

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.