

1 AN ACT in relation to 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  
5 by changing Section 9 as follows:

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

7 Sec. 9. Application showing recovery.

8 (a) Any person who is committed as a sexually dangerous  
9 person under this Act, may file an application in writing  
10 before the committing court setting forth facts showing that  
11 such sexually dangerous person or criminal sexual  
12 psychopathic person has recovered if at least 6 months have  
13 elapsed since the initial commitment order was entered, the  
14 most recent application showing recovery was denied, or the  
15 most recent order for conditional release was revoked. The  
16 Director of Corrections may file a petition under this  
17 Section on a person's behalf at any time. A copy of the  
18 application showing recovery shall be served on the State's  
19 Attorney of the committing county.

20 (b) Within 30 days of receipt of the application showing  
21 recovery, the court shall examine the application showing  
22 recovery and determine if the application showing recovery  
23 has been filed in accordance with the requirements of  
24 subsection (a) of this Section. If the court determines that  
25 this application showing recovery has not been filed in  
26 accordance with the provisions of subsection (a), the court  
27 may enter its order denying the applicant's application  
28 showing recovery without further hearing.

29 (c) If the court determines that the application showing  
30 recovery meets the requirements of subsection (a), then the

1 court shall direct the clerk of the court to cause a copy of  
2 the application to be sent to the Director of Corrections.  
3 The Director shall then cause to be prepared and sent to the  
4 court a socio-psychiatric report concerning the applicant.  
5 The report shall be prepared by the psychiatrist,  
6 sociologist, psychologist, and warden of, or assigned to, the  
7 institution where the applicant is confined.

8 (d) The court shall set a probable cause hearing as soon  
9 as practical after the socio-psychiatric report concerning  
10 the applicant is filed. If the court determines at the  
11 probable cause hearing that cause exists to believe that it  
12 is not substantially probable that the person will engage in  
13 acts of sexual assault or acts of sexual molestation of  
14 children if discharged or conditionally released, the court  
15 shall set a hearing on the issue. If the court determines at  
16 the probable cause hearing that cause exists to believe that  
17 it is substantially probable that the person will engage in  
18 acts of sexual assault or acts of sexual molestation of  
19 children, the court shall deny the application for recovery.

20 (e) The court, with or without a jury, at the  
21 applicant's election, shall set for hearing those  
22 applications for recovery that have been timely filed in  
23 accordance with the provisions of subsection (a) and in which  
24 the court has determined at the probable cause hearing that  
25 cause exists to believe that it is not substantially probable  
26 that the person will engage in acts of sexual assault or acts  
27 of sexual molestation of children, in accordance with the  
28 speedy trial provisions under Section 103-5 of the Code of  
29 Criminal Procedure of 1963. However, the speedy trial  
30 provisions do not commence until the court at the probable  
31 cause hearing has determined that cause exists to believe  
32 that it is not substantially probable that the person will  
33 engage in acts of sexual assault or acts of sexual  
34 molestation of children.

1       (f) A jury, or the court without a jury if the applicant  
2       has waived a jury, shall grant the application showing  
3       recovery unless the State proves by clear and convincing  
4       evidence that the person is still a sexually dangerous  
5       person. In making a decision under this subsection (f), the  
6       court or jury may consider the nature and circumstances of  
7       the behavior that was the basis for the original commitment  
8       as a sexually dangerous person, the person's mental history  
9       and present mental condition, where the person will live, how  
10       the person will support himself or herself, what arrangements  
11       are available to insure that the person has access to and  
12       will participate in necessary treatment, and any other  
13       relevant evidence. An--application-in-writing-setting-forth  
14       facts-showing-that-such-sexually-dangerous-person-or-criminal  
15       sexual-psychopathic-person-has-recovered-may-be-filed--before  
16       the--committing-court.-Upon-receipt-thereof,-the-clerk-of-the  
17       court-shall-cause-a-copy-of-the-application-to-be-sent-to-the  
18       Director-of-the-Department-of-Corrections.-The-Director-shall  
19       then--cause--to--be--prepared--and--sent--to--the---court---a  
20       socio-psychiatric-report-concerning-the-applicant.-The-report  
21       shall---be---prepared---by---the--psychiatrist,-sociologist,-  
22       psychologist-and-warden-of,-or-assigned-to,-the--institution  
23       wherein--such--applicant--is--confined.-The-court-shall-set-a  
24       date-for-the-hearing-upon-such-application-and-shall-consider  
25       the-report-so-prepared-under-the-direction-of-the-Director-of  
26       the--Department--of--Corrections--and--any---other---relevant  
27       information--submitted--by-or-on-behalf-of-such-applicant.-If  
28       the-patient-is-found-to-be-no--longer--dangerous,-the--court  
29       shall--order--that--he-be-discharged.-If-the-court-finds-that  
30       the-patient-appears-no-longer-to-be-dangerous-but-that-it--is  
31       impossible--to--determine--with-certainty-under-conditions-of  
32       institutional-care-that-such-person-has-fully-recovered,-the  
33       court--shall--enter--an-order-permitting-such-person-to-go-at  
34       large-subject-to-such-conditions-and-such-supervision-by--the

1 Director--as--in--the--opinion--of--the--court--will--adequately  
2 protect--the--public.--In--the--event--the--person--violates--any--of  
3 the--conditions--of--such--order,--the--court--shall--revoke--such  
4 conditional--release--and--recommit--the--person--pursuant--to  
5 Section--5-6-4--of--the--Unified--Code--of--Corrections--under--the  
6 terms--of--the--original--commitment.--Upon--an--order--of--discharge  
7 every--outstanding--information--and--indictment,--the--basis--of  
8 which--was--the--reason--for--the--present--detention,--shall--be  
9 quashed.

10 (Source: P.A. 77-2477.)