalize a defendant after he is found incompetent. Whether he must do so immediately or is allowed a brief period of pre-hospitalization commitment reasonably limited to allow the Attorney General to identify a suitable facility and arrange for the defendant's transportation to that facility, the government's delay cannot exceed four months. We make no ruling as to the maximum allowable length of a pre-hospitalization commitment period, but hold that the eight months Donnelly has waited to be hospitalized in a suitable facility plainly exceeds whatever period the statute conceivably allows.").

224. *See, e.g., United States v. Bashar*, 3 F. Supp. 3d 541, 544–45 (E.D. Va. 2014) (holding that an incompetency delay is automatically excluded from the statutory timeframe since the STA does not impose any time constraint on the duration of such delays).

225. 18 U.S.C. § 4241(d).

226. Congress, in enacting IDRA Section 4241(d), could have included language indicating that the IDRA's four-month time limit only applied to hospitalization. *Cf. N. Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 521 (1982) ("After

the four-month timeline, with a court-approved extension available if evidence shows that the defendant will gain competency within the additional time.²²⁷ If Congress intended the four-month limitation to be anything but an explicit mandate, it would have included it within the statute.²²⁸

Despite the majority of courts attempting to interpret the IDRA's four-month mandate as applicable only to the hospitalization period and introducing a "reasonableness" limitation for pre-hospitalization confinement, such interpretations run counter to statutory intent.²²⁹ The IDRA was enacted after the Supreme Court's ruling in *Jackson* held that detaining an incompetent person for an extended period without progressing toward competency violates a defendant's due process rights.²³⁰ The assumption that Congress intended to limit the hospitalization period without recognizing the pre-hospitalization period undermines the legislative intent behind the statute.²³¹

Moreover, as the D.C. District Court has emphasized, the language of IDRA Section 4241(d)(1) is clear.²³² *Jackson* established that "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual

all, Congress easily could have substituted 'student' or 'beneficiary' for the word 'person' if it had wished to restrict the scope of § 901(a).").

227. 18 U.S.C. § 4241(d); see also *Donnelly*, 41 F.4th at 1108 (Watford, J., concurring) ("The statute simply provides that upon finding the defendant not competent to stand trial, a district court 'shall commit' the defendant to the custody of the Attorney General. In the same breath, the statute states that the Attorney General 'shall hospitalize' the defendant for treatment and evaluation for a reasonable period of time not to exceed four months.").

228. Cf. *N. Haven Bd. of Educ.*, 456 U.S. at 521.

229. See *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004) ("It is well established that 'when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.'" (quoting *Hartford Underwriters Ins. Co. v. Union Planters Bank*, 530 U.S. 1, 6 (2000))).

230. *Jackson v. Indiana*, 406 U.S. 715, 720 (1972).

231. See S. REP. NO. 98-225, at 236 (1983) ("In accord with the Supreme Court's holding in *Jackson v. Indiana*, commitment under [IDRA] Section 4241 may only be for a reasonable period of time. Under [IDRA] Section 4241(d)(1) the period may not exceed four months."); see also *United States v. Filippi*, 211 F.3d 649, 652 (1st Cir. 2000) ("[IDRA 4241(d)] is self-evidently built upon *Jackson*.").

232. *United States v. Carter*, 583 F. Supp. 3d 94, 100 (D.D.C. 2022).

is committed.”²³³ Congress later incorporated these constitutional principles into the IDRA.²³⁴ Detaining an incompetent defendant in a local jail or state facility for an extended period before transfer to a hospital for treatment does not meet the “reasonable relation” criterion for commitment.²³⁵ Furthermore, when courts apply the four-month limit solely to the hospitalization period, they introduce extraneous language into the statutory framework.²³⁶ There is a fundamental difference between filling legislative gaps in the face of congressional silence and rewriting rules that Congress has expressly and specifically enacted.²³⁷ In agreement, the Supreme Court has succinctly noted: “[t]he short answer is that Congress did not write the statute that way.”²³⁸

IDRA Section 4241(d) becomes clearer when examined through the lens of its plain meaning and legislative intent. Its mandatory language and strict timeframe should not be construed as optional, and courts that currently treat it as such are defying these basic principles of statutory construction.²³⁹ The following discussion will explore the interaction between the IDRA and the STA within the framework of statutory interpretation.

2. Narrower and Newer Statutes Control: Examining the IDRA and STA Together

Courts typically adhere to the principle that statutes concerning the same subject should be interpreted harmoniously, or if that is not possible, newer, more specific statutes are given preference over older

233. *Jackson*, 406 U.S. at 738.

234. 18 U.S.C. § 4241(d).

235. *See Jackson*, 406 U.S. at 720.

236. *Cf. Burns v. United States*, 501 U.S. 129, 136 (1991) (“An inference drawn from congressional silence certainly cannot be credited when it is contrary to all other textual and contextual evidence of congressional intent.”).

237. *See Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004) (“It is well established that ‘when the statute’s language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.’” (quoting *Hartford Underwriters Ins. Co. v. Union Planters Bank*, 530 U.S. 1, 6 (2000))).

238. *United States v. Naftalin*, 441 U.S. 768, 773 (1979).

239. *United States v. Carter*, 583 F. Supp. 3d 94, 100 (D.D.C. 2022).

or more general statutes.²⁴⁰ Under this principle, if a conflict arises between statutes, the more recently enacted statute should prevail as Congress' "last expression."²⁴¹ "When two statutes complement each other, it would show disregard for the congressional design to hold that Congress nonetheless intended one federal statute to preclude the operation of the other."²⁴² Additionally, statutes that overlap may both be given effect if there is no "positive repugnance" between them.²⁴³ If provisions of two different statutes cannot be reconciled, courts will apply the rule that the latter of the two should prevail.²⁴⁴ These principles are important given that courts are interpreting the STA to exclude all time from the Speedy Trial clock after a defendant is deemed incompetent, thus ignoring the IDRA and disregarding this basic statutory interpretation principle.²⁴⁵

The STA, enacted in 1974, functions as a mechanism to streamline the criminal justice process and mitigate backlog in federal courts.²⁴⁶ The STA contains numerous time exclusions to accommodate the inherent flexibility required in criminal trials.²⁴⁷ In contrast, the IDRA, enacted ten years later in 1984, specifically addresses mental incompetency and the insanity defense.²⁴⁸ Despite the STA's reference to incompetent defendants, it is imperative for

240. *Tug Allie-B, Inc. v. United States*, 273 F.3d 936, 941 (11th Cir. 2001); *see also* *Miccosukee Tribe of Indians v. U.S. Army Corps of Eng'rs*, 619 F.3d 1289, 1299 (11th Cir. 2010) ("The conclusion that two statutes conflict, however, is one that courts must not reach lightly. If any interpretation permits both statutes to stand, the court must adopt that interpretation, 'absent a clearly expressed congressional intention to the contrary.'" (quoting *Garfield v. NDC Health Corp.*, 466 F.3d 1255, 1266 (11th Cir. 2006))).

241. *Ping v. United States*, 130 U.S. 581, 600 (1889).

242. *POM Wonderful LLC v. Coca-Cola Co.*, 573 U.S. 102, 115 (2014).

243. *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253 (1992) (quoting *Wood v. United States*, 41 U.S. 342, 363 (1842)).

244. *Tug Allie-B, Inc.*, 273 F.3d at 941.

245. *See POM Wonderful LLC*, 573 U.S. at 115.

246. *See United States v. Noone*, 913 F.2d 20, 28 (1st Cir. 1990) (stating that the STA has two purposes—to protect a defendant's right to a speedy trial and to assist the public in the quick adjudication of cases).

247. *United States v. Patterson*, 872 F.3d 426, 433 (7th Cir. 2017); *see also* 18 U.S.C. §§ 3161(h)(1)(F), 3161(h)(4) (providing the excludable time allowed under the STA).

248. S. REP. NO. 98-225, at 236 (1983).

courts not to construe the STA as controlling over the IDRA. Such an interpretation renders IDRA Section 4241(d) inoperative.²⁴⁹ If STA Section 3161(h)(1)(A) tolls the seventy-day timeframe for defendants receiving competency evaluations and STA Section 3161(h)(4) excludes time after the defendant is declared incompetent, then IDRA Section 4241(d) has no purpose.²⁵⁰

While both provisions share some common ground, viewing the STA's provisions as overriding the IDRA's four-month limitation would indicate a "disregard" for Congress' intent.²⁵¹ Each statute embodies distinct purposes: the STA is crafted to expedite the criminal process and avoid speedy trial violations,²⁵² whereas the IDRA is focused on averting due process violations arising from trying incompetent criminal defendants and the unchecked pretrial detainment of such defendants.²⁵³ Despite addressing the intertwined issues of timing and mental competency, the statutes remain centered on different subject matters, each incorporating unique safeguards for criminal defendants.²⁵⁴

It is entirely feasible to give effect to both statutes, even with their overlapping aspects.²⁵⁵ The STA can retain its authority to exclude various periods from the Speedy Trial clock; however, its provisions relating to incompetent defendants cannot dictate the duration of pre-hospitalization detention, nor can they govern the timeframe for the government's evaluation and restoration efforts once

249. See *Hibbs v. Winn*, 542 U.S. 88, 101 (2004) ("A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." (quoting 2A N. SINGER, STATUTES AND STATUTORY CONSTRUCTION § 46.06, 181–86 (6th ed. 2000))).

250. See *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253 (1992) (holding that, despite significant similarities between two statutes, each dealt with issues not addressed by the other).

251. *POM Wonderful LLC v. Coca-Cola Co.*, 573 U.S. 102, 115 (2014).

252. *Speedy Trial Act of 1974 Enacted*, *supra* note 10.

253. *United States v. Donofrio*, 896 F.2d 1301, 1302 (11th Cir. 1990) (stating that the IDRA was passed after the Supreme Court's ruling in *Jackson*, to avert constitutional violations).

254. *Cf. POM Wonderful LLC*, 573 U.S. at 115.

255. See *Germain*, 503 U.S. at 253 (quoting *Wood v. United States*, 41 U.S. 342, 363 (1842)).

the defendant is placed in a hospital.²⁵⁶ These aspects fall within the specific purview of the IDRA.

Crucially, when examining the combined impact of the IDRA and the STA, it becomes evident that if one provision fails to limit the duration a defendant can be held in pre-hospitalization custody, the other must impose such restrictions. Otherwise, there would be a loophole within the scheme allowing defendants to be detained endlessly.²⁵⁷ Such a loophole would violate the Supreme Court's ruling in *Jackson* by enabling unrestricted pretrial detention of mentally incompetent defendants.²⁵⁸ It would also contravene the core principles of the STA by not ensuring that trials are handled as expeditiously as possible to protect against speedy trial violations.²⁵⁹ Therefore, even a court that opts to lean upon exclusions in the STA must nevertheless give effect to the four-month limit of the IDRA to prevent an indefinite and unreasonable detention.

Both statutes have unique purposes and were enacted for differing reasons.²⁶⁰ Although they overlap, courts should not construe the STA as limiting the duration of a defendant's competency restoration because that is the purpose of the later-enacted IDRA.²⁶¹ Consequently, courts that interpret the STA as exerting control over the timeframe for mentally incompetent defendants under the IDRA essentially nullify the purpose and effect of IDRA Section 4241(d).²⁶²

256. See *United States v. Carter*, 583 F. Supp. 3d 94, 100 (D.D.C. 2022).

257. See *id.* (stating that if the court adopted the view that the four-month timeframe does not begin until the defendant reaches the hospital, then defendants "would lack any statutory recourse against potentially indefinite delays in transporting them to a suitable facility. It is hard to imagine that Congress, which passed [IDRA] § 4241 to codify the Supreme Court's due process precedents intended such a result.").

258. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

259. *The Lagging Right to a Speedy Trial*, *supra* note 22, at 1594.

260. See, e.g., *United States v. Noone* 913 F.2d 20, 28 (1st Cir. 1990) (stating that the STA was designed to protect defendants' speedy trial rights); *Dwares*, *supra* note 99, at 870, 890 (explaining how the IDRA was enacted to ensure that defendants' due process rights were not violated).

261. See *Carter*, 583 F. Supp. 3d at 100 ("The government violated [the] IDRA because it failed to assess whether [defendant's] competence could be restored 'in a reasonable period of time, not to exceed four months.'" (quoting 18 U.S.C. § 4241(d)(1))).

262. Cf. *POM Wonderful LLC v. Coca-Cola Co.*, 573 U.S. 102, 115 (2014) ("When two statutes complement each other, it would show disregard for the

The plain meaning of IDRA Section 4241(d)(1), coupled with Congress' intent in its enactment, highlights that the IDRA, not the STA, should guide courts in dealing with the pre-hospitalization custody and hospitalization of defendants subjected to IDRA Section 4241(d)(1).²⁶³

IV. SOLUTION

Ensuring the protection of due process rights for mentally incompetent defendants necessitates a judicious approach by the courts in interpreting the IDRA and the STA, aligning with their original legislative intent. This approach not only upholds the principles envisioned by the Framers²⁶⁴ but also embraces the rich jurisprudence surrounding mental incompetency and due process rights since our nation's inception.²⁶⁵ This straightforward yet impactful solution requires no additional legislation; instead, it relies on existing legal frameworks and the basics of statutory construction. By following these principles, courts can actively foster fairness and equity in our criminal justice system. This approach serves society's interest in swift adjudication of criminal cases while safeguarding the dignity and rights of mentally incompetent defendants.²⁶⁶

This Note puts forth a two-pronged strategy for addressing the divergent interpretations of the IDRA and the STA. First, it realigns

congressional design to hold that Congress nonetheless intended one federal statute to preclude the operation of the other.”).

263. See *Carter*, 583 F. Supp. 3d at 100; see also *United States v. Donofrio*, 896 F.2d 1301, 1303 (1990) (“The [IDRA] limits confinement to four months, whether more time would be reasonable or not. Any additional period of confinement depends upon the court’s finding there is a probability that within the additional time he will attain capacity to permit trial, 18 U.S.C.A. § 4241(d)(2)(A), or if he is found to create a substantial risk to himself and to others, pursuant to 18 U.S.C.A. § 4246.”).

264. See *The Lagging Right to a Speedy Trial*, *supra* note 22, at 1594, for a detailed explanation of the background of the constitutional right to a speedy trial. See also *Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967) (holding that “the right to a speedy trial” is one of the most fundamental rights afforded by the Sixth Amendment).

265. See *Winick*, *supra* note 33, at 574–75 (discussing the origins of the incompetency doctrine).

266. *PARTRIDGE*, *supra* note 136, at 11 (“In the late sixties, speedy trial legislation acquired [the] . . . purpose . . . as a vehicle for protecting society’s interest in bringing criminals to justice promptly.”).

the relevant legislation with the original intentions of Congress when enacting these provisions. Second, it mitigates the potential risk of due process violations arising from prolonged pretrial detention linked to concerns about mental incompetency. This solution is straightforward, requiring nothing more than a judicious application of the principles of statutory construction by the courts.

A. Plain Meaning and Intent of IDRA Section 4241(d)

Courts that interpret IDRA Section 4241(d)'s mandate as a mere recommendation deviate from the original intent of both Congress and the Supreme Court, which is to safeguard against any lapses in due process.²⁶⁷ The statutory language itself underscores its mandatory nature, explicitly demanding an evaluation of a defendant's competency and the potential for restoration within "a reasonable period of time, not to exceed four months."²⁶⁸ Moreover, the subsequent provision injects a degree of flexibility in the timeline, permitting a limited extension beyond the initial four-month window if the court deems it necessary to ensure the defendant achieves the required competency.²⁶⁹ This addition to the statute indicates that the four-month deadline outlined in IDRA Section 4241(d) is a strict constraint; otherwise, adopting the more adaptable provision would be redundant.²⁷⁰

Including both provisions underscores Congress' careful consideration of what qualifies as a "reasonable period" and the acknowledgment that circumstances may justify an extension, subject to the court's judgment.²⁷¹ This is a nuanced approach, balancing the

267. *United States v. Anderson*, 679 F. App'x 711, 712–13 (10th Cir. 2017).

268. 18 U.S.C. § 4241(d)(1).

269. *Id.* § 4241(d)(2)(A).

270. *See United States v. Gamarra*, 308 F. Supp. 3d 230, 233 (D.D.C. 2018) ("Nor did Congress set any provision for extending the four-month period, as it did for the initial thirty-day evaluation, which can be extended for up to fifteen more days. The only manner by which a defendant can be kept in confinement beyond four months is through a court order finding that he has a substantial probability of attaining competency.").

271. *See Russello v. United States*, 464 U.S. 16, 23 (1983) ("[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." (quoting *United States v. Wong*

need for a strict timeframe and acknowledging potential unexpected exigencies. Both *Jackson* and the IDRA highlight that due process demands a nexus between the nature and duration of commitment and the intended purpose for which the individual is committed.²⁷²

A plain-meaning analysis of the statutory scheme shows that, after a court orders an IDRA Section 4241(d) evaluation, the Attorney General has four months to attempt to restore the defendant's competency.²⁷³ If the four months pass and the court has not ordered an extension, then the defendant's detention violates the IDRA and, in turn, the protections set forth by *Jackson*.²⁷⁴ Reading the statute this way effectuates Congress' intent to limit how long a competency commitment period can last.²⁷⁵ In the IDRA's legislative history, there was no mention of a separate period for pre-hospitalization and a separate period for actual hospitalization.²⁷⁶ Because Congress did not set separate periods for pre-hospitalization confinement and for mental competency restoration, one can infer that Congress did not intend for there to be any additional time needed outside of the four months for the entire process to occur.²⁷⁷

Moving forward, it is imperative for courts to carefully contemplate both the explicit language and the underlying intent of the IDRA.²⁷⁸ While courts acknowledge the legislative genesis of the IDRA, there is a discernible gap in appreciating the essence of the IDRA's purpose.²⁷⁹ Moreover, a notable divergence exists in reading

Kim Bo, 472 F.2d 720, 722 (5th Cir. 1972)); see also 2A N. SINGER, STATUTES AND STATUTORY CONSTRUCTION § 46.06, 181–86 (6th ed. 2000) (“A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.”).

272. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

273. *Carter*, 583 F. Supp. 3d at 100.

274. *United States v. Baker*, 807 F.2d 1315, 1320 (6th Cir. 1986).

275. *United States v. Donnelly*, 41 F.4th, 1102, 1108 (9th Cir. 2022) (Watford, J., concurring).

276. *Id.*

277. *See id.* (“Congress intended § 4241(d)(1)’s four-month time limit to apply to the entire period of confinement, not just the period of hospitalization.”).

278. *See POM Wonderful LLC v. Coca-Cola Co.*, 573 U.S. 102, 115 (2014) (“When two statutes complement each other, it would show disregard for the congressional design to hold that Congress nonetheless intended one federal statute to preclude the operation of the other.”).

279. *See id.*

the statute in accordance with its inherent mandatory nature and plain language.²⁸⁰ Approaching future IDRA violations in this manner, bringing together the principles of plain meaning, intent, and fairness, will help shape a more equitable legal landscape for incompetent criminal defendants.

B. Newer and Narrower Statute Controls

In light of the existing ambiguity surrounding the interplay between the IDRA and the STA, it becomes imperative to establish a judicious and constitutionally sound legal framework for handling cases involving incompetent criminal defendants. To navigate this complexity, courts should adopt a nuanced approach that recognizes the distinct purposes of each statute, avoiding nullification or undue limitations on their provisions.²⁸¹ By doing so, courts can reconcile both statutes to faithfully fulfill Congress' intended purpose.²⁸²

First, it is paramount for courts to affirm the overarching principle that statutes addressing the same subject matter should be interpreted in harmony.²⁸³ In instances of conflict, preference should be accorded to the newer, more specific statute.²⁸⁴ Courts can use these guiding principles to delineate clear responsibilities for the STA and the IDRA in cases involving incompetent defendants. The STA can maintain its authority to exclude time from the Speedy Trial clock. However, its provisions related to incompetent defendants should not dictate the duration of pre-hospitalization custody or the timeframe for the government's restoration efforts under IDRA Section 4241(d)(1).²⁸⁵ These specific aspects fall within the purview of the

280. *See Foster v. United States*, 303 U.S. 118, 120 (1938) ("Courts should construe laws in harmony with the legislative intent and seek to carry out legislative purpose.").

281. *See Booker v. State*, 808 S.W.2d 141, 144 (Tex. App. 1991) (stating that a statute open to multiple interpretations "is to be interpreted in the way which will best effect the legislative intent to secure the benefit intended by constitutional means.").

282. *See id.*

283. *POM Wonderful LLC*, 573 U.S. at 115.

284. *Tug Allie-B, Inc. v. United States*, 273 F.3d 936, 941 (2002).

285. *See McKendry v. State*, 641 So. 2d 45, 46 (Fla. 1994) ("[The] later promulgated statute should prevail as the last expression of legislative intent.").

IDRA, which was precisely designed to address issues of mental incompetency.²⁸⁶

Moreover, the IDRA is not only the more specific statute but also the more recently enacted one. Consequently, in any conflicts that arise between the STA and the IDRA in mental competency situations, the IDRA should control. This approach ensures that courts effectuate Congress' intent in enacting both provisions. Courts that presently interpret the STA to exclude time after a defendant is found incompetent while neglecting the mandates of the IDRA are not adhering to this fundamental principle of statutory construction.²⁸⁷

By incorporating these principles, courts can ensure that their rulings align with the core tenets of both statutes. Adhering to these statutory construction principles will help prevent the erosion of constitutional protections, ultimately fortifying the rights of mentally incompetent criminal defendants and effectuating Congress' intent in both statutes. Further, embracing these principles fosters a legal environment that promotes equity and justice, safeguarding the rights of vulnerable individuals while upholding the integrity of legislative intent.

V. CONCLUSION

Currently, the conflicting provisions within the IDRA and the STA introduce confusion in courts addressing issues related to mentally incompetent defendants. This complexity poses a significant challenge to ensuring the protection of due process and speedy trial rights for incompetent criminal defendants.²⁸⁸ Individuals like Jane, often unaware of these built-in protections, endure undue hardship under current court practices. Despite the well-intentioned legislative guidance, inconsistent interpretations have eroded the effectiveness of these protections, jeopardizing the rights of incompetent defendants and complicating the legal landscape.²⁸⁹ Prioritizing the IDRA's plain

286. S. REP. NO. 98-225, at 236 (1983).

287. For example, a district court in the Tenth Circuit has held that despite the IDRA's four-month directive, the STA nonetheless excluded any pre-hospitalization custody. *United States v. Castrellon*, No. 22-cr-00112-CMA-GPG, 2023 U.S. Dist. LEXIS 35107, at *11 (D. Colo. Mar. 1, 2023).

288. See discussion *supra* Sections III.A.1–3.

289. See *supra* Part III.

meaning and congressional intent in these situations provides a straightforward solution to guide courts, preventing prolonged pretrial detention and upholding the constitutional rights of all defendants. Safeguarding these rights extends beyond legal necessity, reflecting our commitment to justice, fairness, and a legal framework grounded in compassion and equity.