



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2392

by Rep. Norine Hammond

SYNOPSIS AS INTRODUCED:

20 ILCS 1705/14
725 ILCS 207/30

from Ch. 91 1/2, par. 100-14

Amends the Mental Health and Developmental Disabilities Administrative Act. Provides that the Department of Human Services may elect to place persons who have been ordered by the court to be detained under the Sexually Violent Persons Commitment Act in a distinct portion of the Chester Mental Health Center. Provides that the persons so placed shall be separated and shall not comingle with the recipients of the Chester Mental Health Center. Provides that the portion of Chester Mental Health Center that is used for the persons detained under the Sexually Violent Persons Commitment Act shall not be a part of the mental health facility for the enforcement and implementation of the Mental Health and Developmental Disabilities Code nor shall their care and treatment be subject to the provisions of the Mental Health and Developmental Disabilities Code. Amends the Sexually Violent Persons Commitment Act. Provides that the Department may elect to place persons who have been ordered by the court to be detained in a State-operated mental health facility or a portion of that facility. Provides that persons placed in a state-operated mental health facility under the Act shall be separated and shall not comingle with the recipients of the mental health facility. Provides that the portion of a State-operated mental health facility that is used for the persons detained under the Act shall not be a part of the mental health facility for the enforcement and implementation of the Mental Health and Developmental Disabilities Code nor shall their care and treatment be subject to the provisions of the Mental Health and Developmental Disabilities Code. Provides that the provisions added by the amendatory Act are inoperative on and after June 30, 2015. Effective immediately.

LRB098 08859 RLC 38989 b

1 AN ACT concerning State government.

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

4 Section 5. The Mental Health and Developmental
5 Disabilities Administrative Act is amended by changing Section
6 14 as follows:

7 (20 ILCS 1705/14) (from Ch. 91 1/2, par. 100-14)

8 Sec. 14. Chester Mental Health Center. To maintain and
9 operate a facility for the care, custody, and treatment of
10 persons with mental illness or habilitation of persons with
11 developmental disabilities hereinafter designated, to be known
12 as the Chester Mental Health Center.

13 Within the Chester Mental Health Center there shall be
14 confined the following classes of persons, whose history, in
15 the opinion of the Department, discloses dangerous or violent
16 tendencies and who, upon examination under the direction of the
17 Department, have been found a fit subject for confinement in
18 that facility:

19 (a) Any male person who is charged with the commission
20 of a crime but has been acquitted by reason of insanity as
21 provided in Section 5-2-4 of the Unified Code of
22 Corrections.

23 (b) Any male person who is charged with the commission

1 of a crime but has been found unfit under Article 104 of
2 the Code of Criminal Procedure of 1963.

3 (c) Any male person with mental illness or
4 developmental disabilities or person in need of mental
5 treatment now confined under the supervision of the
6 Department or hereafter admitted to any facility thereof or
7 committed thereto by any court of competent jurisdiction.

8 If and when it shall appear to the facility director of the
9 Chester Mental Health Center that it is necessary to confine
10 persons in order to maintain security or provide for the
11 protection and safety of recipients and staff, the Chester
12 Mental Health Center may confine all persons on a unit to their
13 rooms. This period of confinement shall not exceed 10 hours in
14 a 24 hour period, including the recipient's scheduled hours of
15 sleep, unless approved by the Secretary of the Department.
16 During the period of confinement, the persons confined shall be
17 observed at least every 15 minutes. A record shall be kept of
18 the observations. This confinement shall not be considered
19 seclusion as defined in the Mental Health and Developmental
20 Disabilities Code.

21 The facility director of the Chester Mental Health Center
22 may authorize the temporary use of handcuffs on a recipient for
23 a period not to exceed 10 minutes when necessary in the course
24 of transport of the recipient within the facility to maintain
25 custody or security. Use of handcuffs is subject to the
26 provisions of Section 2-108 of the Mental Health and

1 Developmental Disabilities Code. The facility shall keep a
2 monthly record listing each instance in which handcuffs are
3 used, circumstances indicating the need for use of handcuffs,
4 and time of application of handcuffs and time of release
5 therefrom. The facility director shall allow the Illinois
6 Guardianship and Advocacy Commission, the agency designated by
7 the Governor under Section 1 of the Protection and Advocacy for
8 Developmentally Disabled Persons Act, and the Department to
9 examine and copy such record upon request.

10 If and when it shall appear to the satisfaction of the
11 Department that any person confined in the Chester Mental
12 Health Center is not or has ceased to be such a source of
13 danger to the public as to require his subjection to the
14 regimen of the center, the Department is hereby authorized to
15 transfer such person to any State facility for treatment of
16 persons with mental illness or habilitation of persons with
17 developmental disabilities, as the nature of the individual
18 case may require.

19 Subject to the provisions of this Section, the Department,
20 except where otherwise provided by law, shall, with respect to
21 the management, conduct and control of the Chester Mental
22 Health Center and the discipline, custody and treatment of the
23 persons confined therein, have and exercise the same rights and
24 powers as are vested by law in the Department with respect to
25 any and all of the State facilities for treatment of persons
26 with mental illness or habilitation of persons with

1 developmental disabilities, and the recipients thereof, and
2 shall be subject to the same duties as are imposed by law upon
3 the Department with respect to such facilities and the
4 recipients thereof.

5 The Department may elect to place persons who have been
6 ordered by the court to be detained under the Sexually Violent
7 Persons Commitment Act in a distinct portion of the Chester
8 Mental Health Center. The persons so placed shall be separated
9 and shall not comingle with the recipients of the Chester
10 Mental Health Center. The portion of Chester Mental Health
11 Center that is used for the persons detained under the Sexually
12 Violent Persons Commitment Act shall not be a part of the
13 mental health facility for the enforcement and implementation
14 of the Mental Health and Developmental Disabilities Code nor
15 shall their care and treatment be subject to the provisions of
16 the Mental Health and Developmental Disabilities Code. The
17 changes added to this Section by this amendatory Act of the
18 98th General Assembly are inoperative on and after June 30,
19 2015.

20 (Source: P.A. 91-559, eff. 1-1-00.)

21 Section 10. The Sexually Violent Persons Commitment Act is
22 amended by changing Section 30 as follows:

23 (725 ILCS 207/30)

24 Sec. 30. Detention; probable cause hearing; transfer for

1 examination.

2 (a) Upon the filing of a petition under Section 15 of this
3 Act, the court shall review the petition to determine whether
4 to issue an order for detention of the person who is the
5 subject of the petition. The person shall be detained only if
6 there is cause to believe that the person is eligible for
7 commitment under subsection (f) of Section 35 of this Act. A
8 person detained under this Section shall be held in a facility
9 approved by the Department. The Department may elect to place
10 persons who have been ordered by the court to be detained in a
11 State-operated mental health facility or a portion of that
12 facility. Persons placed in a state-operated mental health
13 facility under this Act shall be separated and shall not
14 comingle with the recipients of the mental health facility. The
15 portion of a State-operated mental health facility that is used
16 for the persons detained under this Act shall not be a part of
17 the mental health facility for the enforcement and
18 implementation of the Mental Health and Developmental
19 Disabilities Code nor shall their care and treatment be subject
20 to the provisions of the Mental Health and Developmental
21 Disabilities Code. The changes added to this Section by this
22 amendatory Act of the 98th General Assembly are inoperative on
23 and after June 30, 2015. If the person is serving a sentence of
24 imprisonment, is in a Department of Corrections correctional
25 facility or juvenile correctional facility or is committed to
26 institutional care, and the court orders detention under this

1 Section, the court shall order that the person be transferred
2 to a detention facility approved by the Department. A detention
3 order under this Section remains in effect until the person is
4 discharged after a trial under Section 35 of this Act or until
5 the effective date of a commitment order under Section 40 of
6 this Act, whichever is applicable.

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

22 (c) If the court determines after a hearing that there is
23 probable cause to believe that the person named in the petition
24 is a sexually violent person, the court shall order that the
25 person be taken into custody if he or she is not in custody and
26 shall order the person to be transferred within a reasonable

1 time to an appropriate facility for an evaluation as to whether
2 the person is a sexually violent person. If the person who is
3 named in the petition refuses to speak to, communicate with, or
4 otherwise fails to cooperate with the examining evaluator from
5 the Department of Human Services or the Department of
6 Corrections, that person may only introduce evidence and
7 testimony from any expert or professional person who is
8 retained or court-appointed to conduct an examination of the
9 person that results from a review of the records and may not
10 introduce evidence resulting from an examination of the person.
11 Notwithstanding the provisions of Section 10 of the Mental
12 Health and Developmental Disabilities Confidentiality Act, all
13 evaluations conducted pursuant to this Act and all Illinois
14 Department of Corrections treatment records shall be
15 admissible at all proceedings held pursuant to this Act,
16 including the probable cause hearing and the trial.

17 If the court determines that probable cause does not exist
18 to believe that the person is a sexually violent person, the
19 court shall dismiss the petition.

20 (d) The Department shall promulgate rules that provide the
21 qualifications for persons conducting evaluations under
22 subsection (c) of this Section.

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

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

1 93-970, eff. 8-20-04.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.