

2024 Regular Session

HOUSE BILL NO. 206

BY REPRESENTATIVE VILLIO

CRIMINAL/MENTAL CAPACITY: Provides relative to the commitment of certain persons who are found not guilty by reason of insanity

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 657 and to enact Code of
3 Criminal Procedure Article 657.3, relative to the continued commitment of certain
4 insanity acquittees; to provide for an exception; to provide for continued custody of
5 certain insanity acquittees based on criteria; to provide for the duration of continued
6 commitment; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 657 is hereby amended and reenacted
9 and Code of Criminal Procedure Article 657.3 is hereby enacted to read as follows:

10 Art. 657. Discharge or release; hearing

11 After considering the report or reports filed pursuant to Articles 655 and 656,
12 the court may either continue the commitment or hold a contradictory hearing to
13 determine whether the committed person no longer has a mental illness as defined
14 by R.S. 28:2 and can be discharged, or can be released on probation, without danger
15 to others or to himself as defined by R.S. 28:2. At the hearing the burden shall be
16 upon the state to seek continuance of the confinement by proving by clear and
17 convincing evidence that the committed person currently has a mental illness and is
18 dangerous, except as provided in Code of Criminal Procedure Article 657.3. After
19 the hearing, and upon filing written findings of fact and conclusions of law, the court
20 may order the committed person discharged, released on probation subject to

1 specified conditions for a fixed or an indeterminate period, or recommitted to the
2 state mental institution. A copy of the judgment and order containing the written
3 findings of fact and conclusions of law shall be forwarded to the administrator of the
4 forensic facility. Notice to the counsel for the committed person and the district
5 attorney of the contradictory hearing shall be given at least thirty days prior to the
6 hearing.

7 * * *

8 Art. 657.3. Commitment for dangerous but not mentally ill insanity acquittees

9 A. Notwithstanding any other provision of law to the contrary, the state may
10 seek continued commitment of an insanity acquittee based upon the insanity
11 acquittee's continued dangerousness even if the insanity acquittee does not have a
12 mental illness as defined by R.S. 28:2, if both of the following conditions are
13 satisfied:

14 (1) The insanity acquittee was found not guilty by reason of insanity for any
15 of the following offenses or attempts to commit any of them:

16 (a) Any crime punishable by death or by life imprisonment.

17 (b) Any crime that is both a crime of violence as defined by R.S. 14:2(B) and
18 a sex offense as defined by R.S. 15:541.

19 (c) Any crime of violence as defined by R.S. 14:2(B) punishable by a
20 maximum sentence of twenty years imprisonment or more.

21 (2) The state proves by clear and convincing evidence that the insanity
22 acquittee is dangerous to others or dangerous to himself as defined by R.S. 28:2. In
23 satisfying its burden of proof, the state may not rely solely upon the nature of the
24 crime for which the insanity acquittee was found not guilty by reason of insanity and
25 may not rely solely upon the diagnosis of any personality disorder.

26 B. Upon satisfaction of the criteria for commitment provided in Paragraph
27 A of this Article, the court shall order the insanity acquittee to be held in continued
28 commitment for a period not to exceed one year. Such period may be extended in

1 one year increments upon motion of the district attorney and proof that the insanity
2 acquittee still satisfies the criteria for commitment under this Article.

3 C. Nothing in this Article shall be construed as abrogating or negating any
4 other provision of this Chapter or any other provision of law relative to the
5 commitment of insanity acquittees or relative to conditional release for insanity
6 acquittees.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 206 Original

2024 Regular Session

Villio

Abstract: Provides relative to the continued commitment of an insanity acquittee in certain circumstances.

Present 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.

Proposed law retains present law.

Present 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.

Proposed law retains present law, but provides an exception for proposed law (C.Cr.P. Art. 657.3).

Proposed law (C.Cr.P. Art. 657.3) provides that the state may seek continued commitment of an insanity acquittee based upon the insanity acquittee's continued dangerousness even if the insanity acquittee does not have a mental illness as defined by present law (R.S. 28:2), if both of the following conditions are satisfied:

- (1) The insanity acquittee 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 both a crime of violence as defined by present law (R.S. 14:2(B)) and a sex offense as defined by present law (R.S. 15:541).
 - (c) Any crime of violence as defined by present law (R.S. 14:2(B)) punishable by a maximum sentence of 20 years imprisonment or more.
- (2) The state proves by clear and convincing evidence that the insanity acquittee is dangerous to others or dangerous to himself as defined by present 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 insanity acquittee was found not guilty by reason of insanity and may not rely solely upon the diagnosis of any personality disorder.

Proposed law provides that upon satisfaction of the criteria for commitment provided in proposed law, the court shall order the insanity acquittee to be held in continued commitment for a period not to exceed one year. Further provides that such period may be extended in one year increments upon motion of the district attorney and proof that the insanity acquittee still satisfies the criteria for commitment under proposed law .

Proposed law shall not be construed as abrogating or negating any other provision of present law or any other provision of law relative to the commitment of insanity acquittees or relative to conditional release for insanity acquittees.

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