

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 Sections 104-17, 104-18, and 104-20 as
6 follows:

7 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

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

9 (a) If the defendant is eligible to be or has been released
10 on bail or on his own recognizance, the court shall select the
11 least physically restrictive form of treatment therapeutically
12 appropriate and consistent with the treatment plan. The
13 placement may be ordered either on an inpatient or an
14 outpatient basis.

15 (b) If the defendant's disability is mental, the court may
16 order him placed for treatment in the custody of the Department
17 of Human Services, or the court may order him placed in the
18 custody of any other appropriate public or private mental
19 health facility or treatment program which has agreed to
20 provide treatment to the defendant. If the court orders the
21 defendant placed in the custody of the Department of Human
22 Services, the Department shall evaluate the defendant to
23 determine to which secure facility the defendant shall be

1 transported and, within 20 days of the transmittal by the clerk
2 of the circuit court of the placement court order, notify the
3 sheriff of the designated facility. Upon receipt of that
4 notice, the sheriff shall promptly transport the defendant to
5 the designated facility. If the defendant is placed in the
6 custody of the Department of Human Services, the defendant
7 shall be placed in a secure setting. During the period of time
8 required to determine the appropriate placement the defendant
9 shall remain in jail. If during the course of evaluating the
10 defendant for placement, ~~upon the completion of the placement~~
11 ~~process~~ the Department of Human Services determines that the
12 defendant is currently fit to stand trial, it shall immediately
13 notify the court and shall submit a written report within 7
14 days. In that circumstance the placement shall be held pending
15 a court hearing on the Department's report. Otherwise, upon
16 completion of the placement process, the sheriff shall be
17 notified and shall transport the defendant to the designated
18 facility. If, within 20 days of the transmittal by the clerk of
19 the circuit court of the placement court order, the Department
20 fails to notify the sheriff of the identity of the facility to
21 which the defendant shall be transported, the sheriff shall
22 contact a designated person within the Department to inquire
23 about when a placement will become available at the designated
24 facility and bed availability at other facilities. If, within
25 20 days of the transmittal by the clerk of the circuit court of
26 the placement court order, the Department fails to notify the

1 sheriff of the identity of the facility to which the defendant
2 shall be transported, the sheriff shall notify the Department
3 of its intent to transfer the defendant to the nearest secure
4 mental health facility operated by the Department and inquire
5 as to the status of the placement evaluation and availability
6 for admission to such facility operated by the Department by
7 contacting a designated person within the Department. The
8 Department shall respond to the sheriff within 2 business days
9 of the notice and inquiry by the sheriff seeking the transfer
10 and the Department shall provide the sheriff with the status of
11 the evaluation, information on bed and placement availability,
12 and an estimated date of admission for the defendant and any
13 changes to that estimated date of admission. If the Department
14 notifies the sheriff during the 2 business day period of a
15 facility operated by the Department with placement
16 availability, the sheriff shall promptly transport the
17 defendant to that facility. The placement may be ordered either
18 on an inpatient or an outpatient basis.

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

1 (d) The clerk of the circuit court shall within 5 days of
2 the entry of the order transmit to the Department, agency or
3 institution, if any, to which the defendant is remanded for
4 treatment, the following:

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

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

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

14 (4) a copy of the arrest report, criminal charges,
15 arrest record; and

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

18 (e) Within 30 days of entry of an order to undergo
19 treatment, the person supervising the defendant's treatment
20 shall file with the court, the State, and the defense a report
21 assessing the facility's or program's capacity to provide
22 appropriate treatment for the defendant and indicating his
23 opinion as to the probability of the defendant's attaining
24 fitness within a period of time from the date of the finding of
25 unfitness. For a defendant charged with a felony, the period of
26 time shall be one year. For a defendant charged with a

1 misdemeanor, the period of time shall be no longer than the
2 sentence if convicted of the most serious offense. If the
3 report indicates that there is a substantial probability that
4 the defendant will attain fitness within the time period, the
5 treatment supervisor shall also file a treatment plan which
6 shall include:

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

8 (2) A description of treatment goals with respect to
9 rendering the defendant fit, a specification of the
10 proposed treatment modalities, and an estimated timetable
11 for attainment of the goals;

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

14 (Source: P.A. 98-1025, eff. 8-22-14; 99-140, eff. 1-1-16.)

15 (725 ILCS 5/104-18) (from Ch. 38, par. 104-18)

16 Sec. 104-18. Progress Reports.

17 (a) The treatment supervisor shall submit a written
18 progress report to the court, the State, and the defense:

19 (1) At least 7 days prior to the date for any hearing
20 on the issue of the defendant's fitness;

21 (2) Whenever he believes that the defendant has
22 attained fitness;

23 (3) Whenever he believes that there is not a
24 substantial probability that the defendant will attain
25 fitness, with treatment, within the time period set in

1 subsection (e) of Section 104-17 of this Code from the date
2 of the original finding of unfitness.

3 (b) The progress report shall contain:

4 (1) The clinical findings of the treatment supervisor
5 and the facts upon which the findings are based;

6 (2) The opinion of the treatment supervisor as to
7 whether the defendant has attained fitness or as to whether
8 the defendant is making progress, under treatment, toward
9 attaining fitness within the time period set in subsection
10 (e) of Section 104-17 of this Code from the date of the
11 original finding of unfitness;

12 (3) If the defendant is receiving medication,
13 information from the prescribing physician indicating the
14 type, the dosage and the effect of the medication on the
15 defendant's appearance, actions and demeanor.

16 (c) Whenever the court is sent a report from the supervisor
17 of the defendant's treatment under paragraph (2) of subsection
18 (a) of this Section, the treatment provider shall arrange with
19 the county jail court for the immediate return of the defendant
20 to the county jail under subsection (e) ~~before the time frame~~
21 ~~specified in subsection (a)~~ of Section 104-20 of this Code.

22 (Source: P.A. 98-944, eff. 8-15-14; 98-1025, eff. 8-22-14;
23 99-78, eff. 7-20-15.)

24 (725 ILCS 5/104-20) (from Ch. 38, par. 104-20)

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

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

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

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

19 (b) If the court finds the defendant to be fit pursuant to
20 this Section, the court shall set the matter for trial;
21 provided that if the defendant is in need of continued care or
22 treatment and the supervisor of the defendant's treatment
23 agrees to continue to provide it, the court may enter any order
24 it deems appropriate for the continued care or treatment of the
25 defendant by the facility or program pending the conclusion of
26 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 the time period set in subsection (e) of
9 Section 104-17 of this Code from the date of the original
10 finding of unfitness, the court shall proceed pursuant to
11 Section 104-23. However, if the defendant is in need of
12 continued care and treatment and the supervisor of the
13 defendant's treatment agrees to continue to provide it, the
14 court may enter any order it deems appropriate for the
15 continued care or treatment by the facility or program pending
16 the conclusion of the criminal proceedings.

17 (e) Whenever the court receives a report from the
18 supervisor of the defendant's treatment under paragraph (2) of
19 subsection (a) of Section 104-18 of this Code, the court shall
20 immediately enter an order directing the sheriff to return the
21 defendant to the county jail and set the matter for trial. At
22 any time the issue of the defendant's fitness can be raised
23 again under Section 104-11 of this Code. If the court finds
24 that the defendant is still unfit after being recommended as
25 fit by the supervisor of the defendant's treatment, the court
26 shall attach a copy of any written report that identifies the

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

5 (Source: P.A. 98-1025, eff. 8-22-14; 99-140, eff. 1-1-16.)

6 Section 10. The Unified Code of Corrections is amended by
7 changing Section 5-2-4 as follows:

8 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

9 Sec. 5-2-4. Proceedings after Acquittal by Reason of
10 Insanity.

11 (a) After a finding or verdict of not guilty by reason of
12 insanity under Sections 104-25, 115-3 or 115-4 of the Code of
13 Criminal Procedure of 1963, the defendant shall be ordered to
14 the Department of Human Services for an evaluation as to
15 whether he is in need of mental health services. The order
16 shall specify whether the evaluation shall be conducted on an
17 inpatient or outpatient basis. If the evaluation is to be
18 conducted on an inpatient basis, the defendant shall be placed
19 in a secure setting. With the court order for evaluation shall
20 be sent a copy of the arrest report, criminal charges, arrest
21 record, jail record, any report prepared under Section 115-6 of
22 the Code of Criminal Procedure of 1963, and any victim impact
23 statement prepared under Section 6 of the Rights of Crime
24 Victims and Witnesses Act. The clerk of the circuit court shall

1 transmit this information to the Department within 5 days. If
2 the court orders that the evaluation be done on an inpatient
3 basis, the Department shall evaluate the defendant to determine
4 to which secure facility the defendant shall be transported
5 and, within 20 days of the transmittal by the clerk of the
6 circuit court of the placement court order, notify the sheriff
7 of the designated facility. Upon receipt of that notice, the
8 sheriff shall promptly transport the defendant to the
9 designated facility. During ~~After the evaluation and during~~
10 period of time required to determine the appropriate placement,
11 the defendant shall remain in jail. If, within 20 days of the
12 transmittal by the clerk of the circuit court of the placement
13 court order, the Department fails to notify the sheriff of the
14 identity of the facility to which the defendant shall be
15 transported, the sheriff shall contact a designated person
16 within the Department to inquire about when a placement will
17 become available at the designated facility and bed
18 availability at other facilities. If, within 20 days of the
19 transmittal by the clerk of the circuit court of the placement
20 court order, the Department fails to notify the sheriff of the
21 identity of the facility to which the defendant shall be
22 transported, the sheriff shall notify the Department of its
23 intent to transfer the defendant to the nearest secure mental
24 health facility operated by the Department and inquire as to
25 the status of the placement evaluation and availability for
26 admission to such facility operated by the Department by

1 contacting a designated person within the Department. The
2 Department shall respond to the sheriff within 2 business days
3 of the notice and inquiry by the sheriff seeking the transfer
4 and the Department shall provide the sheriff with the status of
5 the placement evaluation, information on bed and placement
6 availability, and an estimated date of admission for the
7 defendant and any changes to that estimated date of admission.
8 If the Department notifies the sheriff during the 2 business
9 day period of a facility operated by the Department with
10 placement availability, the sheriff shall promptly transport
11 the defendant to that facility. Individualized placement
12 evaluations by the Department of Human Services determine the
13 most appropriate setting for forensic treatment based upon a
14 number of factors including mental health diagnosis, proximity
15 to surviving victims, security need, age, gender, and proximity
16 to family. ~~Upon completion of the placement process the sheriff~~
17 ~~shall be notified and shall transport the defendant to the~~
18 ~~designated facility.~~

19 The Department shall provide the Court with a report of its
20 evaluation within 30 days of the date of this order. The Court
21 shall hold a hearing as provided under the Mental Health and
22 Developmental Disabilities Code to determine if the individual
23 is: (a) in need of mental health services on an inpatient
24 basis; (b) in need of mental health services on an outpatient
25 basis; (c) a person not in need of mental health services. The
26 Court shall enter its findings.

1 If the defendant is found to be in need of mental health
2 services on an inpatient care basis, the Court shall order the
3 defendant to the Department of Human Services. The defendant
4 shall be placed in a secure setting. Such defendants placed in
5 a secure setting shall not be permitted outside the facility's
6 housing unit unless escorted or accompanied by personnel of the
7 Department of Human Services or with the prior approval of the
8 Court for unsupervised on-grounds privileges as provided
9 herein. Any defendant placed in a secure setting pursuant to
10 this Section, transported to court hearings or other necessary
11 appointments off facility grounds by personnel of the
12 Department of Human Services, shall be placed in security
13 devices or otherwise secured during the period of
14 transportation to assure secure transport of the defendant and
15 the safety of Department of Human Services personnel and
16 others. These security measures shall not constitute restraint
17 as defined in the Mental Health and Developmental Disabilities
18 Code. If the defendant is found to be in need of mental health
19 services, but not on an inpatient care basis, the Court shall
20 conditionally release the defendant, under such conditions as
21 set forth in this Section as will reasonably assure the
22 defendant's satisfactory progress and participation in
23 treatment or rehabilitation and the safety of the defendant and
24 others. If the Court finds the person not in need of mental
25 health services, then the Court shall order the defendant
26 discharged from custody.

1 (a-1) Definitions. For the purposes of this Section:

2 (A) (Blank).

3 (B) "In need of mental health services on an inpatient
4 basis" means: a defendant who has been found not guilty by
5 reason of insanity but who due to mental illness is
6 reasonably expected to inflict serious physical harm upon
7 himself or another and who would benefit from inpatient
8 care or is in need of inpatient care.

9 (C) "In need of mental health services on an outpatient
10 basis" means: a defendant who has been found not guilty by
11 reason of insanity who is not in need of mental health
12 services on an inpatient basis, but is in need of
13 outpatient care, drug and/or alcohol rehabilitation
14 programs, community adjustment programs, individual,
15 group, or family therapy, or chemotherapy.

16 (D) "Conditional Release" means: the release from
17 either the custody of the Department of Human Services or
18 the custody of the Court of a person who has been found not
19 guilty by reason of insanity under such conditions as the
20 Court may impose which reasonably assure the defendant's
21 satisfactory progress in treatment or habilitation and the
22 safety of the defendant and others. The Court shall
23 consider such terms and conditions which may include, but
24 need not be limited to, outpatient care, alcoholic and drug
25 rehabilitation programs, community adjustment programs,
26 individual, group, family, and chemotherapy, random

1 testing to ensure the defendant's timely and continuous
2 taking of any medicines prescribed to control or manage his
3 or her conduct or mental state, and periodic checks with
4 the legal authorities and/or the Department of Human
5 Services. The Court may order as a condition of conditional
6 release that the defendant not contact the victim of the
7 offense that resulted in the finding or verdict of not
8 guilty by reason of insanity or any other person. The Court
9 may order the Department of Human Services to provide care
10 to any person conditionally released under this Section.
11 The Department may contract with any public or private
12 agency in order to discharge any responsibilities imposed
13 under this Section. The Department shall monitor the
14 provision of services to persons conditionally released
15 under this Section and provide periodic reports to the
16 Court concerning the services and the condition of the
17 defendant. Whenever a person is conditionally released
18 pursuant to this Section, the State's Attorney for the
19 county in which the hearing is held shall designate in
20 writing the name, telephone number, and address of a person
21 employed by him or her who shall be notified in the event
22 that either the reporting agency or the Department decides
23 that the conditional release of the defendant should be
24 revoked or modified pursuant to subsection (i) of this
25 Section. Such conditional release shall be for a period of
26 five years. However, the defendant, the person or facility

1 rendering the treatment, therapy, program or outpatient
2 care, the Department, or the State's Attorney may petition
3 the Court for an extension of the conditional release
4 period for an additional 5 years. Upon receipt of such a
5 petition, the Court shall hold a hearing consistent with
6 the provisions of paragraph (a), this paragraph (a-1), and
7 paragraph (f) of this Section, shall determine whether the
8 defendant should continue to be subject to the terms of
9 conditional release, and shall enter an order either
10 extending the defendant's period of conditional release
11 for an additional 5 year period or discharging the
12 defendant. Additional 5-year periods of conditional
13 release may be ordered following a hearing as provided in
14 this Section. However, in no event shall the defendant's
15 period of conditional release continue beyond the maximum
16 period of commitment ordered by the Court pursuant to
17 paragraph (b) of this Section. These provisions for
18 extension of conditional release shall only apply to
19 defendants conditionally released on or after August 8,
20 2003. However the extension provisions of Public Act
21 83-1449 apply only to defendants charged with a forcible
22 felony.

23 (E) "Facility director" means the chief officer of a
24 mental health or developmental disabilities facility or
25 his or her designee or the supervisor of a program of
26 treatment or habilitation or his or her designee.

1 "Designee" may include a physician, clinical psychologist,
2 social worker, nurse, or clinical professional counselor.

3 (b) If the Court finds the defendant in need of mental
4 health services on an inpatient basis, the admission,
5 detention, care, treatment or habilitation, treatment plans,
6 review proceedings, including review of treatment and
7 treatment plans, and discharge of the defendant after such
8 order shall be under the Mental Health and Developmental
9 Disabilities Code, except that the initial order for admission
10 of a defendant acquitted of a felony by reason of insanity
11 shall be for an indefinite period of time. Such period of
12 commitment shall not exceed the maximum length of time that the
13 defendant would have been required to serve, less credit for
14 good behavior as provided in Section 5-4-1 of the Unified Code
15 of Corrections, before becoming eligible for release had he
16 been convicted of and received the maximum sentence for the
17 most serious crime for which he has been acquitted by reason of
18 insanity. The Court shall determine the maximum period of
19 commitment by an appropriate order. During this period of time,
20 the defendant shall not be permitted to be in the community in
21 any manner, including but not limited to off-grounds
22 privileges, with or without escort by personnel of the
23 Department of Human Services, unsupervised on-grounds
24 privileges, discharge or conditional or temporary release,
25 except by a plan as provided in this Section. In no event shall
26 a defendant's continued unauthorized absence be a basis for

1 discharge. Not more than 30 days after admission and every 60
2 days thereafter so long as the initial order remains in effect,
3 the facility director shall file a treatment plan report in
4 writing with the court and forward a copy of the treatment plan
5 report to the clerk of the court, the State's Attorney, and the
6 defendant's attorney, if the defendant is represented by
7 counsel, or to a person authorized by the defendant under the
8 Mental Health and Developmental Disabilities Confidentiality
9 Act to be sent a copy of the report. The report shall include
10 an opinion as to whether the defendant is currently in need of
11 mental health services on an inpatient basis or in need of
12 mental health services on an outpatient basis. The report shall
13 also summarize the basis for those findings and provide a
14 current summary of the following items from the treatment plan:
15 (1) an assessment of the defendant's treatment needs, (2) a
16 description of the services recommended for treatment, (3) the
17 goals of each type of element of service, (4) an anticipated
18 timetable for the accomplishment of the goals, and (5) a
19 designation of the qualified professional responsible for the
20 implementation of the plan. The report may also include
21 unsupervised on-grounds privileges, off-grounds privileges
22 (with or without escort by personnel of the Department of Human
23 Services), home visits and participation in work programs, but
24 only where such privileges have been approved by specific court
25 order, which order may include such conditions on the defendant
26 as the Court may deem appropriate and necessary to reasonably

1 assure the defendant's satisfactory progress in treatment and
2 the safety of the defendant and others.

3 (c) Every defendant acquitted of a felony by reason of
4 insanity and subsequently found to be in need of mental health
5 services shall be represented by counsel in all proceedings
6 under this Section and under the Mental Health and
7 Developmental Disabilities Code.

8 (1) The Court shall appoint as counsel the public
9 defender or an attorney licensed by this State.

10 (2) Upon filing with the Court of a verified statement
11 of legal services rendered by the private attorney
12 appointed pursuant to paragraph (1) of this subsection, the
13 Court shall determine a reasonable fee for such services.
14 If the defendant is unable to pay the fee, the Court shall
15 enter an order upon the State to pay the entire fee or such
16 amount as the defendant is unable to pay from funds
17 appropriated by the General Assembly for that purpose.

18 (d) When the facility director determines that:

19 (1) the defendant is no longer in need of mental health
20 services on an inpatient basis; and

21 (2) the defendant may be conditionally released
22 because he or she is still in need of mental health
23 services or that the defendant may be discharged as not in
24 need of any mental health services; or

25 (3) (blank);

26 the facility director shall give written notice to the Court,

1 State's Attorney and defense attorney. Such notice shall set
2 forth in detail the basis for the recommendation of the
3 facility director, and specify clearly the recommendations, if
4 any, of the facility director, concerning conditional release.
5 Any recommendation for conditional release shall include an
6 evaluation of the defendant's need for psychotropic
7 medication, what provisions should be made, if any, to ensure
8 that the defendant will continue to receive psychotropic
9 medication following discharge, and what provisions should be
10 made to assure the safety of the defendant and others in the
11 event the defendant is no longer receiving psychotropic
12 medication. Within 30 days of the notification by the facility
13 director, the Court shall set a hearing and make a finding as
14 to whether the defendant is:

15 (i) (blank); or

16 (ii) in need of mental health services in the form of
17 inpatient care; or

18 (iii) in need of mental health services but not subject
19 to inpatient care; or

20 (iv) no longer in need of mental health services; or

21 (v) (blank).

22 Upon finding by the Court, the Court shall enter its
23 findings and such appropriate order as provided in subsections
24 (a) and (a-1) of this Section.

25 (e) A defendant admitted pursuant to this Section, or any
26 person on his behalf, may file a petition for treatment plan

1 review or discharge or conditional release under the standards
2 of this Section in the Court which rendered the verdict. Upon
3 receipt of a petition for treatment plan review or discharge or
4 conditional release, the Court shall set a hearing to be held
5 within 120 days. Thereafter, no new petition may be filed for
6 180 days without leave of the Court.

7 (f) The Court shall direct that notice of the time and
8 place of the hearing be served upon the defendant, the facility
9 director, the State's Attorney, and the defendant's attorney.
10 If requested by either the State or the defense or if the Court
11 feels it is appropriate, an impartial examination of the
12 defendant by a psychiatrist or clinical psychologist as defined
13 in Section 1-103 of the Mental Health and Developmental
14 Disabilities Code who is not in the employ of the Department of
15 Human Services shall be ordered, and the report considered at
16 the time of the hearing.

17 (g) The findings of the Court shall be established by clear
18 and convincing evidence. The burden of proof and the burden of
19 going forth with the evidence rest with the defendant or any
20 person on the defendant's behalf when a hearing is held to
21 review a petition filed by or on behalf of the defendant. The
22 evidence shall be presented in open Court with the right of
23 confrontation and cross-examination. Such evidence may
24 include, but is not limited to:

25 (1) whether the defendant appreciates the harm caused
26 by the defendant to others and the community by his or her

1 prior conduct that resulted in the finding of not guilty by
2 reason of insanity;

3 (2) Whether the person appreciates the criminality of
4 conduct similar to the conduct for which he or she was
5 originally charged in this matter;

6 (3) the current state of the defendant's illness;

7 (4) what, if any, medications the defendant is taking
8 to control his or her mental illness;

9 (5) what, if any, adverse physical side effects the
10 medication has on the defendant;

11 (6) the length of time it would take for the
12 defendant's mental health to deteriorate if the defendant
13 stopped taking prescribed medication;

14 (7) the defendant's history or potential for alcohol
15 and drug abuse;

16 (8) the defendant's past criminal history;

17 (9) any specialized physical or medical needs of the
18 defendant;

19 (10) any family participation or involvement expected
20 upon release and what is the willingness and ability of the
21 family to participate or be involved;

22 (11) the defendant's potential to be a danger to
23 himself, herself, or others; and

24 (12) any other factor or factors the Court deems
25 appropriate.

26 (h) Before the court orders that the defendant be

1 discharged or conditionally released, it shall order the
2 facility director to establish a discharge plan that includes a
3 plan for the defendant's shelter, support, and medication. If
4 appropriate, the court shall order that the facility director
5 establish a program to train the defendant in self-medication
6 under standards established by the Department of Human
7 Services. If the Court finds, consistent with the provisions of
8 this Section, that the defendant is no longer in need of mental
9 health services it shall order the facility director to
10 discharge the defendant. If the Court finds, consistent with
11 the provisions of this Section, that the defendant is in need
12 of mental health services, and no longer in need of inpatient
13 care, it shall order the facility director to release the
14 defendant under such conditions as the Court deems appropriate
15 and as provided by this Section. Such conditional release shall
16 be imposed for a period of 5 years as provided in paragraph (D)
17 of subsection (a-1) and shall be subject to later modification
18 by the Court as provided by this Section. If the Court finds
19 consistent with the provisions in this Section that the
20 defendant is in need of mental health services on an inpatient
21 basis, it shall order the facility director not to discharge or
22 release the defendant in accordance with paragraph (b) of this
23 Section.

24 (i) If within the period of the defendant's conditional
25 release the State's Attorney determines that the defendant has
26 not fulfilled the conditions of his or her release, the State's

1 Attorney may petition the Court to revoke or modify the
2 conditional release of the defendant. Upon the filing of such
3 petition the defendant may be remanded to the custody of the
4 Department, or to any other mental health facility designated
5 by the Department, pending the resolution of the petition.
6 Nothing in this Section shall prevent the emergency admission
7 of a defendant pursuant to Article VI of Chapter III of the
8 Mental Health and Developmental Disabilities Code or the
9 voluntary admission of the defendant pursuant to Article IV of
10 Chapter III of the Mental Health and Developmental Disabilities
11 Code. If the Court determines, after hearing evidence, that the
12 defendant has not fulfilled the conditions of release, the
13 Court shall order a hearing to be held consistent with the
14 provisions of paragraph (f) and (g) of this Section. At such
15 hearing, if the Court finds that the defendant is in need of
16 mental health services on an inpatient basis, it shall enter an
17 order remanding him or her to the Department of Human Services
18 or other facility. If the defendant is remanded to the
19 Department of Human Services, he or she shall be placed in a
20 secure setting unless the Court determines that there are
21 compelling reasons that such placement is not necessary. If the
22 Court finds that the defendant continues to be in need of
23 mental health services but not on an inpatient basis, it may
24 modify the conditions of the original release in order to
25 reasonably assure the defendant's satisfactory progress in
26 treatment and his or her safety and the safety of others in

1 accordance with the standards established in paragraph (D) of
2 subsection (a-1). Nothing in this Section shall limit a Court's
3 contempt powers or any other powers of a Court.

4 (j) An order of admission under this Section does not
5 affect the remedy of habeas corpus.

6 (k) In the event of a conflict between this Section and the
7 Mental Health and Developmental Disabilities Code or the Mental
8 Health and Developmental Disabilities Confidentiality Act, the
9 provisions of this Section shall govern.

10 (l) This amendatory Act shall apply to all persons who have
11 been found not guilty by reason of insanity and who are
12 presently committed to the Department of Mental Health and
13 Developmental Disabilities (now the Department of Human
14 Services).

15 (m) The Clerk of the Court shall transmit a certified copy
16 of the order of discharge or conditional release to the
17 Department of Human Services, to the sheriff of the county from
18 which the defendant was admitted, to the Illinois Department of
19 State Police, to the proper law enforcement agency for the
20 municipality where the offense took place, and to the sheriff
21 of the county into which the defendant is conditionally
22 discharged. The Illinois Department of State Police shall
23 maintain a centralized record of discharged or conditionally
24 released defendants while they are under court supervision for
25 access and use of appropriate law enforcement agencies.

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