

Assembly Bill 193

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CHAPTER 132

AN ACT to amend 957.13 (2) and (3) and 957.27 (3); and to create 957.13 (5) and 957.28 of the statutes, relating to commitment of defendants for mental observation, and for detention and treatment until able to stand trial on criminal charges.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 957.13 (2) and (3) of the statutes are amended to read:

957.13 (2) If the court finds that the defendant is ~~insane or feeble-minded~~ as a result of mental illness or deficiency lacks capacity to understand the proceedings against him or to assist in his own defense, his trial or sentence or commitment to prison shall be postponed indefinitely and the court shall thereupon ~~order him confined in~~ commit the defendant to the central state hospital (if male) or ~~an institution designated by the department of public welfare~~ the Winnebago state hospital (if female).

(3) ~~Upon the defendant's recovery~~ When the hospital superintendent considers that the defendant has recovered sufficiently to understand the proceedings against him and to assist in his own defense the hospital superintendent shall notify the committing court thereof. The court shall thereupon issue an order remanding the defendant to the custody of the sheriff pending further proceedings in the cause, but if the court finds that the defendant has not so recovered the defendant shall be recommitted to the hospital.

SECTION 2. 957.13 (5) of the statutes is created to read:

957.13 (5) The fact that the defendant is unfit to proceed does not prevent the making and determination pursuant to s. 955.09 of any legal objection which is susceptible of fair determination before trial without the personal participation of the defendant.

SECTION 3. 957.27 (3) of the statutes is amended to read:

957.27 (3) Whenever the existence of mental ~~disease~~ illness or deficiency on the part of the accused, at the time of the trial, is suggested or becomes the subject of inquiry pursuant to s. 957.13, the ~~presiding judge~~ of the court before which the accused is to be tried or is being tried may, in its discretion, after reasonable notice and opportunity for hearing, commit the accused to a state or county mental hospital or ~~asylum for the insane~~ to be detained there for a reasonable time, to be fixed by the court, for the purpose of observation, but the court may proceed under

s. 957.13. In case of commitment to a hospital the court shall direct . The superintendent of the hospital ~~to~~ shall permit all the expert witnesses summoned in the case to have free access to the accused for the purpose of observation. The court may also direct the chief physician of the hospital to ~~prepare~~ *cause the preparation of* a report regarding the mental condition of the accused. ~~This report~~ , which may be introduced in evidence *on motion of the court at the request of either the state or the defense* at the trial under the oath of ~~the~~ said chief physician *or other qualified physician designated by him* who may be cross-examined regarding the report by counsel for both parties. It ~~shall be~~ *is* the duty of the sheriff to convey the accused to and from the place of commitment, and if the sheriff fails to call for the accused upon expiration of the time fixed by the court the accused shall be retained in custody in the hospital ~~or asylum~~ and if the accused is not removed upon the expiration of the time fixed by the court the superintendent shall give notice thereof by registered mail to the judge and the sheriff; and the county shall pay to the hospital ~~or asylum~~ for the keep and maintenance of the accused the sum of \$10 per day after the expiration of the time fixed by the court until the accused is removed.

SECTION 4. 957.28 of the statutes is created to read:

957.28 FORMS. The state department of public welfare shall prescribe forms for the orderly commitment of defendants to mental hospitals under ss. 957.11, 957.13 and 957.27 (3), and furnish such forms to the clerks of court of each county. A substantial compliance with prescribed forms is sufficient.

Approved June 24, 1965.
