

1 AN ACT concerning criminal law.

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

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

6 (725 ILCS 5/104-20) (from Ch. 38, par. 104-20)

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

8 (a) Upon entry or continuation of any order to undergo  
9 treatment, the court shall set a date for hearing to reexamine  
10 the issue of the defendant's fitness not more than 90 days  
11 thereafter. In addition, whenever the court receives a report  
12 from the supervisor of the defendant's treatment pursuant to  
13 subparagraph (2) or (3) of paragraph (a) of Section 104-18, the  
14 court shall forthwith set the matter for a first hearing within  
15 21 days unless good cause is demonstrated why the hearing  
16 cannot be held. On the date set or upon conclusion of the  
17 matter then pending before it, the court, sitting without a  
18 jury, shall conduct a hearing, unless waived by the defense,  
19 and shall determine:

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

22 (2) Whether the defendant is making progress under  
23 treatment toward attainment of fitness within one year from the  
24 date of the original finding of unfitness.

25 (b) If the court finds the defendant to be fit pursuant to  
26 this Section, the court shall set the matter for trial;  
27 provided that if the defendant is in need of continued care or  
28 treatment and the supervisor of the defendant's treatment  
29 agrees to continue to provide it, the court may enter any order  
30 it deems appropriate for the continued care or treatment of the  
31 defendant by the facility or program pending the conclusion of  
32 the criminal proceedings.

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

5           (d) If the court finds that the defendant is still unfit  
6 and that he is not making progress toward attaining fitness  
7 such that there is not a substantial probability that he will  
8 attain fitness within one year from the date of the original  
9 finding of unfitness, the court shall proceed pursuant to  
10 Section 104-23. However, if the defendant is in need of  
11 continued care and treatment and the supervisor of the  
12 defendant's treatment agrees to continue to provide it, the  
13 court may enter any order it deems appropriate for the  
14 continued care or treatment by the facility or program pending  
15 the conclusion of the criminal proceedings.

16           (Source: P.A. 81-1217.)

17           Section 99. Effective date. This Act takes effect upon  
18 becoming law.