

ENROLLED ACT NO. 4, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to criminal procedure; amending the time period for competency evaluations of nonadjudicated defendants as specified; providing procedures for competency evaluations; authorizing courts to order release of relevant records as specified; requiring reports and hearings as specified; and providing for an effective date.

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

Section 1. W.S. 7-11-303(b) and (g) is amended to read:

7-11-303. Examination of accused to determine fitness to proceed; reports; commitment; defenses and objections.

(b) The court shall order an examination of the accused by a designated examiner. The order may include, but is not limited to, an examination of the accused at the Wyoming state hospital on an inpatient or outpatient basis, at a local mental health center on an inpatient or outpatient basis, or at his place of detention. In selecting the examination site, the court may consider proximity to the court, availability of an examiner, and the necessity for security precautions. If the order provides for commitment of the accused to a designated facility, the commitment shall continue no longer than a thirty (30) day period for the study of the mental condition of the accused. The prosecuting attorney and counsel for the accused shall cooperate in providing the relevant information and materials to the designated examiner, and the court may order as necessary that relevant information be provided to the examiner.

(g) If the court determines that the accused is mentally fit to proceed, the court may order that the

ORIGINAL HOUSE
BILL NO. 0004

ENROLLED ACT NO. 4, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

accused be held in confinement, be committed to a designated facility pending further proceedings, or be released on bail or other conditions. If the court determines that the accused lacks mental fitness to proceed, the proceedings against him shall be suspended and the court shall commit him to a designated facility ~~for such period as the court may order but not to exceed the time reasonably necessary~~ to determine whether there is substantial probability that the accused will regain his fitness to proceed:

(i) ~~If it is determined that there is no substantial probability that the accused will regain his fitness to proceed, the accused shall not be retained in a designated facility~~ The examiner shall provide a full report to the court, the prosecuting attorney and the accused or his counsel within ninety (90) days of arrival of the accused at the designated treating facility. If the examiner is unable to complete the assessment within ninety (90) days the examiner shall provide to the court and counsel a summary progress report which informs the court that additional time is necessary to complete the assessment, in which case the examiner may have up to an additional ninety (90) days to provide the full report for good cause shown, as follows:

(A) The full report shall assess:

(I) The facility's or program's capacity to provide appropriate treatment for the accused;

(II) The nature of treatments provided to the accused;

ORIGINAL HOUSE
BILL NO. 0004

ENROLLED ACT NO. 4, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

(III) What progress toward competency restoration has been made with respect to the factors identified by the court in its initial order;

(IV) The accused's current level of mental disorder or mental deficiency and need for treatment, if any; and

(V) The likelihood of restoration of competency and the amount of time estimated to achieve competency.

(B) Upon receipt of the full report, the court shall hold a hearing to determine the accused's current status. The burden of proving that the accused is fit to proceed shall be on the proponent of the assertion. Following the hearing, the court shall determine by a preponderance of the evidence whether the accused is:

(I) Fit to proceed;

(II) Not fit to proceed with a substantial probability that the accused may become fit to proceed in the foreseeable future; or

(III) Not fit to proceed without a substantial probability that the accused may become fit to proceed in the foreseeable future.

(C) If the court makes a determination pursuant to subdivision (B)(I) of this paragraph, the court shall proceed with the trial or any other procedures as may be necessary to adjudicate the charges;

(D) If the court makes a determination pursuant to subdivision (B)(II) of this paragraph, the

ORIGINAL HOUSE
BILL NO. 0004

ENROLLED ACT NO. 4, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

court may order that the accused remain committed to the custody of the designated facility for the purpose of treatment intended to restore the accused to competency;

(E) If the court makes a determination pursuant to subdivision (B)(III) of this paragraph, the court shall order the accused released from the custody of the designated facility unless proper civil commitment proceedings have been instituted and held as provided in title 25 of the Wyoming statutes. The continued retention, hospitalization and discharge of the accused shall be the same as for other patients. ~~However, if the accused is discharged, the criminal proceedings shall be resumed, unless the court determines that so much time has elapsed since the commitment of the accused that it would not be appropriate to resume the criminal proceeding;~~

(ii) If it is determined pursuant to subdivision (i)(B)(II) of this subsection that there is substantial probability that the accused will regain his fitness to proceed, the commitment of the accused at a designated facility shall continue until the head of the facility reports to the court that in his opinion the accused is fit to proceed. ~~as provided in paragraph (iii) of subsection (c) of this section.~~ If this opinion is not contested by the state, the accused or his counsel, the criminal proceeding shall be resumed. If the opinion is contested, the court shall hold a hearing as provided in subsection (f) of this section. While the accused remains at a designated facility under this subsection, the head of the facility shall issue a full report at least once every three (3) months in accordance with the requirements of subparagraph (i)(A) of this subsection on the progress the accused is making towards regaining his fitness to proceed.

ORIGINAL HOUSE
BILL NO. 0004

ENROLLED ACT NO. 4, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

Section 2. This act is effective July 1, 2010.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk