

6. Information provided to the school under subsection 2 shall be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator.

7. The Iowa braille and sight saving school, the state school for the deaf, and the institutions under the control of the department of human services as provided in section 218.1 are exempt from the provisions of this section.

Approved April 12, 2004

CHAPTER 1060

SEXUALLY VIOLENT OFFENSES — INSANITY OF DEFENDANT — CIVIL COMMITMENT

S.F. 2193

AN ACT relating to the civil commitment of sexually violent predators.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 229A.7, subsection 1, Code 2003, is amended to read as follows:

1. If the person charged with a sexually violent offense has been found incompetent to stand trial and the person is about to be released pursuant to section 812.5, or ~~the person has been found not guilty of a sexually violent offense by reason of insanity~~, if a petition has been filed seeking the person's commitment under this chapter, the court shall first hear evidence and determine whether the person did commit the act or acts charged. At the hearing on this issue, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence ~~or insanity~~ affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter.

Sec. 2. Section 229A.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If a person has been found not guilty by reason of insanity, the court shall determine whether the acts charged were proven as a matter of law. If as a matter of law, the finding of not guilty by reason of insanity requires a finding that the underlying elements of the charged offense were proven, then no further fact-finding is required. If as a matter of law, the finding of not guilty by reason of insanity does not require a finding that the underlying elements of the charged offense be proven, the case shall proceed in the same manner as if the person were found to be incompetent to stand trial as provided in subsection 1.

Approved April 12, 2004