

What is Incompetent to Stand Trial (IST)?

It means that you cannot:

- understand your legal proceedings; or
- assist your lawyer — because of your mental condition

At a special hearing, the court decides if you fit these categories and are “incompetent to stand trial.”

When will I be released from the hospital?

You will be released from the hospital when:

- the facility/treatment program has filed a special report to the court saying you are now competent and the court releases you to face criminal charges;
- the court releases you to CONREP for outpatient treatment.
- your commitment has reached maximum time and the court does not put you on a Murphy Conservatorship;

How can I oppose my commitment to the hospital?

You can oppose your commitment by saying that you have regained your competency to stand trial. You can do this by filing a request to be released, called a “writ of *habeas corpus*.” If the court finds that you are competent, you will be released on bail or your own recognizance to face criminal charges.

You can also oppose your commitment at the review hearing held every six months.

Do I get time credit for when I’m in the hospital?

You will get time credit for when you are in the hospital. You **can** use that time to reduce the time you may have to serve in prison if you are sentenced for your criminal charges.

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Incompetent to Stand Trial (IST)

Note: When this publication was originally published, we were known as Protection & Advocacy, Inc. (PAI). In October 2008, we changed our name from PAI to Disability Rights California.

What's the difference between a Misdemeanor Commitment (MIST) and Felony Commitment (FIST)?

If you are charged with a misdemeanor and found incompetent to stand trial, you have a misdemeanor commitment (MIST). The court will probably place you in a local hospital or make you go to a treatment program.

If you are charged with a felony and found incompetent to stand trial, you have a felony commitment (FIST). You are likely to be placed in a state hospital. After six months of being in the hospital, you may be put on CONREP, and have to go to a treatment program in the community.

How long will I have to stay at the hospital?

If you have a **felony commitment**, the longest you will have to stay at the hospital is:

- three (3) years *or*
- the longest permitted prison sentence for the crime you have committed, **whichever is shorter**.

If you have a **misdemeanor commitment**, the longest you will have to stay at the hospital is:

- one (1) year *or*
- the longest allowable prison sentence for the crime you have committed, **whichever is shorter**.

When does my commitment end?

Your commitment ends when:

- you have stayed the **maximum time** allowable by law (see above);
- the court decides that **you are competent to stand trial**

Note: If you have stayed the maximum time allowable by law, the court may dismiss your charges.

How does the court decide to continue or end my commitment to the hospital?

The hospital makes regular written reports to the court about your mental condition. Within 90 days of your commitment, the hospital must make a report concerning your progress. If the hospital's report says that you are still not competent to stand trial, but it is possible in the near future for you to become competent, you will remain in the hospital. After the first report, the hospital makes another report to the court every six months.

If the hospital thinks that you have regained competency, the hospital makes a special report to the court. You will then have a new court hearing to decide whether or not you are competent.

If you have completed 1½ years of commitment in the hospital, then you automatically will have a new trial on your competency.

Can they keep me longer than my maximum commitment?

You can be kept longer than your maximum time, if you are placed on a Murphy conservatorship. A court may order a Murphy conservatorship after you have completed the maximum time for your commitment. (See below).

You can be kept longer if you are placed on a LPS conservatorship. A court may also place you on a LPS conservatorship, when you have completed the maximum time for your commitment, if you are unable to provide for your food, clothing or shelter because of a mental disorder.

What is a Murphy Conservatorship?

A Murphy Conservatorship is a mental health commitment for a person with felony charges who has served their maximum time *or* who the hospital says will remain incompetent.

At a hearing, the court decides whether or not you meet the following conditions for a Murphy conservatorship:

- you remain incompetent to stand trial, *and*
- you are charged with a violent felony; *and*
- you are dangerous to others.

A Murphy Conservatorship lasts for one year and can be renewed each year for another year. You have the right to a court review and jury trial each year.