

229A.10 Petition for discharge — procedure.

1. If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to engage in predatory acts that constitute sexually violent offenses if discharged, the director shall authorize the person to petition the court for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. If the attorney general objects to the petition for discharge, the burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is likely to engage in predatory acts that constitute sexually violent offenses if discharged.

2. Upon a finding that the state has failed to meet its burden of proof under this section, the court shall authorize the committed person to be discharged.

98 Acts, ch 1171, §10; 99 Acts, ch 61, §8, 14; 2002 Acts, ch 1139, §15, 27; 2003 Acts, ch 44, §48