

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Sections 104-17 and 104-20 as follows:

(725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

Sec. 104-17. Commitment for Treatment; Treatment Plan.

(a) If the defendant is eligible to be or has been released on bail or on his own recognizance, the court shall select the least physically restrictive form of treatment therapeutically appropriate and consistent with the treatment plan.

(b) If the defendant's disability is mental, the court may order him placed for treatment in the custody of the Department of Human Services, or the court may order him placed in the custody of any other appropriate public or private mental health facility or treatment program which has agreed to provide treatment to the defendant. If the defendant is placed in the custody of the Department of Human Services, the defendant shall be placed in a secure setting. During the period of time required to determine the appropriate placement the defendant shall remain in jail. If upon the completion of the placement process the Department of Human Services determines that the defendant is currently fit to stand trial,

it shall immediately notify the court and shall submit a written report within 7 days. In that circumstance the placement shall be held pending a court hearing on the Department's report. Otherwise, upon completion of the placement process, the sheriff shall be notified and shall transport the defendant to the designated facility. The placement may be ordered either on an inpatient or an outpatient basis.

(c) If the defendant's disability is physical, the court may order him placed under the supervision of the Department of Human Services which shall place and maintain the defendant in a suitable treatment facility or program, or the court may order him placed in an appropriate public or private facility or treatment program which has agreed to provide treatment to the defendant. The placement may be ordered either on an inpatient or an outpatient basis.

(d) The clerk of the circuit court shall transmit to the Department, agency or institution, if any, to which the defendant is remanded for treatment, the following:

(1) a certified copy of the order to undergo treatment. Accompanying the certified copy of the order to undergo treatment shall be the complete copy of any report prepared under Section 104-15 of this Code or other report prepared by a forensic examiner for the court;

(2) the county and municipality in which the offense was committed;

(3) the county and municipality in which the arrest took place;

(4) a copy of the arrest report, criminal charges, arrest record, ~~jail record, and the report prepared under Section 104-15;~~ and

(5) all additional matters which the Court directs the clerk to transmit.

(e) Within 30 days of entry of an order to undergo treatment, the person supervising the defendant's treatment shall file with the court, the State, and the defense a report assessing the facility's or program's capacity to provide appropriate treatment for the defendant and indicating his opinion as to the probability of the defendant's attaining fitness within a period of time from the date of the finding of unfitness. For a defendant charged with a felony, the period of time shall be one year. For a defendant charged with a misdemeanor, the period of time shall be no longer than the sentence if convicted of the most serious offense. If the report indicates that there is a substantial probability that the defendant will attain fitness within the time period, the treatment supervisor shall also file a treatment plan which shall include:

(1) A diagnosis of the defendant's disability;

(2) A description of treatment goals with respect to rendering the defendant fit, a specification of the proposed treatment modalities, and an estimated timetable

for attainment of the goals;

(3) An identification of the person in charge of supervising the defendant's treatment.

(Source: P.A. 98-1025, eff. 8-22-14.)

(725 ILCS 5/104-20) (from Ch. 38, par. 104-20)

Sec. 104-20. Ninety-Day Hearings; Continuing Treatment.)

(a) Upon entry or continuation of any order to undergo treatment, the court shall set a date for hearing to reexamine the issue of the defendant's fitness not more than 90 days thereafter. In addition, whenever the court receives a report from the supervisor of the defendant's treatment pursuant to subparagraph (2) or (3) of paragraph (a) of Section 104-18, the court shall forthwith set the matter for a first hearing within 14 days unless good cause is demonstrated why the hearing cannot be held. On the date set or upon conclusion of the matter then pending before it, the court, sitting without a jury, shall conduct a hearing, unless waived by the defense, and shall determine:

(1) Whether the defendant is fit to stand trial or to plead; and if not,

(2) Whether the defendant is making progress under treatment toward attainment of fitness within the time period set in subsection (e) of Section 104-17 of this Code from the date of the original finding of unfitness.

(b) If the court finds the defendant to be fit pursuant to

this Section, the court shall set the matter for trial; provided that if the defendant is in need of continued care or treatment and the supervisor of the defendant's treatment agrees to continue to provide it, the court may enter any order it deems appropriate for the continued care or treatment of the defendant by the facility or program pending the conclusion of the criminal proceedings.

(c) If the court finds that the defendant is still unfit but that he is making progress toward attaining fitness, the court may continue or modify its original treatment order entered pursuant to Section 104-17.

(d) If the court finds that the defendant is still unfit and that he is not making progress toward attaining fitness such that there is not a substantial probability that he will attain fitness within the time period set in subsection (e) of Section 104-17 of this Code from the date of the original finding of unfitness, the court shall proceed pursuant to Section 104-23. However, if the defendant is in need of continued care and treatment and the supervisor of the defendant's treatment agrees to continue to provide it, the court may enter any order it deems appropriate for the continued care or treatment by the facility or program pending the conclusion of the criminal proceedings.

(e) If the court finds that the defendant is still unfit after being recommended as fit by the supervisor of the defendant's treatment, the court shall attach a copy of any

Public Act 099-0140

SB1938 Enrolled

LRB099 09944 RLC 30162 b

written report that identifies the factors in the finding that the defendant continues to be unfit, prepared by a licensed physician, clinical psychologist, or psychiatrist, to the court order remanding the person for further treatment.

(Source: P.A. 97-37, eff. 6-28-11; 98-1025, eff. 8-22-14.)