

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15 most recent order for conditional release was revoked.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, social  
6 worker, psychologist, and warden of, or assigned to, the  
7 institution where the applicant is confined.

8 (d) Upon receipt of the socio-psychiatric report, the  
9 court shall appoint counsel for the applicant if he or she is  
10 not already represented. If the applicant has refused to  
11 participate in the socio-psychiatric evaluation, the court  
12 shall set a probable cause hearing as soon as practical and  
13 shall conduct the probable cause hearing using the Department  
14 of Corrections report and witnesses. If the applicant has  
15 participated in the socio-psychiatric evaluation, the court,  
16 within 30 days after receipt of the socio-psychiatric report,  
17 shall appoint an examiner having the specialized knowledge  
18 determined by the court to be appropriate, who shall examine  
19 the mental condition of the person and furnish a written  
20 report of the examination to the court within 45 days after  
21 appointment. The examiner shall have reasonable access to the  
22 person for purposes of examination and to the person's past  
23 and present treatment records and other Department of  
24 Corrections records. If any such examiner believes that the  
25 person is appropriate for conditional release, the examiner  
26 shall report on the type of treatment and services that the  
27 person will need while in the community on conditional  
28 release. The State has the right to have the person evaluated  
29 by experts chosen by the State. The court shall set a  
30 probable cause hearing as soon as practical after the  
31 examiner's report is filed. If the court determines at the  
32 probable cause hearing that cause exists to believe that the  
33 applicant has recovered and is no longer a sexually dangerous  
34 person or that while he or she remains a sexually dangerous

1 person, he or she can safely be released under appropriate  
2 conditions and supervision, the court shall set a hearing on  
3 the issue. If the court does not find probable cause to  
4 believe that the applicant has recovered or that he or she  
5 can safely be conditionally released, the court shall deny  
6 the application for recovery.

7 (e) The court, with or without a jury, at the  
8 applicant's election, shall set for trial those applications  
9 for recovery that have been timely filed in accordance with  
10 the provisions of subsection (a) and in which the court has  
11 determined at the probable cause hearing that cause exists to  
12 believe that the applicant has recovered and is no longer a  
13 sexually dangerous person or that while he or she remains a  
14 sexually dangerous person, the applicant can safely be  
15 released under appropriate conditions and supervision, in  
16 accordance with the speedy trial provisions under Section  
17 103-5 of the Code of Criminal Procedure of 1963. However, the  
18 speedy trial provisions do not commence until the court at  
19 the probable cause hearing has determined that cause exists  
20 to believe that the applicant has recovered or can safely be  
21 conditionally released.

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

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

28 (2) If the State proves by clear and convincing  
29 evidence that the person has only recovered substantially  
30 and that he can be allowed safely to go at large only if  
31 he or she is subject to conditions and supervision, then  
32 the petition shall be granted subject to such conditions  
33 and supervision as are imposed by the court following the  
34 finding of substantial recovery.

1           (3) If the State fails to prove by clear and  
 2           convincing evidence that the person has not recovered and  
 3           is still a sexually dangerous person and also fails to  
 4           prove by clear and convincing evidence that the person  
 5           has only recovered substantially and requires conditions  
 6           and supervision, the petition shall be granted and the  
 7           person discharged.

8           In making a decision under this subsection (f), the court or  
 9           jury may consider the nature and circumstances of the  
 10           behavior that was the basis for the original commitment as a  
 11           sexually dangerous person, the person's mental history and  
 12           present mental condition, the person's participation and  
 13           progress in treatment while in the custody of the Department  
 14           of Corrections, the results of psychological actuarial  
 15           instruments normally used with sex offenders, where the  
 16           person will live, how the person will support himself or  
 17           herself, the necessity of additional treatment and the  
 18           availability of that treatment, the likelihood that the  
 19           person will participate in necessary treatment, and any other  
 20           relevant evidence.

21           (g) In the event that a person conditionally released is  
 22           alleged to have violated any of the conditions of his or her  
 23           order of conditional release, the State's Attorney shall file  
 24           a petition to revoke the conditional release. The court shall  
 25           issue a warrant and place the sexually dangerous person in  
 26           the custody of the county sheriff pending a hearing on the  
 27           petition to revoke, which hearing shall be conducted under  
 28           Section 5-6-4 of the Unified Code of Corrections. If the  
 29           court finds by a preponderance of the evidence that the  
 30           person has violated any of the conditions of his or her order  
 31           of conditional release, the court shall revoke such  
 32           conditional release and recommit the person to the Department  
 33           of Corrections. An-application-in-writing-setting-forth-facts  
 34           showing--that--such--sexually--dangerous--person--or--criminal

1 sexual-psychopathic-person-has-recovered-may-be-filed-before  
2 the-committing-court.-Upon-receipt-thereof,-the-clerk-of-the  
3 court-shall-cause-a-copy-of-the-application-to-be-sent-to-the  
4 Director-of-the-Department-of-Corrections.-The-Director-shall  
5 then-cause-to-be-prepared-and-sent-to-the-court-a  
6 socio-psychiatric-report-concerning-the-applicant.-The-report  
7 shall-be-prepared-by-a-social-worker-and-psychologist-under  
8 the-supervision-of-a-licensed-psychiatrist-assigned-to-the  
9 institution-wherein-such-applicant-is-confined.-The-court  
10 shall-set-a-date-for-the-hearing-upon-such-application-and  
11 shall-consider-the-report-so-prepared-under-the-direction-of  
12 the-Director-of-the-Department-of-Corrections-and-any-other  
13 relevant-information-submitted-by-or-on-behalf-of-such  
14 applicant.-If-the-person-is-found-to-be-no-longer-dangerous,  
15 the-court-shall-order-that-he-be-discharged.-If-the-court  
16 finds-that-the-person-appears-no-longer-to-be-dangerous-but  
17 that-it-is-impossible-to-determine-with-certainty-under  
18 conditions-of-institutional-care-that-such-person-has-fully  
19 recovered,-the-court-shall-enter-an-order-permitting-such  
20 person-to-go-at-large-subject-to-such-conditions-and-such  
21 supervision-by-the-Director-as-in-the-opinion-of-the-court  
22 will-adequately-protect-the-public.-In-the-event-the-person  
23 violates-any-of-the-conditions-of-such-order,-the-court-shall  
24 revoke-such-conditional-release-and-recommit-the-person  
25 pursuant-to-Section-5-6-4-of-the-Unified-Code-of-Corrections  
26 under-the-terms-of-the-original-commitment.-Upon-an-order-of  
27 discharge-every-outstanding-information-and-indictment,-the  
28 basis-of-which-was-the-reason-for-the-present-detention,  
29 shall-be-quashed.

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