



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB3127

Introduced 2/6/2004, by Lawrence M. Walsh

SYNOPSIS AS INTRODUCED:

725 ILCS 207/30

Amends the Sexually Violent Persons Commitment Act. Provides that if the probable cause determination is made that a person is a sexually violent person, the court shall direct that the person be transferred to the county jail for an evaluation as to whether the person is a sexually violent person, unless the person is serving a sentence of imprisonment in a Department of Corrections correctional facility or juvenile correctional facility or is committed to institutional care. Provides that if the person is serving a sentence of imprisonment in a Department of Corrections correctional facility or juvenile correctional facility or is committed to institutional care and the court orders detention of the person, the court may order the person transferred to the county jail (rather than the court being required to transfer the person to a detention facility approved by the Department of Human Services). Effective immediately.

LRB093 21146 RLC 47209 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning sexually violent persons.

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

4 Section 5. The Sexually Violent Persons Commitment Act is
5 amended by changing Section 30 as follows:

6 (725 ILCS 207/30)

7 Sec. 30. Detention; probable cause hearing; transfer for
8 examination.

9 (a) Upon the filing of a petition under Section 15 of this
10 Act, the court shall review the petition to determine whether
11 to issue an order for detention of the person who is the
12 subject of the petition. The person shall be detained only if
13 there is cause to believe that the person is eligible for
14 commitment under subsection (f) of Section 35 of this Act. If
15 the probable cause determination is made, the court shall
16 direct that the person be transferred to the county jail for an
17 evaluation as to whether the person is a sexually violent
18 person, unless the person is serving a sentence of imprisonment
19 in a Department of Corrections correctional facility or
20 juvenile correctional facility or is committed to
21 institutional care. A person detained under this Section shall
22 ~~be held in a facility approved by the Department.~~ If the person
23 is serving a sentence of imprisonment, is in a Department of
24 Corrections correctional facility or juvenile correctional
25 facility or is committed to institutional care, and the court
26 orders detention under this Section, the court may ~~shall~~ order
27 that the person be transferred to the county jail ~~a detention~~
28 ~~facility approved by the Department.~~ A detention order under
29 this Section remains in effect until the person is discharged
30 after a trial under Section 35 of this Act or until the
31 effective date of a commitment order under Section 40 of this
32 Act, whichever is applicable.

1 (b) Whenever a petition is filed under Section 15 of this
2 Act, the court shall hold a hearing to determine whether there
3 is probable cause to believe that the person named in the
4 petition is a sexually violent person. If the person named in
5 the petition is in custody, the court shall hold the probable
6 cause hearing within 72 hours after the petition is filed,
7 excluding Saturdays, Sundays and legal holidays. The court may
8 grant a continuance of the probable cause hearing for no more
9 than 7 additional days upon the motion of the respondent, for
10 good cause. If the person named in the petition has been
11 released, is on parole, is on mandatory supervised release, or
12 otherwise is not in custody, the court shall hold the probable
13 cause hearing within a reasonable time after the filing of the
14 petition. At the probable cause hearing, the court shall admit
15 and consider all relevant hearsay evidence.

16 (c) If the court determines after a hearing that there is
17 probable cause to believe that the person named in the petition
18 is a sexually violent person, the court shall order that the
19 person be taken into custody if he or she is not in custody and
20 shall order the person to be transferred within a reasonable
21 time to an appropriate facility for an evaluation as to whether
22 the person is a sexually violent person. If the person who is
23 named in the petition refuses to speak to, communicate with, or
24 otherwise fails to cooperate with the examining evaluator from
25 the Department of Human Services or the Department of
26 Corrections, that person may only introduce evidence and
27 testimony from any expert or professional person who is
28 retained or court-appointed to conduct an examination of the
29 person that results from a review of the records and may not
30 introduce evidence resulting from an examination of the person.
31 Any evaluation conducted under this Section shall be by an
32 evaluator approved by the Sex Offender Management Board and
33 conducted in conformance with the standards developed under the
34 Sex Offender Management Board Act. Notwithstanding the
35 provisions of Section 10 of the Mental Health and Developmental
36 Disabilities Confidentiality Act, all evaluations conducted

1 pursuant to this Act and all Illinois Department of Corrections
2 treatment records shall be admissible at all proceedings held
3 pursuant to this Act, including the probable cause hearing and
4 the trial.

5 If the court determines that probable cause does not exist
6 to believe that the person is a sexually violent person, the
7 court shall dismiss the petition.

8 (d) The Department shall promulgate rules that provide the
9 qualifications for persons conducting evaluations under
10 subsection (c) of this Section.

11 (e) If the person named in the petition claims or appears
12 to be indigent, the court shall, prior to the probable cause
13 hearing under subsection (b) of this Section, appoint counsel.

14 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04.)

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