



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0245

Introduced 1/14/2005, by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

725 ILCS 205/9

from Ch. 38, par. 105-9

Amends the Sexually Dangerous Persons Act. Provides that at the hearing to determine whether a sexually dangerous person or criminal sexual psychopathic person has recovered, the Attorney General or State's Attorney who filed the original application shall represent the State and shall have the right to have the applicant examined by an expert or professional person of the State's choice. Provides that the applicant may retain experts to perform an examination as well. Provides that the sexually dangerous person or the State may elect to have the hearing before a jury. Provides that the State has the burden of proving by clear and convincing evidence that the applicant is still a sexually dangerous person. Provides that if the applicant refuses to speak to, communicate with, or otherwise fails to cooperate with the State's examiner, the applicant may only introduce evidence and testimony from any expert or professional person who is retained to conduct an examination based upon review of the records and may not introduce evidence resulting from an examination of the person. Provides that if a person has previously filed an application in writing setting forth facts showing that the sexually dangerous person or criminal sexual psychopathic person has recovered and the court determined either at a hearing or following a jury trial that the applicant is still a sexually dangerous person, no additional application may be filed for one year after a finding that the person is still sexually dangerous. Makes other changes.

LRB094 03683 RLC 33924 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning 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 by  
5 changing Section 9 as follows:

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

7 Sec. 9. Recovery; examination and hearing.

8 (a) An application in writing setting forth facts showing  
9 that such sexually dangerous person or criminal sexual  
10 psychopathic person has recovered may be filed before the  
11 committing court. Upon receipt thereof, the clerk of the court  
12 shall cause a copy of the application to be sent to the  
13 Director of the Department of Corrections. The Director shall  
14 then cause to be prepared and sent to the court a  
15 socio-psychiatric report concerning the applicant. The report  
16 shall be prepared by a social worker and psychologist under the  
17 supervision of a licensed psychiatrist assigned to<sup>r</sup> the  
18 institution wherein such applicant is confined. The court shall  
19 set a date for the hearing upon such application and shall  
20 consider the report so prepared under the direction of the  
21 Director of the Department of Corrections and any other  
22 relevant information submitted by or on behalf of such  
23 applicant.

24 (b) At a hearing under this Section, the Attorney General  
25 or State's Attorney who filed the original application shall  
26 represent the State and shall have the right to have the  
27 applicant examined by an expert or professional person of the  
28 State's choice. The applicant may retain experts to perform an  
29 examination as well. The sexually dangerous person or the State  
30 may elect to have the hearing before a jury. The State has the  
31 burden of proving by clear and convincing evidence that the  
32 applicant is still a sexually dangerous person.

1       (c) If the applicant refuses to speak to, communicate with,  
2       or otherwise fails to cooperate with the State's examiner, the  
3       applicant may only introduce evidence and testimony from any  
4       expert or professional person who is retained to conduct an  
5       examination based upon review of the records and may not  
6       introduce evidence resulting from an examination of the person.  
7       Notwithstanding the provisions of Section 10 of the Mental  
8       Health and Developmental Disabilities Confidentiality Act, all  
9       evaluations conducted under this Act and all Illinois  
10       Department of Corrections treatment records shall be  
11       admissible at all proceedings held under this Act.

12       (d) If a person has previously filed an application in  
13       writing setting forth facts showing that the sexually dangerous  
14       person or criminal sexual psychopathic person has recovered and  
15       the court determined either at a hearing or following a jury  
16       trial that the applicant is still a sexually dangerous person,  
17       no additional application may be filed for one year after a  
18       finding that the person is still sexually dangerous. The court  
19       shall deny any subsequent application under this Section  
20       without a hearing unless the application is accompanied by a  
21       statement from the Director that the applicant is attending  
22       treatment and contains facts upon which a court could find that  
23       the condition of the person had so changed that a hearing is  
24       warranted. If the court finds that a hearing is warranted, the  
25       court shall set a hearing within a reasonable time and continue  
26       proceedings under subsection (a).

27       (e) If the person is found to be no longer dangerous, the  
28       court shall order that he be discharged. If the court finds  
29       that the person appears no longer to be dangerous but that it  
30       is impossible to determine with certainty under conditions of  
31       institutional care that such person has fully recovered, the  
32       court shall enter an order permitting such person to go at  
33       large subject to such conditions and such supervision by the  
34       Director as in the opinion of the court will adequately protect  
35       the public. In the event the person violates any of the  
36       conditions of such order, the court shall revoke such

1 conditional release and recommit the person pursuant to Section  
2 5-6-4 of the Unified Code of Corrections under the terms of the  
3 original commitment. Upon an order of discharge every  
4 outstanding information and indictment, the basis of which was  
5 the reason for the present detention, shall be quashed.

6 (Source: P.A. 92-786, eff. 8-6-02; revised 10-9-03.)