

CHAPTER 30.

[S. B. 63.]

RELATIVE TO THE CRIMINAL INSANE.

AN ACT relating to the criminal insane, their trial, commitment and custody.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Any person who shall have committed a crime while insane, or in a condition of mental irresponsibility, and in whom such insanity or mental irresponsibility continues to exist, shall be deemed criminally insane within the meaning of this act. No condition of mind induced by the voluntary act of a person charged with a crime shall be deemed mental irresponsibility within the meaning of this act.

Criminal in-
sane
defined.

SEC. 2. When it is desired to interpose the defense of insanity or mental irresponsibility on behalf of one charged with a crime, the defendant, his counsel or other person authorized by law to appear and act for him, shall at the time of pleading to the information or indictment file a plea in writing in addition to the plea or pleas required or permitted by other laws than this, setting up (1) his insanity or mental irresponsibility at the time of the commission of the crime charged, and (2) whether the insanity or mental irresponsibility still exists, or (3) whether the defendant has become sane or mentally responsible between the time of the commission of the crime and the time of the trial. The plea may be interposed at any time thereafter, before the submission of the cause to the jury, if it be proven that the insanity or mental irresponsibility of the defendant at the time of the crime was not before known to any person authorized to interpose a plea.

Plea of
insanity.

SEC. 3. If the plea of insanity or mental irresponsibility be interposed, and evidence upon that issue be given, the court shall instruct the jury when giving the charge, that in case a verdict of acquittal of the crime charged be returned, they shall also return special verdicts finding (1) whether the defendant committed the crime and if so, (2)

Verdict.

whether they acquit him because of his insanity or mental irresponsibility at the time of its commission, (3) whether the insanity or mental irresponsibility continues and exists at the time of the trial, and (4) whether, if such condition of insanity or mental irresponsibility does not exist at the time of the trial, there is such likelihood of a relapse or recurrence of the insane or mental irresponsible condition, that the defendant is not a safe person to be at large. Forms for the return of the special verdicts shall be submitted to the jury with the forms for the general verdicts.

Discharge. SEC. 4. If the jury find by their special verdicts that the defendant committed the crime charged, that he is acquitted because of his insanity or mental irresponsibility at the time of its commission, and that before the trial he has become a sane or mentally responsible person, and is not liable to a relapse or recurrence of the insane or mentally irresponsible condition, and is a safe person to be at large, he shall be discharged. If the jury find that the defendant committed the crime charged, that he is acquitted because of his insanity or mental irresponsibility at the time of its commission, and that the insanity or mental irresponsibility still exists, or, if it does not exist, that he is so liable to a relapse or recurrence of the insane or mentally irresponsible condition as to be an unsafe person to be at large, the court shall enter judgment in accordance therewith, and shall order the defendant committed as a criminally insane person until such time as he shall be discharged as hereinafter provided.

Commitment.

Statement of facts.

SEC. 5. Either party to the cause may have the evidence and all of the matters not of record in the cause made a part of the record by the certifying of a statement of facts or bill of exceptions as in other cases. If an appeal should be not taken, such statement of facts or bill of exceptions shall remain on file in the office of the clerk of the court where the cause was tried, and if an appeal be taken, the statement of facts or bill of exceptions shall be returned from the Supreme Court to the court where the cause was tried when the Supreme Court shall have rendered its final judgment in the cause.

SEC. 6. When any person committed hereunder shall claim to have become sane or mentally responsible and to be free from danger of any relapse or recurrence of mental unsoundness and a safe person to be at large, he shall apply to the physician in charge of the criminal insane for an examination of his mental condition and fitness to be at large. If the physician shall certify to the warden that there is reasonable cause to believe that such person has become sane since his commitment and is a safe person to be at large, the warden shall permit him to present a petition to the court that committed him, setting up the facts leading to his commitment, and that he has since become sane and mentally responsible, and is in such condition that he is a safe person to be at large, and shall pray his discharge from custody. The petition shall be served upon the prosecuting attorney of the county, whose duty it shall be to resist the application. No other pleadings than the petition need be filed, and the court shall set the cause down for trial before a jury, and the trial shall proceed as in other cases. The sole issue to be tried in the case shall be whether the person petitioning for a discharge has, since his commitment, become a safe person to be at large, and the burden of proof shall be upon him. If the evidence given upon his trial upon the criminal charge shall have been preserved by statement of facts or bill of exceptions as hereinbefore provided, either party may read such parts of that record as may be desired as evidence upon the hearing. The jury shall be required to find whether the petitioner has become sane since his commitment, is not liable to a recurrence of the mental unsoundness or relapse, and is a safe person to be at large. If they so find, he shall be entitled to a discharge. If not, his petition shall be dismissed, and he shall be remitted to custody. Either party may appeal to the Supreme Court from the judgment discharging the petitioner or remitting him to custody, in the same manner that appeals in other cases are taken. The judgment of remission shall be conclusive that the petitioner is an unsafe person to be at large at the time of its entry; but if he shall subsequently claim to have become a sane and safe person

Application
for examina-
tion.

Certificate
of phy-
sician.

Petition
to court.

Jury trial.
Issue.

Evidence at
former trial
may be
read.

Finding of
jury.

Appeal.

Subsequent
trial.

to be at large, he may upon a certificate of probable cause by the attending physician, which shall show a change in his mental condition since the last trial, his present sanity and fitness to be at large, again petition for discharge, and the proceedings thereon shall be as hereinabove provided.

Recommit-
ment.

SEC. 7. Should any criminally insane person discharged hereunder again become insane or mentally irresponsible, or be found to be an unsafe person to be at large because of mental unsoundness, the prosecuting attorney of the county from which he was committed may file a petition in the name of the State, setting up the facts leading to his commitment and subsequent discharge, and the relapse which is the basis of the petition. A warrant shall be issued for the defendant as in criminal cases, the defendant taken into custody, and the case tried to a jury, as in other cases provided herein; but the burden of proof, showing reasons for commitment, shall be upon the State. Should the jury find the defendant sane, and a safe person to be at large, he shall be discharged. Should they find that since his discharge he has suffered a relapse or recurrence of his mental unsoundness, and by reason thereof he is an unsafe person to be at large, the court shall issue an order remitting him to custody as criminally insane. The evidence given upon the former trial or trials, if preserved by statement of facts or bill of exceptions as hereinbefore prescribed, may be read upon such hearing, and either party may appeal to the Supreme Court as in other cases.

Procedure.

Ward for
criminal in-
sane at
Peniten-
tiary

SEC. 8. The authorities charged with the maintenance and conduct of the State penitentiary shall forthwith provide a ward or department in the State penitentiary wherein shall be confined persons committed as criminally insane persons under the provisions of this act. Such persons shall be under the custody and control of the warden of the penitentiary to the same extent that are other persons committed to his custody, but such provision shall be made for their control, care and treatment as shall be proper in view of their derangement. Any person so committed shall not be discharged from the custody of

the warden save upon the order of a court of competent jurisdiction made after a trial and judgment of discharge as herein provided. When any person so committed shall petition for a discharge, the warden of the penitentiary shall send him to the county where the hearing is to be had at the time the case shall be called for trial in the custody of a guard. During the time he shall be absent from the penitentiary, he shall be confined in the county jail, but shall at all times be deemed to be in the custody of the guard. If he shall be remitted to custody, the guard shall forthwith return him to the penitentiary. If he shall be discharged, the State may forthwith appeal from the order of discharge, and such appeal shall operate as a stay of the order and he shall remain in custody and be forthwith returned to the penitentiary until the Supreme Court shall have rendered a final decision in the cause. If the State does not desire to appeal, the order of discharge shall be a sufficient acquittal to the warden.

SEC. 9. All the criminal insane now confined in the State hospitals for the insane shall be forthwith sent by the authorities of those hospitals to the State penitentiary and placed in the control of the warden and confined by him in the ward or department for the criminal insane, herein provided for, and shall not thereafter be discharged from his custody save in the manner herein provided. Any criminally insane person now confined in the State penitentiary shall be transferred to the ward for the criminally insane, and shall not be discharged, save as herein provided.

SEC. 10. The prosecuting attorney of any county wherein a person may have been acquitted of a crime because of his insanity or mental irresponsibility may cause any such person who is not in custody to be brought before the superior court of that county for trial as to the question of his sanity or mental responsibility by filing a petition in the name of the State setting up the commission of a crime by such person, his acquittal thereof because of his insanity, and his insanity or mental irresponsibility at the present time. The cause shall be tried to a jury as hereinbefore provided. The evidence given

Discharge.

Criminal-insane to be transferred to ward at Penitentiary.

Commitment of persons not in custody

Procedure.

upon the trial of the criminal charge, if preserved by statement of facts or bill of exceptions, may be read in evidence, or the witnesses testifying upon the former trial may themselves be called. The jurors trying the criminal charge may testify as to the ground of acquittal. If the jury shall find that the defendant committed a crime, that he was acquitted thereof because of insanity, and that he is now insane or mentally irresponsible and an unsafe person to be at large, such person shall be committed to the penitentiary as a criminally insane person and be confined under the provisions of this act; otherwise, he shall be discharged. Either party may appeal to the Supreme Court as in other cases.

Passed the Senate February 1, 1907.

Passed the House February 13, 1907.

Approved by the Governor February 21, 1907.

CHAPTER 31.

[S. B. 17.]

AMENDING THE CODE OF PUBLIC INSTRUCTION.

AN ACT relating to the Public School system of the State of Washington, amending sections 75, 78, 89, 97 and 98 of chapter 118 of the session Laws of 1897, approved March 19, 1897.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section seventy-five of the Code of Public Instruction of the State of Washington be amended to read as follows: Section 75. Whenever any incorporated city in this state shall have a population of ten thousand or more inhabitants, as shown by any regular or special census, together with any adjacent or contiguous territory that now is or may hereafter be attached to said city for school purposes, it shall constitute one school district and be known by the name of "..... (name of city) school district No.," in county, State of Washington, and the board of directors thereof shall constitute a body corporate

Title of
city district.