

1 AN ACT concerning criminal law.

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 Sections 4, 4.01, 4.02, 5, and 9 and by adding  
6 Sections 4.04 and 4.05 as follows:

7 (725 ILCS 205/4) (from Ch. 38, par. 105-4)

8 Sec. 4. After the filing of the petition, the court shall  
9 appoint two qualified evaluators ~~psychiatrists~~ to make a  
10 personal examination of the ~~such~~ alleged sexually dangerous  
11 person, to ascertain whether the ~~such~~ person is sexually  
12 dangerous, and the evaluators ~~psychiatrists~~ shall file with the  
13 court a report in writing of the result of their examination, a  
14 copy of which shall be delivered to the respondent.

15 (Source: Laws 1955, p. 1144.)

16 (725 ILCS 205/4.01) (from Ch. 38, par. 105-4.01)

17 Sec. 4.01. "Qualified evaluator ~~psychiatrist~~" means a  
18 reputable physician or psychologist licensed in Illinois or any  
19 other state to practice medicine or psychology, or any other  
20 licensed professional who specializes in the evaluation of sex  
21 offenders ~~in all its branches, who has specialized in the~~  
22 ~~diagnosis and treatment of mental and nervous disorders for a~~

1 ~~period of not less than 5 years.~~

2 (Source: Laws 1959, p. 1685.)

3 (725 ILCS 205/4.02) (from Ch. 38, par. 105-4.02)

4 Sec. 4.02. In counties of less than 500,000 inhabitants the  
5 cost of the ~~psychiatric~~ examination required by Section 4 is a  
6 charge against and shall be paid out of the general fund of the  
7 county in which the proceeding is brought.

8 (Source: Laws 1959, p. 1685.)

9 (725 ILCS 205/4.04 new)

10 Sec. 4.04. Examination. "Examination" means an examination  
11 conducted in conformance with the standards developed under the  
12 Sex Offender Management Board Act and by an evaluator licensed  
13 under the Sex Offender Evaluation and Treatment Provider Act.

14 (725 ILCS 205/4.05 new)

15 Sec. 4.05. Criminal propensities to the commission of sex  
16 offenses. For the purposes of this Act, "criminal propensities  
17 to the commission of sex offenses" means that it is  
18 substantially probable that the person subject to the  
19 commitment proceeding will engage in the commission of sex  
20 offenses in the future if not confined.

21 (725 ILCS 205/5) (from Ch. 38, par. 105-5)

22 Sec. 5. The respondent in any proceedings under this Act

1 shall have the right to demand a trial by jury and to be  
2 represented by counsel. The cost of representation by counsel  
3 for an indigent respondent shall be paid by the county in which  
4 the proceeding is brought. At the hearing on the petition it  
5 shall be competent to introduce evidence of the commission by  
6 the respondent of any number of crimes together with whatever  
7 punishments, if any, were inflicted.

8 (Source: Laws 1955, p. 1144.)

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

10 Sec. 9. Recovery; examination and hearing.

11 (a) An application in writing setting forth facts showing  
12 that the ~~such~~ sexually dangerous person or criminal sexual  
13 psychopathic person has recovered may be filed before the  
14 committing court. Upon receipt thereof, the clerk of the court  
15 shall cause a copy of the application to be sent to the  
16 Director of the Department of Corrections. The Director shall  
17 then cause to be prepared and sent to the court a  
18 socio-psychiatric report concerning the applicant. The report  
19 shall be prepared by an evaluator licensed under the Sex  
20 Offender Evaluation and Treatment Provider Act ~~a social worker~~  
21 ~~and psychologist under the supervision of a licensed~~  
22 ~~psychiatrist assigned to the institution wherein such~~  
23 ~~applicant is confined.~~ The court shall set a date for the  
24 hearing upon the ~~such~~ application and shall consider the report  
25 so prepared under the direction of the Director of the

1 Department of Corrections and any other relevant information  
2 submitted by or on behalf of the ~~such~~ applicant.

3 (b) At a hearing under this Section, the Attorney General  
4 or State's Attorney who filed the original application shall  
5 represent the State. The sexually dangerous person or the State  
6 may elect to have the hearing before a jury. The State has the  
7 burden of proving by clear and convincing evidence that the  
8 applicant is still a sexually dangerous person.

9 (c) If the applicant refuses to speak to, communicate with,  
10 or otherwise fails to cooperate with the State's examiner, the  
11 applicant may only introduce evidence and testimony from any  
12 expert or professional person who is retained to conduct an  
13 examination based upon review of the records and may not  
14 introduce evidence resulting from an examination of the person.  
15 Notwithstanding the provisions of Section 10 of the Mental  
16 Health and Developmental Disabilities Confidentiality Act, all  
17 evaluations conducted under this Act and all Illinois  
18 Department of Corrections treatment records shall be  
19 admissible at all proceedings held under this Act.

20 (d) If a person has previously filed an application in  
21 writing setting forth facts showing that the sexually dangerous  
22 person or criminal sexual psychopathic person has recovered and  
23 the court determined either at a hearing or following a jury  
24 trial that the applicant is still a sexually dangerous person,  
25 or if the application is withdrawn, no additional application  
26 may be filed for 2 years ~~one year~~ after a finding that the

1 person is still sexually dangerous or after the application is  
2 withdrawn, except if the application is accompanied by a  
3 statement from the treatment provider that the applicant has  
4 made exceptional progress and the application contains facts  
5 upon which a court could find that the condition of the person  
6 had so changed that a hearing is warranted.

7 (e) If the person is found to be no longer dangerous, the  
8 court shall order that he or she be discharged. If the court  
9 finds that the person appears no longer to be dangerous but  
10 that it is impossible to determine with certainty under  
11 conditions of institutional care that the ~~such~~ person has fully  
12 recovered, the court shall enter an order permitting the ~~such~~  
13 person to go at large subject to the ~~such~~ conditions and ~~such~~  
14 supervision by the Director as in the opinion of the court will  
15 adequately protect the public. In the event the person violates  
16 any of the conditions of the ~~such~~ order, the court shall revoke  
17 the ~~such~~ conditional release and recommit the person under  
18 ~~pursuant to~~ Section 5-6-4 of the Unified Code of Corrections  
19 under the terms of the original commitment. Upon an order of  
20 discharge every outstanding information and indictment, the  
21 basis of which was the reason for the present detention, shall  
22 be quashed.

23 (Source: P.A. 94-404, eff. 1-1-06.)

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

1 INDEX

2 Statutes amended in order of appearance

3	725 ILCS 205/4	from Ch. 38, par. 105-4
4	725 ILCS 205/4.01	from Ch. 38, par. 105-4.01
5	725 ILCS 205/4.02	from Ch. 38, par. 105-4.02
6	725 ILCS 205/4.04 new	
7	725 ILCS 205/4.05 new	
8	725 ILCS 205/5	from Ch. 38, par. 105-5
9	725 ILCS 205/9	from Ch. 38, par. 105-9