

RÉSUMÉ DIGEST

ACT 43 (HB 206)

2024 Regular Session

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Existing law (C.Cr.P. Art. 657) provides for the procedures relative to the release or discharge of a person who has been found not guilty by reason of insanity and committed to a mental institution.

New law retains existing law.

Existing law further provides that at the contradictory hearing to determine whether the committed person no longer has a mental illness and can be discharged or released on probation without danger to others or himself, the burden shall be upon the state to seek continuance of the confinement by proving by clear and convincing evidence that the committed person currently has a mental illness and is dangerous.

New law retains existing law, but provides an exception for new law (C.Cr.P. Art. 657.3).

New law (C.Cr.P. Art. 657.3) provides that the state may seek active supervised release by the Dept. of Public Safety and Corrections, office of probation and parole, of a committed person based upon the committed person's committed person continued dangerousness even if the committed person does not have a mental illness as defined by new law, if both of the following conditions are satisfied:

- (1) The committed person was found not guilty by reason of insanity for any of the following offenses or attempts to commit any of them:
 - (a) Any crime punishable by death or by life imprisonment.
 - (b) Any crime that is either a crime of violence as defined by existing law (R.S. 14:2(B)) or a sex offense as defined by existing law (R.S. 15:541).
- (2) The state proves by clear and convincing evidence that the committed person is dangerous to others or dangerous to himself as defined by existing law (R.S. 28:2). Further provides that in satisfying its burden of proof, the state may not rely solely upon the nature of the crime for which the committed person was found not guilty by reason of insanity and may not rely solely upon the diagnosis of any personality disorder.

New law provides that upon satisfaction of the criteria for commitment provided in new law and consideration of any report filed pursuant to existing law (C.Cr.P. Arts. 655 and 656), the court shall order the committed person to be placed on active supervised release with any special conditions recommended to the court as well as any conditions of probation provided in existing law (C.Cr.P. Art. 895 et. seq.) for a period not to exceed three years. Further provides that such period may be extended in three-year increments upon motion of the district attorney and proof that the committed person still satisfies the criteria for active supervised release.

New law provides that under no circumstances shall a committed person who is on active supervised release pursuant to new law be subject to a probation period that is longer than the maximum term he would have received if he had been convicted of the offense.

New law provides that when the committed person is placed on active supervised release, the clerk of court shall deliver a certificate to him setting forth the conditions of his release. Further provides that the committed person shall be required to agree in writing to the conditions of his release.

New law provides that when the committed person has violated or is suspected of violating the conditions of his release, he may be arrested and detained pursuant to existing law (C.Cr.P. Art. 899).

New law shall not be construed as abrogating or negating any other provision of existing law or any other provision of law relative to the continued commitment, discharge, or conditional release of a person committed pursuant to existing law (C.Cr.P. Art. 654).

New law defines the term "mental illness".

Effective August 1, 2024.

(Amends C.Cr.P. Art. 657; Adds C.Cr.P. Art. 657.3)