

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 committed persons; to provide for an exception; to provide for continued custody of  
5 certain committed persons based on criteria; to provide for the duration of active  
6 supervised release; to provide for a definition; 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~~ Article 657.3 and can be discharged, or can be released on probation,  
15 without danger to others or to himself as defined by R.S. 28:2. At the hearing the  
16 burden shall be upon the state to seek continuance of the confinement by proving by  
17 clear and convincing evidence that the committed person currently has a mental  
18 illness and is dangerous, except as provided in Code of Criminal Procedure Article  
19 657.3. After the hearing, and upon filing written findings of fact and conclusions of  
20 law, the court may order the committed person discharged, released on probation

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

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8 Art. 657.3. Active supervised release for dangerous but not mentally ill committed  
9 persons

10 A. Notwithstanding any other provision of law to the contrary, the state may  
11 seek active supervised release by the Department of Public Safety and Corrections,  
12 office of probation and parole, of a committed person based upon the committed  
13 person's continued dangerousness even if the committed person does not have a  
14 mental illness as defined by this Article, if both of the following conditions are  
15 satisfied:

16 (1) The committed person was found not guilty by reason of insanity for any  
17 of the following offenses or attempts to commit any of them:

- 18 (a) Any crime punishable by death or by life imprisonment.
- 19 (b) Any crime that is either a crime of violence as defined by R.S. 14:2(B)  
20 or a sex offense as defined by R.S. 15:541.

21 (2) The state proves by clear and convincing evidence that the committed  
22 person 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 committed person 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 active supervised release provided in  
27 Paragraph A of this Article and consideration of any report filed pursuant to Articles  
28 655 and 656, the court shall order the committed person to be placed on active  
29 supervised release with any special conditions recommended to the court as well as

1 any conditions of probation provided in Article 895 et seq. for a period not to exceed  
2 three years. Such period may be extended in three-year increments upon motion of  
3 the district attorney and proof that the committed person still satisfies the criteria for  
4 active supervised release under this Article. Under no circumstances shall a  
5 committed person who is on active supervised release pursuant to this Article be  
6 subject to a probation period that is longer than the maximum term he would have  
7 received if he had been convicted of the offense.

8 C. When the committed person is placed on active supervised release, the  
9 clerk of court shall deliver a certificate to him setting forth the conditions of his  
10 release. The committed person shall be required to agree in writing to the conditions  
11 of his release.

12 D. When the committed person has violated or is suspected of violating the  
13 conditions of his release, he may be arrested and detained pursuant to Article 899.

14 E. Nothing in this Article shall be construed as abrogating or negating any  
15 other provision of this Chapter or any other provision of law relative to the continued  
16 commitment, discharge, or conditional release of a person committed pursuant to  
17 Article 654.

18 F. For the purposes of this Title, "mental illness" means a psychiatric  
19 disorder which has substantial adverse effects on a person's ability to function and  
20 requires care and treatment. It does not refer to a person with, solely, an intellectual  
21 disability, or who suffers solely from epilepsy or a substance-related or addictive  
22 disorder.

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#### 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)]

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HB 206 Reengrossed

2024 Regular Session

Villio

**Abstract:** Provides relative to the active supervised release of a committed person 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 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 proposed 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 present law (R.S. 14:2(B)) or a sex offense as defined by present 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 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 committed person 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 and consideration of any report filed pursuant to present 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 present 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.

Proposed law provides that under no circumstances shall a committed person who is on active supervised release pursuant to proposed 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.

Proposed 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.

Proposed 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 present law (C.Cr.P. Art. 899).

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 continued commitment, discharge, or conditional release of a person committed pursuant to present law (C.Cr.P. Art. 654).

Proposed law defines the term "mental illness".

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

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Change the terminology from "insanity acquittee" to "committed person" throughout proposed law.
3. Change the terminology from "continued commitment" to "active supervised release" throughout proposed law.
4. Change the type of offense that a committed person has to be found not guilty by reason of insanity of in order to be considered for active supervised release from any crime that is both a crime of violence and a sex offense to any crime that is either a crime of violence or a sex offense.
5. Remove any crime of violence punishable by a maximum sentence of 20 years imprisonment or more as the type of offense that a committed person has to be found not guilty by reason of insanity of in order to be considered for active supervised release.
6. Require the court, after consideration of any report filed pursuant to present law (C.Cr.P. Arts. 655 and 656), to 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 present law (Article 895 et seq).
7. Change the maximum time period for active supervised release from one year to three years and provide that such time period may be extended in increments of three years rather than one year.
8. Provide for extension of the active supervised release period upon motion of the district attorney and proof that the committed person still satisfies the criteria for active supervised release under proposed law.
9. Provide that a committed person who is on active supervised release shall not 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.
10. Require the clerk of court to deliver a certificate to the committed person setting forth the conditions of his release when the committed person is placed on active supervised release and requires the committed person to agree in writing to the conditions of his release.
11. Provide for the arrest and detainment of a committed person pursuant to present law (C.Cr.P. Art. 899) when the committed person has violated or is suspected of violating the conditions of his release.

12. Clarify that nothing in proposed law shall be construed as abrogating or negating any other provision of present law relative to the commitment of insanity acquittees or relative to the continued commitment, discharge, or conditional release of a person committed pursuant to present law (C.Cr.P. Art. 654).

The House Floor Amendments to the engrossed bill:

1. Provide a definition for the term "mental illness".
2. Provide correct citations of present law relative to the term "mental illness".