



Sen. Dan Kotowski

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09700HB5451sam001

LRB097 17721 RLC 66832 a

1 AMENDMENT TO HOUSE BILL 5451

2 AMENDMENT NO. _____. Amend House Bill 5451 by replacing
3 everything after the enacting clause with the following:

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

7 (725 ILCS 205/4) (from Ch. 38, par. 105-4)

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

15 (Source: Laws 1955, p. 1144.)

1 (725 ILCS 205/4.01) (from Ch. 38, par. 105-4.01)

2 Sec. 4.01. "Qualified evaluator ~~psychiatrist~~" means a
3 reputable physician or psychologist licensed in Illinois or any
4 other state to practice medicine or psychology, or any other
5 licensed professional who specializes in the evaluation of sex
6 offenders ~~in all its branches, who has specialized in the~~
7 ~~diagnosis and treatment of mental and nervous disorders for a~~
8 ~~period of not less than 5 years.~~

9 (Source: Laws 1959, p. 1685.)

10 (725 ILCS 205/4.02) (from Ch. 38, par. 105-4.02)

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

15 (Source: Laws 1959, p. 1685.)

16 (725 ILCS 205/4.04 new)

17 Sec. 4.04. Examination. "Examination" means an examination
18 conducted by a qualified evaluator conducted in conformance
19 with the standards developed under the Sex Offender Management
20 Board Act and by an evaluator approved by the Sex Offender
21 Management Board.

22 (725 ILCS 205/4.05 new)

23 Sec. 4.05. Criminal propensities to the commission of sex

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

6 (725 ILCS 205/5) (from Ch. 38, par. 105-5)

7 Sec. 5. The respondent in any proceedings under this Act
8 shall have the right to demand a trial by jury and to be
9 represented by counsel. The cost of representation by counsel
10 for an indigent respondent shall be paid by the county in which
11 the proceeding is brought. At the hearing on the petition it
12 shall be competent to introduce evidence of the commission by
13 the respondent of any number of crimes together with whatever
14 punishments, if any, were inflicted.

15 (Source: Laws 1955, p. 1144.)

16 (725 ILCS 205/9) (from Ch. 38, par. 105-9)

17 Sec. 9. Recovery; examination and hearing.

18 (a) An application in writing setting forth facts showing
19 that such sexually dangerous person or criminal sexual
20 psychopathic person has recovered may be filed before the
21 committing court. Upon receipt thereof, the clerk of the court
22 shall cause a copy of the application to be sent to the
23 Director of the Department of Corrections. The Director shall
24 then cause to be prepared and sent to the court a

1 socio-psychiatric report concerning the applicant. The report
2 shall be prepared by an evaluator approved by the Sex Offender
3 Management Board ~~a social worker and psychologist under the~~
4 ~~supervision of a licensed psychiatrist assigned to the~~
5 ~~institution wherein such applicant is confined.~~ The court shall
6 set a date for the hearing upon such application and shall
7 consider the report so prepared under the direction of the
8 Director of the Department of Corrections and any other
9 relevant information submitted by or on behalf of such
10 applicant.

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

17 (c) If the applicant refuses to speak to, communicate with,
18 or otherwise fails to cooperate with the State's examiner, the
19 applicant may only introduce evidence and testimony from any
20 expert or professional person who is retained to conduct an
21 examination based upon review of the records and may not
22 introduce evidence resulting from an examination of the person.
23 Notwithstanding the provisions of Section 10 of the Mental
24 Health and Developmental Disabilities Confidentiality Act, all
25 evaluations conducted under this Act and all Illinois
26 Department of Corrections treatment records shall be

1 admissible at all proceedings held under this Act.

2 (d) If a person has previously filed an application in
3 writing setting forth facts showing that the sexually dangerous
4 person or criminal sexual psychopathic person has recovered and
5 the court determined either at a hearing or following a jury
6 trial that the applicant is still a sexually dangerous person,
7 or if the application is withdrawn, no additional application
8 may be filed for 2 years ~~one year~~ after a finding that the
9 person is still sexually dangerous or after the application is
10 withdrawn, except if the application is accompanied by a
11 statement from the treatment provider that the applicant has
12 made exceptional progress and the application contains facts
13 upon which a court could find that the condition of the person
14 had so changed that a hearing is warranted.

15 (e) If the person is found to be no longer dangerous, the
16 court shall order that he be discharged. If the court finds
17 that the person appears no longer to be dangerous but that it
18 is impossible to determine with certainty under conditions of
19 institutional care that such person has fully recovered, the
20 court shall enter an order permitting such person to go at
21 large subject to such conditions and such supervision by the
22 Director as in the opinion of the court will adequately protect
23 the public. In the event the person violates any of the
24 conditions of such order, the court shall revoke such
25 conditional release and recommit the person pursuant to Section
26 5-6-4 of the Unified Code of Corrections under the terms of the

1 original commitment. Upon an order of discharge every
2 outstanding information and indictment, the basis of which was
3 the reason for the present detention, shall be quashed.
4 (Source: P.A. 94-404, eff. 1-1-06.)

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