

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 537
HOUSE BILL 95

AN ACT TO PROVIDE JUDICIAL REVIEW OF A PSYCHIATRIST'S DETERMINATION
TO RELEASE AN INVOLUNTARILY COMMITTED MENTAL PATIENT WHO HAS
COMMITTED VIOLENT ACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.8(b) is amended by adding the following sentence between the first and second sentences of the subsection:

"If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found not guilty by reason of insanity or incapable of proceeding, the commitment order shall so indicate."

Sec. 2. G.S. 122-58.11(a) is amended by adding the following sentence after the last sentence of the subsection:

"If the respondent was initially committed as the result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and respondent was found not guilty by reason of insanity or incapable of proceeding, the clerk shall also notify the Chief District Court Judge, the clerk of superior court, and the district attorney in the county in which the respondent was found not guilty by reason of insanity or incompetent to proceed, of the time and place of the hearing."

Sec. 3. G.S. 122-58.11 is amended by adding a new subsection (a1) to read as follows:

"(a1) Fifteen days before the end of the initial treatment period of a respondent who was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and such person having been found not guilty by reason of insanity or incapable of proceeding, if the chief of medical services of the inpatient facility determines that treatment of the respondent beyond the initial period will not be necessary, he shall so notify the clerk of superior court for the scheduling of a rehearing as provided in G.S. 122-58.13(b)."

Sec. 4. G.S. 122-58.11(e) is amended by rewriting the last sentence to read as follows:

"No recommitment ordered shall be for a period longer than one year."

Sec. 5. G.S. 122-58.13 is rewritten to read as follows:

§ 122-58.13. Release and conditional release; judicial review. — (a) Except as provided in subsection (b), the chief of medical services of a public or private mental health facility shall discharge a committed respondent unconditionally at any time he determines that the patient is no longer in need of hospitalization. Except as provided in subsection (b), he may also release a respondent conditionally, for periods not in excess of 30 days, on specified medically appropriate conditions. Violation of the conditions is grounds for return to the releasing facility. A law enforcement officer, on written request of the chief of medical services of the facility, shall take a conditional releasee into custody and return him to the facility. Notice of discharge and of conditional release shall be furnished to the clerk of superior court of the county of commitment and of the county in which the facility is located.

(b) If the respondent was initially committed as the result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and respondent was found not guilty by reason of insanity or incapable of proceeding, 15 days before the respondent's discharge or conditional release the chief of medical services of a public or private mental health facility shall notify the clerk of superior court of the county in which the facility is located of his determination that the respondent is no longer in need of hospitalization. The clerk must then schedule a rehearing to determine the appropriateness of respondent's release under the standards of commitment set forth in G.S. 122-58.8. The clerk shall give notice as provided in G.S. 122-58.11(a). The district attorney of the district where respondent was found not guilty by reason of insanity or incapable of proceeding may represent the State's interest at the hearing."

Sec. 6. G.S. 122-58.7A is amended by adding a new subsection (c) as follows:

"(c) Upon the motion of any interested party, the venue of the rehearing required by G.S. 122-58.13(b) shall be moved to the county of the original commitment when the convenience of witnesses and the ends of justice would be promoted by the change, or when the judge has, at any time, been interested as party or counsel."

Sec. 7. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.