

**SB0074**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB0074**

Introduced 1/27/2011, by Sen. William R. Haine

**SYNOPSIS AS INTRODUCED:**

725 ILCS 5/104-20

from Ch. 38, par. 104-20

Amends the Code of Criminal Procedure of 1963 relating to a defendant found unfit to stand trial or plead and who is receiving treatment to attain fitness. Provides that the first hearing following the receipt by the court of the report from the supervisor of the defendant's treatment shall be set within 14 (rather than 21) days unless good cause is demonstrated why the hearing cannot be held. Effective immediately.

LRB097 02739 RLC 42760 b

**A BILL FOR**

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 14 ~~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

1 the date of the original finding of unfitness.

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

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

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

25 (Source: P.A. 94-191, eff. 7-12-05.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.