

1 AMENDMENT TO SENATE BILL 1577

2 AMENDMENT NO. _____. Amend Senate Bill 1577 as follows:
3 by replacing all of page 2 and lines 1 through 12 on page 3
4 with the following:

5 "court shall direct the clerk of the court to cause a copy of
6 the application to be sent to the Director of Corrections.
7 The Director shall then cause to be prepared and sent to the
8 court a socio-psychiatric report concerning the applicant.
9 The report shall be prepared by the psychiatrist, social
10 worker, psychologist, and warden of, or assigned to, the
11 institution where the applicant is confined.

12 (d) Upon receipt of the socio-psychiatric report, the
13 court shall appoint counsel for the applicant if he or she is
14 not already represented. If the applicant has refused to
15 participate in the socio-psychiatric evaluation, the court
16 shall set a probable cause hearing as soon as practical and
17 shall conduct the probable cause hearing using the Department
18 of Corrections report and witnesses. If the applicant has
19 participated in the socio-psychiatric evaluation, the court,
20 within 30 days after receipt of the socio-psychiatric report,
21 shall appoint an examiner having the specialized knowledge
22 determined by the court to be appropriate, who shall examine
23 the mental condition of the person and furnish a written
24 report of the examination to the court within 45 days after

1 appointment. The examiner shall have reasonable access to the
2 person for purposes of examination and to the person's past
3 and present treatment records and other Department of
4 Corrections records. If any such examiner believes that the
5 person is appropriate for conditional release, the examiner
6 shall report on the type of treatment and services that the
7 person will need while in the community on conditional
8 release. The State has the right to have the person evaluated
9 by experts chosen by the State. The court shall set a
10 probable cause hearing as soon as practical after the
11 examiner's report is filed. If the court determines at the
12 probable cause hearing that cause exists to believe that the
13 applicant has recovered and is no longer a sexually dangerous
14 person or that while he or she remains a sexually dangerous
15 person, he or she can safely be released under appropriate
16 conditions and supervision, the court shall set a hearing on
17 the issue. If the court does not find probable cause to
18 believe that the applicant has recovered or that he or she
19 can safely be conditionally released, the court shall deny
20 the application for recovery.

21 (e) The court, with or without a jury, at the
22 applicant's election, shall set for trial those applications
23 for recovery that have been timely filed in accordance with
24 the provisions of subsection (a) and in which the court has
25 determined at the probable cause hearing that cause exists to
26 believe that the applicant has recovered and is no longer a
27 sexually dangerous person or that while he or she remains a
28 sexually dangerous person, the applicant can safely be
29 released under appropriate conditions and supervision, in
30 accordance with the speedy trial provisions under Section
31 103-5 of the Code of Criminal Procedure of 1963. However, the
32 speedy trial provisions do not commence until the court at
33 the probable cause hearing has determined that cause exists
34 to believe that the applicant has recovered or can safely be

1 conditionally released.

2 (f) A jury, or the court without a jury if the applicant
3 has waived a jury, shall make one of 3 findings following a
4 trial:

5 (1) If the State proves by clear and convincing
6 evidence that the person has not recovered and is still a
7 sexually dangerous person, the petition shall be denied.

8 (2) If the State proves by clear and convincing
9 evidence that the person has only recovered substantially
10 and that he can be allowed safely to go at large only if
11 he or she is subject to conditions and supervision, then
12 the petition shall be granted subject to such conditions
13 and supervision as are imposed by the court following the
14 finding of substantial recovery.

15 (3) If the State fails to prove by clear and
16 convincing evidence that the person has not recovered and
17 is still a sexually dangerous person and also fails to
18 prove by clear and convincing evidence that the person
19 has only recovered substantially and requires conditions
20 and supervision, the petition shall be granted and the
21 person discharged.

22 In making a decision under this subsection (f), the court or
23 jury may consider the nature and circumstances of the
24 behavior that was the basis for the original commitment as a
25 sexually dangerous person, the person's mental history and
26 present mental condition, the person's participation and
27 progress in treatment while in the custody of the Department
28 of Corrections, the results of psychological actuarial
29 instruments normally used with sex offenders, where the
30 person will live, how the person will support himself or
31 herself, the necessity of additional treatment and the
32 availability of that treatment, the likelihood that the
33 person will participate in necessary treatment, and any other
34 relevant evidence.

1 (g) In the event that a person conditionally released is
2 alleged to have violated any of the conditions of his or her
3 order of conditional release, the State's Attorney shall file
4 a petition to revoke the conditional release. The court shall
5 issue a warrant and place the sexually dangerous person in
6 the custody of the county sheriff pending a hearing on the
7 petition to revoke, which hearing shall be conducted under
8 Section 5-6-4 of the Unified Code of Corrections. If the
9 court finds by a preponderance of the evidence that the
10 person has violated any of the conditions of his or her order
11 of conditional release, the court shall revoke such
12 conditional release and recommit the person to the Department
13 of Corrections."; and

14 on page 3, line 13, by deleting "relevant evidence.".