

1 AN ACT concerning 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 by  
5 changing Section 9 as follows:

6 (725 ILCS 205/9) (from Ch. 38, par. 105-9)

7 Sec. 9. Recovery; examination and hearing.

8 (a) An application in writing setting forth facts showing  
9 that such sexually dangerous person or criminal sexual  
10 psychopathic person has recovered may be filed before the  
11 committing court. Upon receipt thereof, the clerk of the court  
12 shall cause a copy of the application to be sent to the  
13 Director of the Department of Corrections. The Director shall  
14 then cause to be prepared and sent to the court a  
15 socio-psychiatric report concerning the applicant. The report  
16 shall be prepared by a social worker and psychologist under the  
17 supervision of a licensed psychiatrist assigned to<sup>r</sup> the  
18 institution wherein such applicant is confined. The court shall  
19 set a date for the hearing upon such application and shall  
20 consider the report so prepared under the direction of the  
21 Director of the Department of Corrections and any other  
22 relevant information submitted by or on behalf of such  
23 applicant.

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

30 (c) If the applicant refuses to speak to, communicate with,  
31 or otherwise fails to cooperate with the State's examiner, the  
32 applicant may only introduce evidence and testimony from any

1 expert or professional person who is retained to conduct an  
2 examination based upon review of the records and may not  
3 introduce evidence resulting from an examination of the person.  
4 Notwithstanding the provisions of Section 10 of the Mental  
5 Health and Developmental Disabilities Confidentiality Act, all  
6 evaluations conducted under this Act and all Illinois  
7 Department of Corrections treatment records shall be  
8 admissible at all proceedings held under this Act.

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

22 (e) If the person is found to be no longer dangerous, the  
23 court shall order that he be discharged. If the court finds  
24 that the person appears no longer to be dangerous but that it  
25 is impossible to determine with certainty under conditions of  
26 institutional care that such person has fully recovered, the  
27 court shall enter an order permitting such person to go at  
28 large subject to such conditions and such supervision by the  
29 Director as in the opinion of the court will adequately protect  
30 the public. In the event the person violates any of the  
31 conditions of such order, the court shall revoke such  
32 conditional release and recommit the person pursuant to Section  
33 5-6-4 of the Unified Code of Corrections under the terms of the  
34 original commitment. Upon an order of discharge every  
35 outstanding information and indictment, the basis of which was  
36 the reason for the present detention, shall be quashed.

1 (Source: P.A. 92-786, eff. 8-6-02; revised 10-9-03.)