

SENATE FILE NO. SF0089

Involuntary hospitalized-annual hearing.

Sponsored by: Senator(s) Schiffer and Massie and
Representative(s) Iekel and Warren

A BILL

for

1 AN ACT relating to the involuntary hospitalization of
2 criminal offenders; requiring a court to hold a hearing as
3 soon as possible upon receipt of specified reports;
4 requiring an annual hearing to determine the
5 appropriateness of the placement as specified; and
6 providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 7-11-306(e) and (f) and 25-10-123 are
11 amended to read:

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13 **7-11-306. Disposition of persons found not guilty by**
14 **reason of mental illness or deficiency excluding**
15 **responsibility.**

16

1 (e) Following the first ninety (90) days of
2 commitment to the Wyoming state hospital or other
3 designated facility under this section, if at any time the
4 head of the facility is of the opinion that the person is
5 no longer affected by mental illness or deficiency, or that
6 he no longer presents a substantial risk of danger to
7 himself or others, the head of the facility shall apply to
8 the court which committed the person for an order of
9 discharge. The application shall be accompanied by a report
10 setting forth the facts supporting the opinion of the head
11 of the facility. Copies of the application and report shall
12 be transmitted by the clerk of the court to the district
13 attorney. The court shall hold a hearing on this matter as
14 soon as possible. If the state opposes the recommendation
15 of the head of the facility, the state has the burden of
16 proof by a preponderance of the evidence to show that the
17 person continues to be affected by mental illness or
18 deficiency and continues to present a substantial risk of
19 danger to himself or others and should remain in the
20 custody of the designated facility.

21

22 (f) Ninety (90) days after the order of commitment,
23 any person committed to the designated facility under this
24 section may apply to the district court of the county from

1 which he was committed for an order of discharge upon the
2 grounds that he is no longer affected by mental illness or
3 deficiency, or that he no longer presents a substantial
4 risk of danger to himself or others. The application for
5 discharge shall be accompanied by a report of the head of
6 the facility which shall be prepared and transmitted as
7 provided in subsection (e) of this section. The court shall
8 hold a hearing on this matter as soon as possible. The
9 applicant shall prove by a preponderance of the evidence
10 his fitness for discharge. An application for an order of
11 discharge under this subsection filed within six (6) months
12 of the date of a previous hearing shall be subject to
13 summary disposition by the court.

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15 **25-10-123. Discharge of patient held on order in**
16 **action arising out of criminal offense.**

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18 A patient held on order of a court having criminal
19 jurisdiction in any action or proceeding arising out of a
20 criminal offense shall not be discharged except upon order
21 of a court of competent jurisdiction. At any time the head
22 of the facility is of the opinion that the person is no
23 longer affected by mental illness or deficiency, or that he
24 no longer presents a substantial risk of danger to himself

1 or others, the head of the facility shall apply to the
2 court which committed the person for an order of discharge.
3 The court having criminal jurisdiction in the matter shall
4 conduct a hearing not less than once each year to determine
5 whether the continued hospitalization of the patient is
6 necessary, based on the reports required under W.S.
7 25-10-116 and any other information provided to the court
8 by the state hospital or the patient's counsel. After a
9 hearing, the court shall make its findings and enter an
10 order as provided in W.S. 25-10-118(c).

11

12 **Section 2.** This act is effective July 1, 2005.

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(END)