

1 AN ACT in relation to sexually dangerous persons.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Sexually Dangerous Persons Act is amended
5 by changing Section 9 as follows:

6 (725 ILCS 205/9) (from Ch. 38, par. 105-9)

7 Sec. 9. Application showing recovery.

8 (a) Any person who is committed as a sexually dangerous
9 person under this Act, may file an application in writing
10 before the committing court setting forth facts showing that
11 such sexually dangerous person or criminal sexual
12 psychopathic person has recovered if at least 6 months have
13 elapsed since the initial commitment order was entered, the
14 most recent application showing recovery was denied, or the
15 most recent order for conditional release was revoked. The
16 Director of Corrections may file a petition under this
17 Section on a person's behalf at any time. A copy of the
18 application showing recovery shall be served on the State's
19 Attorney of the committing county.

20 (b) Within 30 days of receipt of the application showing
21 recovery, the court shall examine the application showing
22 recovery and determine if the application showing recovery
23 has been filed in accordance with the requirements of
24 subsection (a) of this Section. If the court determines that
25 this application showing recovery has not been filed in
26 accordance with the provisions of subsection (a), the court
27 may enter its order denying the applicant's application
28 showing recovery without further hearing.

29 (c) If the court determines that the application showing
30 recovery meets the requirements of subsection (a), then the

1 court shall direct the clerk of the court to cause a copy of
2 the application to be sent to the Director of Corrections.
3 The Director shall then cause to be prepared and sent to the
4 court a socio-psychiatric report concerning the applicant.
5 The report shall be prepared by the psychiatrist,
6 sociologist, psychologist, and warden of, or assigned to, the
7 institution where the applicant is confined.

8 (d) The court shall set a probable cause hearing as soon
9 as practical after the socio-psychiatric report concerning
10 the applicant is filed. If the court determines at the
11 probable cause hearing that cause exists to believe that it
12 is not substantially probable that the person will engage in
13 acts of sexual assault or acts of sexual molestation of
14 children if discharged or conditionally released, the court
15 shall set a hearing on the issue. If the court determines at
16 the probable cause hearing that cause exists to believe that
17 it is substantially probable that the person will engage in
18 acts of sexual assault or acts of sexual molestation of
19 children, the court shall deny the application for recovery.

20 (e) The court, with or without a jury, at the
21 applicant's election, shall set for hearing those
22 applications for recovery that have been timely filed in
23 accordance with the provisions of subsection (a) and in which
24 the court has determined at the probable cause hearing that
25 cause exists to believe that it is not substantially probable
26 that the person will engage in acts of sexual assault or acts
27 of sexual molestation of children, in accordance with the
28 speedy trial provisions under Section 103-5 of the Code of
29 Criminal Procedure of 1963. However, the speedy trial
30 provisions do not commence until the court at the probable
31 cause hearing has determined that cause exists to believe
32 that it is not substantially probable that the person will
33 engage in acts of sexual assault or acts of sexual
34 molestation of children.

1 (f) A jury, or the court without a jury if the applicant
2 has waived a jury, shall grant the application showing
3 recovery unless the State proves by clear and convincing
4 evidence that the person is still a sexually dangerous
5 person. In making a decision under this subsection (f), the
6 court or jury may consider the nature and circumstances of
7 the behavior that was the basis for the original commitment
8 as a sexually dangerous person, the person's mental history
9 and present mental condition, where the person will live, how
10 the person will support himself or herself, what arrangements
11 are available to insure that the person has access to and
12 will participate in necessary treatment, and any other
13 relevant evidence. An--application-in-writing-setting-forth
14 facts-showing-that-such-sexually-dangerous-person-or-criminal
15 sexual-psychopathic-person-has-recovered-may-be-filed--before
16 the--committing-court.-Upon-receipt-thereof,-the-clerk-of-the
17 court-shall-cause-a-copy-of-the-application-to-be-sent-to-the
18 Director-of-the-Department-of-Corrections.-The-Director-shall
19 then--cause--to--be--prepared--and--sent--to--the---court---a
20 socio-psychiatric-report-concerning-the-applicant.-The-report
21 shall--be--prepared-by-a-social-worker-and-psychologist-under
22 the-supervision-of-a-licensed-psychiatrist-assigned--to,-the
23 institution--wherein--such--applicant--is-confined.-The-court
24 shall-set-a-date-for-the-hearing-upon--such--application--and
25 shall--consider-the-report-so-prepared-under-the-direction-of
26 the-Director-of-the-Department-of-Corrections-and--any--other
27 relevant--information--submitted--by--or--on--behalf--of-such
28 applicant.-If-the-person-is-found-to-be-no-longer--dangerous,
29 the--court--shall--order--that-he-be-discharged.-If-the-court
30 finds-that-the-person-appears-no-longer-to-be--dangerous--but
31 that--it--is--impossible--to--determine--with-certainty-under
32 conditions-of-institutional-care-that-such-person--has--fully
33 recovered,-the--court--shall--enter-an-order-permitting-such
34 person-to-go-at-large-subject-to--such--conditions--and--such

1 supervision--by--the--Director-as-in-the-opinion-of-the-court
2 will-adequately-protect-the-public.-In-the-event--the--person
3 violates-any-of-the-conditions-of-such-order, the-court-shall
4 revoke--such--conditional--release--and--recommit--the-person
5 pursuant-to-Section-5-6-4-of-the-Unified-Code-of--Corrections
6 under--the-terms-of-the-original-commitment.-Upon-an-order-of
7 discharge-every-outstanding-information-and--indictment,--the
8 basis--of--which--was--the--reason-for-the-present-detention,
9 shall-be-quashed.

10 (Source: P.A. 92-786, eff. 8-6-02.)