



Rep. Arthur Turner

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1 AMENDMENT TO HOUSE BILL 649

2 AMENDMENT NO. _____. Amend House Bill 649 by replacing
3 everything after the enacting clause with the following:

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

1 of Human Services, or the court may order him placed in the
2 custody of any other appropriate public or private mental
3 health facility or treatment program which has agreed to
4 provide treatment to the defendant. If the court orders the
5 defendant placed in the custody of the Department of Human
6 Services, the Department shall evaluate the defendant to
7 determine to which secure facility the defendant shall be
8 transported and, within 20 days of the transmittal by the clerk
9 of the circuit court of the placement order, notify the sheriff
10 of the designated facility. Upon receipt of that notice, the
11 sheriff shall promptly transport the defendant to the
12 designated facility. If the defendant is placed in the custody
13 of the Department of Human Services, the defendant shall be
14 placed in a secure setting. During the period of time required
15 to determine the appropriate placement the defendant shall
16 remain in jail. If during the course of evaluating the
17 defendant for placement, ~~upon the completion of the placement~~
18 ~~process~~ the Department of Human Services determines that the
19 defendant is currently fit to stand trial, it shall immediately
20 notify the court and shall submit a written report within 7
21 days. In that circumstance the placement shall be held pending
22 a court hearing on the Department's report. Otherwise, upon
23 completion of the placement process, the sheriff shall be
24 notified and shall transport the defendant to the designated
25 facility. If, within 20 days of the transmittal by the clerk of
26 the circuit court of the placement order, the Department fails

1 to notify the sheriff of the identity of the facility to which
2 the defendant shall be transported, the sheriff shall contact a
3 designated person within the Department to inquire about when a
4 placement will become available at the designated facility and
5 bed availability at other facilities. If, within 20 days of the
6 transmittal by the clerk of the circuit court of the placement
7 order, the Department fails to notify the sheriff of the
8 identity of the facility to which the defendant shall be
9 transported, the sheriff shall notify the Department of its
10 intent to transfer the defendant to the nearest secure mental
11 health facility operated by the Department and inquire as to
12 the status of the evaluation and availability for placement in
13 such facility operated by the Department by contacting a
14 designated person within the Department. The Department shall
15 respond to the sheriff within 2 business days of the notice and
16 inquiry by the sheriff seeking the transfer and the Department
17 shall provide the sheriff with the status of the evaluation,
18 information on bed and placement availability, and an estimated
19 date of admission for the defendant and any changes to that
20 estimated date of admission. If the Department notifies the
21 sheriff during the 2 business day period of a facility operated
22 by the Department with placement availability, the sheriff
23 shall promptly transport the defendant to that facility. The
24 placement may be ordered either on an inpatient or an
25 outpatient basis.

26 (c) If the defendant's disability is physical, the court

1 may order him placed under the supervision of the Department of
2 Human Services which shall place and maintain the defendant in
3 a suitable treatment facility or program, or the court may
4 order him placed in an appropriate public or private facility
5 or treatment program which has agreed to provide treatment to
6 the defendant. The placement may be ordered either on an
7 inpatient or an outpatient basis.

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

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

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

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

21 (4) a copy of the arrest report, criminal charges,
22 arrest record; and

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

25 (e) Within 30 days of entry of an order to undergo
26 treatment, the person supervising the defendant's treatment

1 shall file with the court, the State, and the defense a report
2 assessing the facility's or program's capacity to provide
3 appropriate treatment for the defendant and indicating his
4 opinion as to the probability of the defendant's attaining
5 fitness within a period of time from the date of the finding of
6 unfitness. For a defendant charged with a felony, the period of
7 time shall be one year. For a defendant charged with a
8 misdemeanor, the period of time shall be no longer than the
9 sentence if convicted of the most serious offense. If the
10 report indicates that there is a substantial probability that
11 the defendant will attain fitness within the time period, the
12 treatment supervisor shall also file a treatment plan which
13 shall include:

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

15 (2) A description of treatment goals with respect to
16 rendering the defendant fit, a specification of the
17 proposed treatment modalities, and an estimated timetable
18 for attainment of the goals;

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

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

22 (725 ILCS 5/104-18) (from Ch. 38, par. 104-18)

23 Sec. 104-18. Progress Reports.

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

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

3 (2) Whenever he believes that the defendant has
4 attained fitness;

5 (3) Whenever he believes that there is not a
6 substantial probability that the defendant will attain
7 fitness, with treatment, within the time period set in
8 subsection (e) of Section 104-17 of this Code from the date
9 of the original finding of unfitness.

10 (b) The progress report shall contain:

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

13 (2) The opinion of the treatment supervisor as to
14 whether the defendant has attained fitness or as to whether
15 the defendant is making progress, under treatment, toward
16 attaining fitness within the time period set in subsection
17 (e) of Section 104-17 of this Code from the date of the
18 original finding of unfitness;

19 (3) If the defendant is receiving medication,
20 information from the prescribing physician indicating the
21 type, the dosage and the effect of the medication on the
22 defendant's appearance, actions and demeanor.

23 (c) Whenever the court is sent a report from the supervisor
24 of the defendant's treatment under paragraph (2) of subsection
25 (a) of this Section, the treatment provider shall arrange with
26 the county jail ~~court~~ for the immediate return of the defendant

1 to the county jail under subsection (e) ~~before the time frame~~
2 ~~specified in subsection (a)~~ of Section 104-20 of this Code.

3 (Source: P.A. 98-944, eff. 8-15-14; 98-1025, eff. 8-22-14;
4 99-78, eff. 7-20-15.)

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

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

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

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

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

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

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

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

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

24 (e) Whenever the court receives a report from the
25 supervisor of the defendant's treatment under paragraph (2) of
26 subsection (a) of Section 104-18 of this Code, the court shall

1 immediately enter an order directing the sheriff to return the
2 defendant to the county jail and set the matter for trial. At
3 any time the issue of the defendant's fitness can be raised
4 again under Section 104-11 of this Code. If the court finds
5 that the defendant is still unfit after being recommended as
6 fit by the supervisor of the defendant's treatment, the court
7 shall attach a copy of any written report that identifies the
8 factors in the finding that the defendant continues to be
9 unfit, prepared by a licensed physician, clinical
10 psychologist, or psychiatrist, to the court order remanding the
11 person for further treatment.

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

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

15 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

16 Sec. 5-2-4. Proceedings after Acquittal by Reason of
17 Insanity.

18 (a) After a finding or verdict of not guilty by reason of
19 insanity under Sections 104-25, 115-3 or 115-4 of the Code of
20 Criminal Procedure of 1963, the defendant shall be ordered to
21 the Department of Human Services for an evaluation as to
22 whether he is in need of mental health services. The order
23 shall specify whether the evaluation shall be conducted on an
24 inpatient or outpatient basis. If the evaluation is to be

1 conducted on an inpatient basis, the defendant shall be placed
2 in a secure setting. With the court order for evaluation shall
3 be sent a copy of the arrest report, criminal charges, arrest
4 record, jail record, any report prepared under Section 115-6 of
5 the Code of Criminal Procedure of 1963, and any victim impact
6 statement prepared under Section 6 of the Rights of Crime
7 Victims and Witnesses Act. The clerk of the circuit court shall
8 transmit this information to the Department within 5 days. If
9 the court orders that the evaluation be done on an inpatient
10 basis, the Department shall evaluate the defendant to determine
11 to which secure facility the defendant shall be transported
12 and, within 20 days of the transmittal by the clerk of the
13 circuit court of the placement order, notify the sheriff of the
14 designated facility. Upon receipt of that notice, the sheriff
15 shall promptly transport the defendant to the designated
16 facility. During ~~After the evaluation and during~~ the period of
17 time required to determine the appropriate placement, the
18 defendant shall remain in jail. If, within 20 days of the
19 transmittal by the clerk of the circuit court of the placement
20 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 contact a designated person
23 within the Department to inquire about when a placement will
24 become available at the designated facility and bed
25 availability at other facilities. If, within 20 days of the
26 transmittal by the clerk of the circuit court of the placement

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

18 Individualized placement evaluations by the Department of
19 Human Services determine the most appropriate setting for
20 forensic treatment based upon a number of factors including
21 mental health diagnosis, proximity to surviving victims,
22 security need, age, gender, and proximity to family. ~~Upon~~
23 ~~completion of the placement process the sheriff shall be~~
24 ~~notified and shall transport the defendant to the designated~~
25 ~~facility.~~

26 The Department shall provide the Court with a report of its

1 evaluation within 30 days of the date of this order. The Court
2 shall hold a hearing as provided under the Mental Health and
3 Developmental Disabilities Code to determine if the individual
4 is: (a) in need of mental health services on an inpatient
5 basis; (b) in need of mental health services on an outpatient
6 basis; (c) a person not in need of mental health services. The
7 Court shall enter its findings.

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

1 conditionally release the defendant, under such conditions as
2 set forth in this Section as will reasonably assure the
3 defendant's satisfactory progress and participation in
4 treatment or rehabilitation and the safety of the defendant and
5 others. If the Court finds the person not in need of mental
6 health services, then the Court shall order the defendant
7 discharged from custody.

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

9 (A) (Blank).

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

16 (C) "In need of mental health services on an outpatient
17 basis" means: a defendant who has been found not guilty by
18 reason of insanity who is not in need of mental health
19 services on an inpatient basis, but is in need of
20 outpatient care, drug and/or alcohol rehabilitation
21 programs, community adjustment programs, individual,
22 group, or family therapy, or chemotherapy.

23 (D) "Conditional Release" means: the release from
24 either the custody of the Department of Human Services or
25 the custody of the Court of a person who has been found not
26 guilty by reason of insanity under such conditions as the

1 Court may impose which reasonably assure the defendant's
2 satisfactory progress in treatment or habilitation and the
3 safety of the defendant and others. The Court shall
4 consider such terms and conditions which may include, but
5 need not be limited to, outpatient care, alcoholic and drug
6 rehabilitation programs, community adjustment programs,
7 individual, group, family, and chemotherapy, random
8 testing to ensure the defendant's timely and continuous
9 taking of any medicines prescribed to control or manage his
10 or her conduct or mental state, and periodic checks with
11 the legal authorities and/or the Department of Human
12 Services. The Court may order as a condition of conditional
13 release that the defendant not contact the victim of the
14 offense that resulted in the finding or verdict of not
15 guilty by reason of insanity or any other person. The Court
16 may order the Department of Human Services to provide care
17 to any person conditionally released under this Section.
18 The Department may contract with any public or private
19 agency in order to discharge any responsibilities imposed
20 under this Section. The Department shall monitor the
21 provision of services to persons conditionally released
22 under this Section and provide periodic reports to the
23 Court concerning the services and the condition of the
24 defendant. Whenever a person is conditionally released
25 pursuant to this Section, the State's Attorney for the
26 county in which the hearing is held shall designate in

1 writing the name, telephone number, and address of a person
2 employed by him or her who shall be notified in the event
3 that either the reporting agency or the Department decides
4 that the conditional release of the defendant should be
5 revoked or modified pursuant to subsection (i) of this
6 Section. Such conditional release shall be for a period of
7 five years. However, the defendant, the person or facility
8 rendering the treatment, therapy, program or outpatient
9 care, the Department, or the State's Attorney may petition
10 the Court for an extension of the conditional release
11 period for an additional 5 years. Upon receipt of such a
12 petition, the Court shall hold a hearing consistent with
13 the provisions of paragraph (a), this paragraph (a-1), and
14 paragraph (f) of this Section, shall determine whether the
15 defendant should continue to be subject to the terms of
16 conditional release, and shall enter an order either
17 extending the defendant's period of conditional release
18 for an additional 5 year period or discharging the
19 defendant. Additional 5-year periods of conditional
20 release may be ordered following a hearing as provided in
21 this Section. However, in no event shall the defendant's
22 period of conditional release continue beyond the maximum
23 period of commitment ordered by the Court pursuant to
24 paragraph (b) of this Section. These provisions for
25 extension of conditional release shall only apply to
26 defendants conditionally released on or after August 8,

1 2003. However the extension provisions of Public Act
2 83-1449 apply only to defendants charged with a forcible
3 felony.

4 (E) "Facility director" means the chief officer of a
5 mental health or developmental disabilities facility or
6 his or her designee or the supervisor of a program of
7 treatment or habilitation or his or her designee.

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

10 (b) If the Court finds the defendant in need of mental
11 health services on an inpatient basis, the admission,
12 detention, care, treatment or habilitation, treatment plans,
13 review proceedings, including review of treatment and
14 treatment plans, and discharge of the defendant after such
15 order shall be under the Mental Health and Developmental
16 Disabilities Code, except that the initial order for admission
17 of a defendant acquitted of a felony by reason of insanity
18 shall be for an indefinite period of time. Such period of
19 commitment shall not exceed the maximum length of time that the
20 defendant would have been required to serve, less credit for
21 good behavior as provided in Section 5-4-1 of the Unified Code
22 of Corrections, before becoming eligible for release had he
23 been convicted of and received the maximum sentence for the
24 most serious crime for which he has been acquitted by reason of
25 insanity. The Court shall determine the maximum period of
26 commitment by an appropriate order. During this period of time,

1 the defendant shall not be permitted to be in the community in
2 any manner, including but not limited to off-grounds
3 privileges, with or without escort by personnel of the
4 Department of Human Services, unsupervised on-grounds
5 privileges, discharge or conditional or temporary release,
6 except by a plan as provided in this Section. In no event shall
7 a defendant's continued unauthorized absence be a basis for
8 discharge. Not more than 30 days after admission and every 60
9 days thereafter so long as the initial order remains in effect,
10 the facility director shall file a treatment plan report in
11 writing with the court and forward a copy of the treatment plan
12 report to the clerk of the court, the State's Attorney, and the
13 defendant's attorney, if the defendant is represented by
14 counsel, or to a person authorized by the defendant under the
15 Mental Health and Developmental Disabilities Confidentiality
16 Act to be sent a copy of the report. The report shall include
17 an opinion as to whether the defendant is currently in need of
18 mental health services on an inpatient basis or in need of
19 mental health services on an outpatient basis. The report shall
20 also summarize the basis for those findings and provide a
21 current summary of the following items from the treatment plan:
22 (1) an assessment of the defendant's treatment needs, (2) a
23 description of the services recommended for treatment, (3) the
24 goals of each type of element of service, (4) an anticipated
25 timetable for the accomplishment of the goals, and (5) a
26 designation of the qualified professional responsible for the

1 implementation of the plan. The report may also include
2 unsupervised on-grounds privileges, off-grounds privileges
3 (with or without escort by personnel of the Department of Human
4 Services), home visits and participation in work programs, but
5 only where such privileges have been approved by specific court
6 order, which order may include such conditions on the defendant
7 as the Court may deem appropriate and necessary to reasonably
8 assure the defendant's satisfactory progress in treatment and
9 the safety of the defendant and others.

10 (c) Every defendant acquitted of a felony by reason of
11 insanity and subsequently found to be in need of mental health
12 services shall be represented by counsel in all proceedings
13 under this Section and under the Mental Health and
14 Developmental Disabilities Code.

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

17 (2) Upon filing with the Court of a verified statement
18 of legal services rendered by the private attorney
19 appointed pursuant to paragraph (1) of this subsection, the
20 Court shall determine a reasonable fee for such services.
21 If the defendant is unable to pay the fee, the Court shall
22 enter an order upon the State to pay the entire fee or such
23 amount as the defendant is unable to pay from funds
24 appropriated by the General Assembly for that purpose.

25 (d) When the facility director determines that:

26 (1) the defendant is no longer in need of mental health

1 services on an inpatient basis; and

2 (2) the defendant may be conditionally released
3 because he or she is still in need of mental health
4 services or that the defendant may be discharged as not in
5 need of any mental health services; or

6 (3) (blank);

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

22 (i) (blank); or

23 (ii) in need of mental health services in the form of
24 inpatient care; or

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

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

2 (v) (blank).

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

6 (e) A defendant admitted pursuant to this Section, or any
7 person on his behalf, may file a petition for treatment plan
8 review or discharge or conditional release under the standards
9 of this Section in the Court which rendered the verdict. Upon
10 receipt of a petition for treatment plan review or discharge or
11 conditional release, the Court shall set a hearing to be held
12 within 120 days. Thereafter, no new petition may be filed for
13 180 days without leave of the Court.

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

24 (g) The findings of the Court shall be established by clear
25 and convincing evidence. The burden of proof and the burden of
26 going forth with the evidence rest with the defendant or any

1 person on the defendant's behalf when a hearing is held to
2 review a petition filed by or on behalf of the defendant. The
3 evidence shall be presented in open Court with the right of
4 confrontation and cross-examination. Such evidence may
5 include, but is not limited to:

6 (1) whether the defendant appreciates the harm caused
7 by the defendant to others and the community by his or her
8 prior conduct that resulted in the finding of not guilty by
9 reason of insanity;

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

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

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

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

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

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

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

24 (9) any specialized physical or medical needs of the
25 defendant;

26 (10) any family participation or involvement expected

1 upon release and what is the willingness and ability of the
2 family to participate or be involved;

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

5 (12) any other factor or factors the Court deems
6 appropriate.

7 (h) Before the court orders that the defendant be
8 discharged or conditionally released, it shall order the
9 facility director to establish a discharge plan that includes a
10 plan for the defendant's shelter, support, and medication. If
11 appropriate, the court shall order that the facility director
12 establish a program to train the defendant in self-medication
13 under standards established by the Department of Human
14 Services. If the Court finds, consistent with the provisions of
15 this Section, that the defendant is no longer in need of mental
16 health services it shall order the facility director to
17 discharge the defendant. If the Court finds, consistent with
18 the provisions of this Section, that the defendant is in need
19 of mental health services, and no longer in need of inpatient
20 care, it shall order the facility director to release the
21 defendant under such conditions as the Court deems appropriate
22 and as provided by this Section. Such conditional release shall
23 be imposed for a period of 5 years as provided in paragraph (D)
24 of subsection (a-1) and shall be subject to later modification
25 by the Court as provided by this Section. If the Court finds
26 consistent with the provisions in this Section that the

1 defendant is in need of mental health services on an inpatient
2 basis, it shall order the facility director not to discharge or
3 release the defendant in accordance with paragraph (b) of this
4 Section.

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

1 secure setting unless the Court determines that there are
2 compelling reasons that such placement is not necessary. If the
3 Court finds that the defendant continues to be in need of
4 mental health services but not on an inpatient basis, it may
5 modify the conditions of the original release in order to
6 reasonably assure the defendant's satisfactory progress in
7 treatment and his or her safety and the safety of others in
8 accordance with the standards established in paragraph (D) of
9 subsection (a-1). Nothing in this Section shall limit a Court's
10 contempt powers or any other powers of a Court.

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

13 (k) In the event of a conflict between this Section and the
14 Mental Health and Developmental Disabilities Code or the Mental
15 Health and Developmental Disabilities Confidentiality Act, the
16 provisions of this Section shall govern.

17 (l) This amendatory Act shall apply to all persons who have
18 been found not guilty by reason of insanity and who are
19 presently committed to the Department of Mental Health and
20 Developmental Disabilities (now the Department of Human
21 Services).

22 (m) The Clerk of the Court shall transmit a certified copy
23 of the order of discharge or conditional release to the
24 Department of Human Services, to the sheriff of the county from
25 which the defendant was admitted, to the Illinois Department of
26 State Police, to the proper law enforcement agency for the

1 municipality where the offense took place, and to the sheriff
2 of the county into which the defendant is conditionally
3 discharged. The Illinois Department of State Police shall
4 maintain a centralized record of discharged or conditionally
5 released defendants while they are under court supervision for
6 access and use of appropriate law enforcement agencies.
7 (Source: P.A. 98-1025, eff. 8-22-14.)".