

ENROLLED ACT NO. 36, SENATE

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

AN ACT relating to the involuntary hospitalization of criminal offenders; requiring a court to hold a hearing as soon as possible upon receipt of specified reports; requiring an annual hearing to determine the appropriateness of the placement as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 7-11-306(e) and (f) and 25-10-123 are amended to read:

7-11-306. Disposition of persons found not guilty by reason of mental illness or deficiency excluding responsibility.

(e) Following the first ninety (90) days of commitment to the Wyoming state hospital or other designated facility under this section, if at any time the head of the facility is of the opinion that the person is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others, the head of the facility shall apply to the court which committed the person for an order of discharge. The application shall be accompanied by a report setting forth the facts supporting the opinion of the head of the facility. Copies of the application and report shall be transmitted by the clerk of the court to the district attorney. The court shall hold a hearing on this matter as soon as possible. If the state opposes the recommendation of the head of the facility, the state has the burden of proof by a preponderance of the evidence to show that the person continues to be affected by mental illness or deficiency and continues to present a substantial risk of

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danger to himself or others and should remain in the custody of the designated facility.

(f) Ninety (90) days after the order of commitment, any person committed to the designated facility under this section may apply to the district court of the county from which he was committed for an order of discharge upon the grounds that he is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others. The application for discharge shall be accompanied by a report of the head of the facility which shall be prepared and transmitted as provided in subsection (e) of this section. The court shall hold a hearing on this matter as soon as possible. The applicant shall prove by a preponderance of the evidence his fitness for discharge. An application for an order of discharge under this subsection filed within six (6) months of the date of a previous hearing shall be subject to summary disposition by the court.

25-10-123. Discharge of patient held on order in action arising out of criminal offense.

A patient held on order of a court having criminal jurisdiction in any action or proceeding arising out of a criminal offense shall not be discharged except upon order of a court of competent jurisdiction. At any time the head of the hospital is of the opinion that the person is no longer affected by mental illness or deficiency, or that he no longer presents a substantial risk of danger to himself or others, the head of the hospital shall apply to the court which committed the person for an order of discharge. The court having criminal jurisdiction in the matter shall conduct a hearing not less than once each year to determine whether the continued hospitalization of the patient is necessary, based on the reports required under W.S.

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25-10-116 and any other information provided to the court by the state hospital or the federal hospital under W.S. 25-10-111, as appropriate, or the patient's counsel. After a hearing, the court shall make its findings and enter an order as provided in W.S. 25-10-118(c).

Section 2. This act is effective July 1, 2005.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk