

AN ACT concerning criminal law.

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

Section 5. The Sexually Dangerous Persons Act is amended by changing Sections 4, 4.01, 4.02, 5, and 9 and by adding Sections 4.04 and 4.05 as follows:

(725 ILCS 205/4) (from Ch. 38, par. 105-4)

Sec. 4. After the filing of the petition, the court shall appoint two qualified evaluators ~~psychiatrists~~ to make a personal examination of the ~~such~~ alleged sexually dangerous person, to ascertain whether the ~~such~~ person is sexually dangerous, and the evaluators ~~psychiatrists~~ shall file with the court a report in writing of the result of their examination, a copy of which shall be delivered to the respondent.

(Source: Laws 1955, p. 1144.)

(725 ILCS 205/4.01) (from Ch. 38, par. 105-4.01)

Sec. 4.01. "Qualified evaluator ~~psychiatrist~~" means a reputable physician or psychologist licensed in Illinois or any other state to practice medicine or psychology, or any other licensed professional who specializes in the evaluation of sex offenders ~~in all its branches, who has specialized in the diagnosis and treatment of mental and nervous disorders for a~~

~~period of not less than 5 years.~~

(Source: Laws 1959, p. 1685.)

(725 ILCS 205/4.02) (from Ch. 38, par. 105-4.02)

Sec. 4.02. In counties of less than 500,000 inhabitants the cost of the ~~psychiatric~~ examination required by Section 4 is a charge against and shall be paid out of the general fund of the county in which the proceeding is brought.

(Source: Laws 1959, p. 1685.)

(725 ILCS 205/4.04 new)

Sec. 4.04. Examination. "Examination" means an examination conducted in conformance with the standards developed under the Sex Offender Management Board Act and by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act.

(725 ILCS 205/4.05 new)

Sec. 4.05. Criminal propensities to the commission of sex offenses. For the purposes of this Act, "criminal propensities to the commission of sex offenses" means that it is substantially probable that the person subject to the commitment proceeding will engage in the commission of sex offenses in the future if not confined.

(725 ILCS 205/5) (from Ch. 38, par. 105-5)

Sec. 5. The respondent in any proceedings under this Act

shall have the right to demand a trial by jury and to be represented by counsel. The cost of representation by counsel for an indigent respondent shall be paid by the county in which the proceeding is brought. At the hearing on the petition it shall be competent to introduce evidence of the commission by the respondent of any number of crimes together with whatever punishments, if any, were inflicted.

(Source: Laws 1955, p. 1144.)

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

Sec. 9. Recovery; examination and hearing.

(a) An application in writing setting forth facts showing that the ~~such~~ sexually dangerous person or criminal sexual psychopathic person has recovered may be filed before the committing court. Upon receipt thereof, the clerk of the court shall cause a copy of the application to be sent to the Director of the Department of Corrections. The Director shall then cause to be prepared and sent to the court a socio-psychiatric report concerning the applicant. The report shall be prepared by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act ~~a social worker and psychologist under the supervision of a licensed psychiatrist assigned to the institution wherein such applicant is confined.~~ The court shall set a date for the hearing upon the ~~such~~ application and shall consider the report so prepared under the direction of the Director of the

Department of Corrections and any other relevant information submitted by or on behalf of the ~~such~~ applicant.

(b) At a hearing under this Section, the Attorney General or State's Attorney who filed the original application shall represent the State. The sexually dangerous person or the State may elect to have the hearing before a jury. The State has the burden of proving by clear and convincing evidence that the applicant is still a sexually dangerous person.

(c) 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. Notwithstanding the provisions of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act, all evaluations conducted under this Act and all Illinois Department of Corrections treatment records shall be admissible at all proceedings held under this Act.

(d) 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, or if the application is withdrawn, no additional application may be filed for 2 years ~~one year~~ after a finding that the

person is still sexually dangerous or after the application is withdrawn, except if the application is accompanied by a statement from the treatment provider that the applicant has made exceptional progress and the application contains facts upon which a court could find that the condition of the person had so changed that a hearing is warranted.

(e) If the person is found to be no longer dangerous, the court shall order that he or she be discharged. If the court finds that the person appears no longer to be dangerous but that it is impossible to determine with certainty under conditions of institutional care that the ~~such~~ person has fully recovered, the court shall enter an order permitting the ~~such~~ person to go at large subject to the ~~such~~ conditions and ~~such~~ supervision by the Director as in the opinion of the court will adequately protect the public. In the event the person violates any of the conditions of the ~~such~~ order, the court shall revoke the ~~such~~ conditional release and recommit the person under ~~pursuant to~~ Section 5-6-4 of the Unified Code of Corrections under the terms of the original commitment. Upon an order of discharge every outstanding information and indictment, the basis of which was the reason for the present detention, shall be quashed.

(Source: P.A. 94-404, eff. 1-1-06.)

Section 99. Effective date. This Act takes effect upon becoming law.

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Statutes amended in order of appearance

725 ILCS 205/4	from Ch. 38, par. 105-4
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725 ILCS 205/5	from Ch. 38, par. 105-5
725 ILCS 205/9	from Ch. 38, par. 105-9