

CHAPTER 48.

[S. B. 84.]

CRIMINAL PROCEDURE—CRIMINALLY INSANE.

AN ACT relating to the criminally insane, and amending section 8, chapter 30, Laws of 1907 and RCW 10.76.060, and section 6, chapter 30, Laws of 1907 and RCW 10.76.070, and section 10, chapter 30, Laws of 1907 and RCW 10.76.090.

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

SECTION 1. Section 8, chapter 30, Laws of 1907 and RCW 10.76.060 are each amended to read as follows:

RCW 10.76.060 amended.

The authorities charged with the maintenance and conduct of Eastern State Hospital shall forthwith provide a ward or department in the hospital wherein shall be confined persons committed as criminally insane. Such persons shall be under the custody and control of the superintendent of the hospital to the same extent that other persons are who are committed to his custody, but such provision shall be made for their control, care and treatment as is proper in view of their derangement. Any person so committed shall not be discharged from the custody of the superintendent save upon the order of a court of competent jurisdiction made after a trial and judgment of discharge.

Eastern State Hospital ward to house criminally insane—Custody.

When any person so committed petitions for a discharge, the superintendent of the hospital shall send him in the custody of a guard to the county where the hearing is to be held at the time the case is called for trial. During the time he is absent from the hospital, 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 is remitted to custody, the guard shall forthwith return him to the hospital.

Custody upon petition for discharge.

If the state does not desire to appeal, the order of discharge shall be sufficient acquittal to the super-

intendent. If the state does appeal from an order of discharge, it shall operate as a stay, and the person in custody shall so remain and be forthwith returned to the hospital until the supreme court has rendered a final decision in the cause.

RCW 10.76.070 amended.

SEC. 2. Section 6, chapter 30, Laws of 1907 and RCW 10.76.070 are each amended to read as follows:

Procedure to secure discharge from confinement as criminally insane.

When any person committed under the authority of this chapter claims 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 certifies to the superintendent of the hospital that there is reasonable cause to believe that the person has become sane since his commitment and is a safe person to be at large, the superintendent 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, and it shall be his duty 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 has been preserved by a certified statement of facts or bill of exceptions filed in the cause, either party may read such parts

of the record as may be desired as evidence upon the hearing.

Procedure to secure discharge from confinement as criminally insane.

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 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. The procedure on appeal shall be the same as in other cases. The judgment of remission shall be conclusive that the petitioner is an unsafe person to be at large at the time of its entry.

If he subsequently claims to have become sane and a safe person to be at large, he may upon a certificate of probable cause by the attending physician, which shows 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.

SEC. 3. Section 10, chapter 30, Laws of 1907 and RCW 10.76.090 are each amended to read as follows:

RCW 10.76.090 amended.

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 a 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 in this chapter provided.

Commitment after acquittal.

The evidence given upon the trial of the criminal charge, if preserved by a statement of facts or bill

Commitment
after acquittal.

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 finds 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 hospital as a criminally insane person and be confined under the provisions of this chapter; otherwise, he shall be discharged. Either party may appeal to the supreme court. The procedure on appeal shall be the same as in other cases.

Passed the Senate February 14, 1957.

Passed the House February 28, 1957.

Approved by the Governor March 8, 1957.

CHAPTER 49.

[S. B. 85]

MENTAL ILLNESS—HOSPITALIZATION.

AN ACT relating to the commitment of mentally ill persons, and amending section 28, chapter 139, Laws of 1951 and RCW 71.02.130.

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

RCW 71.02.130
amended.

SECTION 1. Section 28, chapter 139, Laws of 1951 and RCW 71.02.130 are each amended to read as follows:

Mentally ill.
Detention
wards,
counties.

There shall be set aside in each county of the state of Washington having a county hospital, such portions of such hospital as may be necessary for the detention and observation of those persons detained under the provisions of this chapter pending further proceedings. In each such hospital there shall be separate detention wards for males and females. The superior court may order the examina-