



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

725 ILCS 207/55
725 ILCS 207/60
725 ILCS 207/75

Amends the Sexually Violent Persons Commitment Act. Provides that if a person has been committed as a sexually violent person and has not been discharged, the Department of Human Services shall submit a written report to the court (rather than conduct an examination) on his or her mental condition within 6 months after an initial commitment and then at least once every 12 months thereafter. Provides that any examiner conducting an examination of the person shall prepare a written report of the examination no later than 30 days after the date of the examination. Provides that if a detainee or civilly committed sexually violent person escapes, dies, or is subject to any court-ordered change in custody status of the detainee or sexually violent person, the Department of Human Services shall make a reasonable attempt to notify, if he or she can be found, all of the following persons, if applicable, who request notification under the Act or under the Rights of Crime Victims and Witnesses Act: (1) the victim of the act of sexual violence; (2) an adult member of the victim's family, if the victim died as a result of the act of sexual violence; (3) the victim's parent or legal guardian, if the victim is younger than 18 years old; and (4) the Department of Corrections. Effective immediately.

LRB093 18346 RLC 44052 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 55, 60, and 75 as follows:

6 (725 ILCS 207/55)

7 Sec. 55. Periodic reexamination; report.

8 (a) If a person has been committed under Section 40 of this
9 Act and has not been discharged under Section 65 of this Act,
10 the Department shall submit a written report to the court on
11 ~~conduct an examination of~~ his or her mental condition within 6
12 months after an initial commitment under Section 40 and then at
13 least once every 12 months thereafter ~~from the completion of~~
14 ~~the last evaluation~~ for the purpose of determining whether the
15 person has made sufficient progress to be conditionally
16 released or discharged. At the time of a reexamination under
17 this Section, the person who has been committed may retain or,
18 if he or she is indigent and so requests, the court may appoint
19 a qualified expert or a professional person to examine him or
20 her.

21 (b) Any examiner conducting an examination under this
22 Section shall prepare a written report of the examination no
23 later than 30 days after the date of the examination. The
24 examiner shall place a copy of the report in the person's
25 health care records and shall provide a copy of the report to
26 the court that committed the person under Section 40. The
27 examination shall be conducted in conformance with the
28 standards developed under the Sex Offender Management Board Act
29 and by an evaluator approved by the Board.

30 (c) Notwithstanding subsection (a) of this Section, the
31 court that committed a person under Section 40 may order a
32 reexamination of the person at any time during the period in

1 which the person is subject to the commitment order. Any
2 examiner conducting an examination under this Section shall
3 prepare a written report of the examination no later than 30
4 days after the date of the examination.

5 (d) Petitions for discharge after reexamination must
6 follow the procedure outlined in Section 65 of this Act.

7 (Source: P.A. 93-616, eff. 1-1-04.)

8 (725 ILCS 207/60)

9 Sec. 60. Petition for conditional release.

10 (a) Any person who is committed for institutional care in a
11 secure facility or other facility under Section 40 of this Act
12 may petition the committing court to modify its order by
13 authorizing conditional release if at least 6 months have
14 elapsed since the initial commitment order was entered, the
15 most recent release petition was denied or the most recent
16 order for conditional release was revoked. The director of the
17 facility at which the person is placed may file a petition
18 under this Section on the person's behalf at any time.

19 (b) If the person files a timely petition without counsel,
20 the court shall serve a copy of the petition on the Attorney
21 General or State's Attorney, whichever is applicable and,
22 subject to paragraph (c)(1) of Section 25 of this Act, appoint
23 counsel. If the person petitions through counsel, his or her
24 attorney shall serve the Attorney General or State's Attorney,
25 whichever is applicable.

26 (c) Within 20 days after receipt of the petition, the court
27 shall appoint one or more examiners having the specialized
28 knowledge determined by the court to be appropriate, who shall
29 examine the mental condition of the person and furnish a
30 written report of the examination to the court within 30 days
31 after appointment. The examiners shall have reasonable access
32 to the person for purposes of examination and to the person's
33 past and present treatment records and patient health care
34 records. If any such examiner believes that the person is
35 appropriate for conditional release, the examiner shall report

1 on the type of treatment and services that the person may need
2 while in the community on conditional release. The State has
3 the right to have the person evaluated by experts chosen by the
4 State. Any examination or evaluation conducted under this
5 Section shall be in conformance with the standards developed
6 under the Sex Offender Management Board Act and conducted by an
7 evaluator approved by the Board. The court shall set a probable
8 cause hearing as soon as practical after the examiner's report
9 is filed. If the court determines at the probable cause hearing
10 that cause exists to believe that it is not substantially
11 probable that the person will engage in acts of sexual violence
12 if on release or conditional release, the court shall set a
13 hearing on the issue.

14 (d) The court, without a jury, shall hear the petition
15 within 30 days after the report of the court-appointed examiner
16 is filed with the court, unless the petitioner waives this time
17 limit. The court shall grant the petition unless the State
18 proves by clear and convincing evidence that the person has not
19 made sufficient progress to be conditionally released. In
20 making a decision under this subsection, the court must
21 consider the nature and circumstances of the behavior that was
22 the basis of the allegation in the petition under paragraph
23 (b) (1) of Section 15 of this Act, the person's mental history
24 and present mental condition, where the person will live, how
25 the person will support himself or herself and what
26 arrangements are available to ensure that the person has access
27 to and will participate in necessary treatment.

28 (e) Before the court may enter an order directing
29 conditional release to a less restrictive alternative it must
30 find the following: (1) the person will be treated by a
31 Department approved treatment provider, (2) the treatment
32 provider has presented a specific course of treatment and has
33 agreed to assume responsibility for the treatment and will
34 report progress to the Department on a regular basis, and will
35 report violations immediately to the Department, consistent
36 with treatment and supervision needs of the respondent, (3)

1 housing exists that is sufficiently secure to protect the
2 community, and the person or agency providing housing to the
3 conditionally released person has agreed in writing to accept
4 the person, to provide the level of security required by the
5 court, and immediately to report to the Department if the
6 person leaves the housing to which he or she has been assigned
7 without authorization, (4) the person is willing to or has
8 agreed to comply with the treatment provider, the Department,
9 and the court, and (5) the person has agreed or is willing to
10 agree to comply with the behavioral monitoring requirements
11 imposed by the court and the Department.

12 (f) If the court finds that the person is appropriate for
13 conditional release, the court shall notify the Department. The
14 Department shall prepare a plan that identifies the treatment
15 and services, if any, that the person will receive in the
16 community. The plan shall address the person's need, if any,
17 for supervision, counseling, medication, community support
18 services, residential services, vocational services, and
19 alcohol or other drug abuse treatment. The Department may
20 contract with a county health department, with another public
21 agency or with a private agency to provide the treatment and
22 services identified in the plan. The plan shall specify who
23 will be responsible for providing the treatment and services
24 identified in the plan. The plan shall be presented to the
25 court for its approval within 60 days after the court finding
26 that the person is appropriate for conditional release, unless
27 the Department and the person to be released request additional
28 time to develop the plan.

29 (g) The provisions of paragraphs paragraph (b) (4), (b) (5),
30 and (b) (6) of Section 40 of this Act apply to an order for
31 conditional release issued under this Section.

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

33 (725 ILCS 207/75)

34 Sec. 75. Notice concerning conditional release, ~~or~~
35 discharge, escape, death, or court-ordered change in the

1 custody status of a detainee or civilly committed sexually
2 violent person.

3 (a) As used in this Section, the term:

4 (1) "Act of sexual violence" means an act or attempted
5 act that is a basis for an allegation made in a petition
6 under paragraph (b) (1) of Section 15 of this Act.

7 (2) "Member of the family" means spouse, child,
8 sibling, parent, or legal guardian.

9 (3) "Victim" means a person against whom an act of
10 sexual violence has been committed.

11 (b) If the court places a civilly committed sexually
12 violent person on conditional release under Section 40 or 60 of
13 this Act or discharges a person under Section ~~60 or~~ 65, or if a
14 detainee or civilly committed sexually violent person escapes,
15 dies, or is subject to any court-ordered change in custody
16 status of the detainee or sexually violent person, the
17 Department shall make a reasonable attempt, if he or she can be
18 found, to notify all of the following who have requested
19 notification under this Act or under the Rights of Crime
20 Victims and Witnesses Act:

21 (1) Whichever of the following persons is appropriate
22 in accordance with the provisions of subsection (a) (3):

23 (A) The victim of the act of sexual violence.

24 (B) An adult member of the victim's family, if the
25 victim died as a result of the act of sexual violence.

26 (C) The victim's parent or legal guardian, if the
27 victim is younger than 18 years old.

28 (2) The Department of Corrections.

29 (c) The notice under subsection (b) of this Section shall
30 inform the Department of Corrections and the person notified
31 under paragraph (b) (1) of this Section of the name of the
32 person committed under this Act and the date the person is
33 placed on conditional release, ~~or~~ discharged, or if a detainee
34 or civilly committed sexually violent person escapes, dies, or
35 is subject to any court-ordered change in the custody status of
36 the detainee or sexually violent person. The Department shall

1 send the notice, postmarked at least 7 days before the date the
2 person committed under this Act is placed on conditional
3 release, ~~or~~ discharged, or if a detainee or civilly committed
4 sexually violent person escapes, dies, or is subject to any
5 court-ordered change in the custody status of the detainee or
6 sexually violent person, unless unusual circumstances do not
7 permit advance written notification, to the Department of
8 Corrections and the last-known address of the person notified
9 under paragraph (b) (1) of this Section.

10 (d) The Department shall design and prepare cards for
11 persons specified in paragraph (b) (1) of this Section to send
12 to the Department. The cards shall have space for these persons
13 to provide their names and addresses, the name of the person
14 committed under this Act and any other information the
15 Department determines is necessary. The Department shall
16 provide the cards, without charge, to the Attorney General and
17 State's Attorneys. The Attorney General and State's Attorneys
18 shall provide the cards, without charge, to persons specified
19 in paragraph (b) (1) of this Section. These persons may send
20 completed cards to the Department. All records or portions of
21 records of the Department that relate to mailing addresses of
22 these persons are not subject to inspection or copying under
23 Section 3 of the Freedom of Information Act.

24 (Source: P.A. 90-40, eff. 1-1-98; 90-793, eff. 8-14-98.)

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