

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 65 and adding Section
6 21 as follows:

7 (725 ILCS 207/21 new)

8 Sec. 21. Service of petitions. If a person alleged to be a
9 sexually violent person is in the custody of or is being
10 supervised on parole or mandatory supervised release by the
11 Department of Corrections or Department of Juvenile Justice, a
12 petition filed under this Act may be served on the person by
13 personnel of the Department of Corrections or Department of
14 Juvenile Justice. Service may be proved by affidavit of the
15 person making service. The affidavit shall be returned to the
16 Attorney General or State's Attorney of the county where the
17 petition is pending for filing with the court. Service provided
18 for in this Section is in addition to other manners of service
19 provided for in Section 20 of this Act and the Code of Civil
20 Procedure.

21 (725 ILCS 207/55)

22 Sec. 55. Periodic reexamination; report.

1 (a) If a person has been committed under Section 40 of this
2 Act and has not been discharged under Section 65 of this Act,
3 the Department shall submit a written report to the court on
4 his or her mental condition ~~within 6 months after an initial~~
5 ~~commitment under Section 40 and then~~ at least once every 12
6 months after an initial commitment under Section 40 thereafter
7 for the purpose of determining whether: (1) the person has made
8 sufficient progress in treatment to be conditionally released
9 and (2) whether the person's condition has so changed since the
10 most recent periodic reexamination (or initial commitment, if
11 there has not yet been a periodic reexamination) that he or she
12 is no longer a sexually violent person or discharged. At the
13 time of a reexamination under this Section, the person who has
14 been committed may retain or, if he or she is indigent and so
15 requests, the court may appoint a qualified expert or a
16 professional person to examine him or her.

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

26 (c) Notwithstanding subsection (a) of this Section, the

1 court that committed a person under Section 40 may order a
2 reexamination of the person at any time during the period in
3 which the person is subject to the commitment order. Any
4 examiner conducting an examination under this Section shall
5 prepare a written report of the examination no later than 30
6 days after the date of the examination.

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

9 (Source: P.A. 93-616, eff. 1-1-04; 93-885, eff. 8-6-04.)

10 (725 ILCS 207/60)

11 Sec. 60. Petition for conditional release.

12 (a) Any person who is committed for institutional care in a
13 secure facility or other facility under Section 40 of this Act
14 may petition the committing court to modify its order by
15 authorizing conditional release if at least 12 ~~6~~ months have
16 elapsed since the initial commitment order was entered, an
17 order continuing commitment was entered pursuant to Section 65,
18 the most recent release petition was denied or the most recent
19 order for conditional release was revoked. The director of the
20 facility at which the person is placed may file a petition
21 under this Section on the person's behalf at any time. If the
22 evaluator on behalf of the Department recommends that the
23 committed person is appropriate for conditional release, then
24 the director or designee shall, within 30 days of receipt of
25 the evaluator's report, file with the committing court notice

1 of his or her intention whether or not to petition for
2 conditional release on the committed person's behalf.

3 (b) If the person files a timely petition without counsel,
4 the court shall serve a copy of the petition on the Attorney
5 General or State's Attorney, whichever is applicable and,
6 subject to paragraph (c)(1) of Section 25 of this Act, appoint
7 counsel. If the person petitions through counsel, his or her
8 attorney shall serve the Attorney General or State's Attorney,
9 whichever is applicable.

10 (c) Within 20 days after receipt of the petition, upon the
11 request of the committed person or on the court's own motion,
12 the court may appoint an examiner having the specialized
13 knowledge determined by the court to be appropriate, who shall
14 examine the mental condition of the person and furnish a
15 written report of the examination to the court within 30 days
16 after appointment. The examiners shall have reasonable access
17 to the person for purposes of examination and to the person's
18 past and present treatment records and patient health care
19 records. If any such examiner believes that the person is
20 appropriate for conditional release, the examiner shall report
21 on the type of treatment and services that the person may need
22 while in the community on conditional release. The State has
23 the right to have the person evaluated by experts chosen by the
24 State. Any examination or evaluation conducted under this
25 Section shall be in conformance with the standards developed
26 under the Sex Offender Management Board Act and conducted by an

1 evaluator approved by the Board. The court shall set a probable
2 cause hearing as soon as practical after the examiners' reports
3 are filed. The probable cause hearing shall consist of a review
4 of the examining evaluators' reports and arguments on behalf of
5 the parties. If the court finds probable cause to believe the
6 person has made sufficient progress in treatment to the point
7 where he or she is no longer substantially probable to engage
8 in acts of sexual violence if on conditional release ~~If the~~
9 ~~court determines at the probable cause hearing that cause~~
10 ~~exists to believe that it is not substantially probable that~~
11 ~~the person will engage in acts of sexual violence if on release~~
12 ~~or conditional release,~~ the court shall set a hearing on the
13 issue.

14 (d) The court, without a jury, shall hear the petition as
15 soon as practical after the reports of all examiners are filed
16 with the court. The court shall grant the petition unless the
17 State proves by clear and convincing evidence that the person
18 has not made sufficient progress in treatment to the point
19 where he or she is no longer substantially probable to engage
20 in acts of sexual violence if on conditional release ~~to be~~
21 ~~conditionally released.~~ In making a decision under this
22 subsection, the court must consider the nature and
23 circumstances of the behavior that was the basis of the
24 allegation in the petition under paragraph (b) (1) of Section 15
25 of this Act, the person's mental history and present mental
26 condition, and what arrangements are available to ensure that

1 the person has access to and will participate in necessary
2 treatment.

3 (e) Before the court may enter an order directing
4 conditional release to a less restrictive alternative it must
5 find the following: (1) the person will be treated by a
6 Department approved treatment provider, (2) the treatment
7 provider has presented a specific course of treatment and has
8 agreed to assume responsibility for the treatment and will
9 report progress to the Department on a regular basis, and will
10 report violations immediately to the Department, consistent
11 with treatment and supervision needs of the respondent, (3)
12 housing exists that is sufficiently secure to protect the
13 community, and the person or agency providing housing to the
14 conditionally released person has agreed in writing to accept
15 the person, to provide the level of security required by the
16 court, and immediately to report to the Department if the
17 person leaves the housing to which he or she has been assigned
18 without authorization, (4) the person is willing to or has
19 agreed to comply with the treatment provider, the Department,
20 and the court, and (5) the person has agreed or is willing to
21 agree to comply with the behavioral monitoring requirements
22 imposed by the court and the Department.

23 (f) If the court finds that the person is appropriate for
24 conditional release, the court shall notify the Department. The
25 Department shall prepare a plan that identifies the treatment
26 and services, if any, that the person will receive in the

1 community. The plan shall address the person's need, if any,
2 for supervision, counseling, medication, community support
3 services, residential services, vocational services, and
4 alcohol or other drug abuse treatment. The Department may
5 contract with a county health department, with another public
6 agency or with a private agency to provide the treatment and
7 services identified in the plan. The plan shall specify who
8 will be responsible for providing the treatment and services
9 identified in the plan. The plan shall be presented to the
10 court for its approval within 60 days after the court finding
11 that the person is appropriate for conditional release, unless
12 the Department and the person to be released request additional
13 time to develop the plan.

14 (g) The provisions of paragraphs (b) (4), (b) (5), and (b) (6)
15 of Section 40 of this Act apply to an order for conditional
16 release issued under this Section.

17 (Source: P.A. 96-1128, eff. 1-1-11.)

18 (725 ILCS 207/65)

19 Sec. 65. Petition for discharge; procedure.

20 (a) (1) If the Secretary determines at any time that a
21 person committed under this Act is no longer a sexually violent
22 person, the Secretary shall authorize the person to petition
23 the committing court for discharge. If the evaluator on behalf
24 of the Department recommends that the committed person is no
25 longer a sexually violent person, then the Secretary or

1 designee shall, within 30 days of receipt of the evaluator's
2 report, file with the committing court notice of his or her
3 determination whether or not to authorize the committed person
4 to petition the committing court for discharge. The person
5 shall file the petition with the court and serve a copy upon
6 the Attorney General or the State's Attorney's office that
7 filed the petition under subsection (a) of Section 15 of this
8 Act, whichever is applicable. The court, upon receipt of the
9 petition for discharge, shall order a hearing to be held as
10 soon as practical after the date of receipt of the petition.

11 (2) At a hearing under this subsection, the Attorney
12 General or State's Attorney, whichever filed the original
13 petition, shall represent the State. The State has the right to
14 have the person evaluated by experts chosen by the State ~~and~~
15 ~~shall have the right to have the petitioner examined by an~~
16 ~~expert or professional person of his or her choice.~~ The
17 examination shall be conducted in conformance with the
18 standards developed under the Sex Offender Management Board Act
19 and by an evaluator approved by the Board. The committed person
20 or the State may elect to have the hearing before a jury. The
21 State has the burden of proving by clear and convincing
22 evidence that the petitioner is still a sexually violent
23 person.

24 (3) If the court or jury is satisfied that the State has
25 not met its burden of proof under paragraph (a)(2) of this
26 Section, the petitioner shall be discharged from the custody or

1 supervision of the Department. If the court is satisfied that
2 the State has met its burden of proof under paragraph (a)(2),
3 the court may proceed under Section 40 of this Act to determine
4 whether to modify the petitioner's existing commitment order.

5 (b)(1) A person may petition the committing court for
6 discharge from custody or supervision without the Secretary's
7 approval. At the time of an examination under subsection (a) of
8 Section 55 of this Act, the Secretary shall provide the
9 committed person with a written notice of the person's right to
10 petition the court for discharge over the Secretary's
11 objection. The notice shall contain a waiver of rights. The
12 Secretary shall forward the notice and waiver form to the court
13 with the report of the Department's examination under Section
14 55 of this Act. If the person does not affirmatively waive the
15 right to petition, the court shall set a probable cause hearing
16 to determine whether facts exist to believe that since the most
17 recent periodic reexamination (or initial commitment, if there
18 has not yet been a periodic reexamination), the condition of
19 the committed person has so changed that he or she is no longer
20 a sexually violent person. However, if a person has previously
21 filed a petition for discharge without the Secretary's approval
22 and the court determined, either upon review of the petition or
23 following a hearing, that the person's petition was frivolous
24 or that the person was still a sexually violent person, then
25 the court shall deny any subsequent petition under this Section
26 without a hearing unless the petition contains facts upon which

1 a court could reasonably find that the condition of the person
2 had so changed that a hearing was warranted ~~that warrant a~~
3 ~~hearing on whether the person is still a sexually violent~~
4 ~~person.~~ If a person does not file a petition for discharge, yet
5 fails to waive the right to petition under this Section, then
6 the probable cause hearing consists only of a review of the
7 reexamination reports and arguments on behalf of the parties.
8 The committed person has a right to have an attorney represent
9 him or her at the probable cause hearing, but the person is not
10 entitled to be present at the probable cause hearing. The
11 probable cause hearing under this Section must be held as soon
12 as practical after the filing of the reexamination report under
13 Section 55 of this Act.

14 (2) If the court determines at the probable cause hearing
15 under paragraph (b)(1) of this Section that probable cause
16 exists to believe that since the most recent periodic
17 reexamination (or initial commitment, if there has not yet been
18 a periodic reexamination), the condition of the committed
19 person has so changed that he or she is no longer a sexually
20 violent person, then the court shall set a hearing on the
21 issue. At a hearing under this Section, the committed person is
22 entitled to be present and to the benefit of the protections
23 afforded to the person under Section 25 of this Act. The
24 committed person or the State may elect to have a hearing under
25 this Section before a jury. A verdict of a jury under this
26 Section is not valid unless it is unanimous. The Attorney

1 General or State's Attorney, whichever filed the original
2 petition, shall represent the State at a hearing under this
3 Section. The State has the right to have the committed person
4 evaluated by experts chosen by the State. The examination shall
5 be conducted in conformance with the standards developed under
6 the Sex Offender Management Board Act and by an evaluator
7 approved by the Board. At the hearing, the State has the burden
8 of proving by clear and convincing evidence that the committed
9 person is still a sexually violent person.

10 (3) If the court or jury is satisfied that the State has
11 not met its burden of proof under paragraph (b)(2) of this
12 Section, the person shall be discharged from the custody or
13 supervision of the Department. If the court or jury is
14 satisfied that the State has met its burden of proof under
15 paragraph (b)(2) of this Section, the court may proceed under
16 Section 40 of this Act to determine whether to modify the
17 person's existing commitment order.

18 (c) This Section applies to petitions pending on the
19 effective date of this amendatory Act of the 97th General
20 Assembly and to petitions filed on or after that date. This
21 provision is severable from the other provisions of this
22 Section under Section 1.31 of the Statute on Statutes.

23 (Source: P.A. 96-1128, eff. 1-1-11.)

24 (725 ILCS 207/70 rep.)

25 Section 10. The Sexually Violent Persons Commitment Act is

1 amended by repealing Section 70.

2 Section 15. The Unified Code of Corrections is amended by
3 changing Sections 3-3-4 and 3-3-5 as follows:

4 (730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

5 Sec. 3-3-4. Preparation for Parole Hearing.

6 (a) The Prisoner Review Board shall consider the parole of
7 each eligible person committed to the Adult Division at least
8 30 days prior to the date he shall first become eligible for
9 parole, and shall consider the parole of each person committed
10 to the Department of Juvenile Justice as a delinquent at least
11 30 days prior to the expiration of the first year of
12 confinement.

13 (b) A person eligible for parole shall, no less than 15
14 days in advance of his parole interview, prepare a parole plan
15 in accordance with the rules of the Prisoner Review Board. The
16 person shall be assisted in preparing his parole plan by
17 personnel of the Department of Corrections, or the Department
18 of Juvenile Justice in the case of a person committed to that
19 Department, and may, for this purpose, be released on furlough
20 under Article 11 or on authorized absence under Section 3-9-4.
21 The appropriate Department shall also provide assistance in
22 obtaining information and records helpful to the individual for
23 his parole hearing. If the person eligible for parole has a
24 petition or any written submissions prepared on his or her

1 behalf by an attorney or other representative, the attorney or
2 representative for the person eligible for parole must serve by
3 certified mail the State's Attorney of the county where he or
4 she was prosecuted with the petition or any written submissions
5 15 days after his or her parole interview. The State's Attorney
6 shall provide the attorney for the person eligible for parole
7 with a copy of his or her letter in opposition to parole via
8 certified mail within 5 business days of the en banc hearing.

9 (c) Any member of the Board shall have access at all
10 reasonable times to any committed person and to his master
11 record file within the Department, and the Department shall
12 furnish such a report to the Board concerning the conduct and
13 character of any such person prior to his or her parole
14 interview.

15 (d) In making its determination of parole, the Board shall
16 consider:

17 (1) material transmitted to the Department of Juvenile
18 Justice by the clerk of the committing court under Section
19 5-4-1 or Section 5-10 of the Juvenile Court Act or Section
20 5-750 of the Juvenile Court Act of 1987;

21 (2) the report under Section 3-8-2 or 3-10-2;

22 (3) a report by the Department and any report by the
23 chief administrative officer of the institution or
24 facility;

25 (4) a parole progress report;

26 (5) a medical and psychological report, if requested by

1 the Board;

2 (6) material in writing, or on film, video tape or
3 other electronic means in the form of a recording submitted
4 by the person whose parole is being considered; ~~and~~

5 (7) material in writing, or on film, video tape or
6 other electronic means in the form of a recording or
7 testimony submitted by the State's Attorney and the victim
8 or a concerned citizen pursuant to the Rights of Crime
9 Victims and Witnesses Act; and -

10 (8) the person's eligibility for commitment under the
11 Sexually Violent Persons Commitment Act.

12 (e) The prosecuting State's Attorney's office shall
13 receive from the Board reasonable written notice not less than
14 30 days prior to the parole interview and may submit relevant
15 information by oral argument or testimony of victims and
16 concerned citizens, or both, in writing, or on film, video tape
17 or other electronic means or in the form of a recording to the
18 Board for its consideration. Upon written request of the
19 State's Attorney's office, the Prisoner Review Board shall hear
20 protests to parole, except in counties of 1,500,000 or more
21 inhabitants where there shall be standing objections to all
22 such petitions. If a State's Attorney who represents a county
23 of less than 1,500,000 inhabitants requests a protest hearing,
24 the inmate's counsel or other representative shall also receive
25 notice of such request. This hearing shall take place the month
26 following the inmate's parole interview. If the inmate's parole

1 interview is rescheduled then the Prisoner Review Board shall
2 promptly notify the State's Attorney of the new date. The
3 person eligible for parole shall be heard at the next scheduled
4 en banc hearing date. If the case is to be continued, the
5 State's Attorney's office and the attorney or representative
6 for the person eligible for parole will be notified of any
7 continuance within 5 business days. The State's Attorney may
8 waive the written notice.

9 (f) The victim of the violent crime for which the prisoner
10 has been sentenced shall receive notice of a parole hearing as
11 provided in paragraph (4) of subsection (d) of Section 4.5 of
12 the Rights of Crime Victims and Witnesses Act.

13 (g) Any recording considered under the provisions of
14 subsection (d)(6), (d)(7) or (e) of this Section shall be in
15 the form designated by the Board. Such recording shall be both
16 visual and aural. Every voice on the recording and person
17 present shall be identified and the recording shall contain
18 either a visual or aural statement of the person submitting
19 such recording, the date of the recording and the name of the
20 person whose parole eligibility is being considered. Such
21 recordings shall be retained by the Board and shall be deemed
22 to be submitted at any subsequent parole hearing if the victim
23 or State's Attorney submits in writing a declaration clearly
24 identifying such recording as representing the present
25 position of the victim or State's Attorney regarding the issues
26 to be considered at the parole hearing.

1 (h) The Board shall not release any material to the inmate,
2 the inmate's attorney, any third party, or any other person
3 containing any information from the victim or from a person
4 related to the victim by blood, adoption, or marriage who has
5 written objections, testified at any hearing, or submitted
6 audio or visual objections to the inmate's parole, unless
7 provided with a waiver from that objecting party.

8 (Source: P.A. 96-875, eff. 1-22-10; 97-523, eff. 1-1-12.)

9 (730 ILCS 5/3-3-5) (from Ch. 38, par. 1003-3-5)

10 Sec. 3-3-5. Hearing and Determination.

11 (a) The Prisoner Review Board shall meet as often as need
12 requires to consider the cases of persons eligible for parole.
13 Except as otherwise provided in paragraph (2) of subsection (a)
14 of Section 3-3-2 of this Act, the Prisoner Review Board may
15 meet and order its actions in panels of 3 or more members. The
16 action of a majority of the panel shall be the action of the
17 Board. In consideration of persons committed to the Department
18 of Juvenile Justice, the panel shall have at least a majority
19 of members experienced in juvenile matters.

20 (b) If the person under consideration for parole is in the
21 custody of the Department, at least one member of the Board
22 shall interview him, and a report of that interview shall be
23 available for the Board's consideration. However, in the
24 discretion of the Board, the interview need not be conducted if
25 a psychiatric examination determines that the person could not

1 meaningfully contribute to the Board's consideration. The
2 Board may in its discretion parole a person who is then outside
3 the jurisdiction on his record without an interview. The Board
4 need not hold a hearing or interview a person who is paroled
5 under paragraphs (d) or (e) of this Section or released on
6 Mandatory release under Section 3-3-10.

7 (c) The Board shall not parole a person eligible for parole
8 if it determines that:

9 (1) there is a substantial risk that he will not
10 conform to reasonable conditions of parole; or

11 (2) his release at that time would deprecate the
12 seriousness of his offense or promote disrespect for the
13 law; or

14 (3) his release would have a substantially adverse
15 effect on institutional discipline.

16 (d) A person committed under the Juvenile Court Act or the
17 Juvenile Court Act of 1987 who has not been sooner released
18 shall be paroled on or before his 20th birthday to begin
19 serving a period of parole under Section 3-3-8.

20 (e) A person who has served the maximum term of
21 imprisonment imposed at the time of sentencing less time credit
22 for good behavior shall be released on parole to serve a period
23 of parole under Section 5-8-1.

24 (f) The Board shall render its decision within a reasonable
25 time after hearing and shall state the basis therefor both in
26 the records of the Board and in written notice to the person on

1 whose application it has acted. In its decision, the Board
2 shall set the person's time for parole, or if it denies parole
3 it shall provide for a rehearing not less frequently than once
4 every year, except that the Board may, after denying parole,
5 schedule a rehearing no later than 5 years from the date of the
6 parole denial, if the Board finds that it is not reasonable to
7 expect that parole would be granted at a hearing prior to the
8 scheduled rehearing date. If the Board shall parole a person,
9 and, if he is not released within 90 days from the effective
10 date of the order granting parole, the matter shall be returned
11 to the Board for review.

12 (f-1) If the Board paroles a person who is eligible for
13 commitment as a sexually violent person, the effective date of
14 the Board's order shall be stayed for 90 days for the purpose
15 of evaluation and proceedings under the Sexually Violent
16 Persons Commitment Act.

17 (g) The Board shall maintain a registry of decisions in
18 which parole has been granted, which shall include the name and
19 case number of the prisoner, the highest charge for which the
20 prisoner was sentenced, the length of sentence imposed, the
21 date of the sentence, the date of the parole, and the basis for
22 the decision of the Board to grant parole and the vote of the
23 Board on any such decisions. The registry shall be made
24 available for public inspection and copying during business
25 hours and shall be a public record pursuant to the provisions
26 of the Freedom of Information Act.

1 (h) The Board shall promulgate rules regarding the exercise
2 of its discretion under this Section.

3 (Source: P.A. 96-875, eff. 1-22-10; 97-522, eff. 1-1-12.)