

(D) (1) IF THE COURT DETERMINES THAT THERE IS INSUFFICIENT CAUSE TO BELIEVE THAT THE PERSON HAS VIOLATED THE CONDITIONAL RELEASE AND THAT FURTHER ACTION OF THE COURT IS NOT NECESSARY, THE COURT SHALL NOTE THIS DETERMINATION ON THE PETITION WHICH SHALL BE MADE A PERMANENT PART OF THE PERSON'S COURT FILE.

(2) THE CLERK OF THE COURT SHALL FORWARD NOTICE OF THE COURT'S DETERMINATION TO:

(I) THE SECRETARY OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; AND

(II) THE PERSON WHO REPORTED THE VIOLATION.

(E) (1) THE COURT SHALL CONDUCT A HEARING, WITHOUT A JURY, WITHIN 5 DAYS AFTER THE ATTACHMENT OF THE INDIVIDUAL UNLESS:

(I) THE HEARING IS POSTPONED BY AGREEMENT OF THE PARTIES; OR

(II) THE COURT POSTPONES THE HEARING UPON A SHOWING OF GOOD CAUSE.

(2) THE INDIVIDUAL SUBJECT TO THE REVOCATION OR MODIFICATION OF A CONDITIONAL RELEASE HAS THE RIGHT TO COUNSEL OR, IF INDIGENT, A PUBLIC DEFENDER.

(3) THE PARTIES HAVE A RIGHT:

(I) TO PRESENT EVIDENCE;

(II) TO CROSS-EXAMINE ADVERSE WITNESSES;  
AND

(III) ANY OTHER RIGHTS THAT THE COURT DEEMS NECESSARY FOR A FAIR HEARING.

(4) THE BURDEN OF PERSUASION SHALL REST WITH THE PETITIONER AND SHALL BE BY CLEAR AND CONVINCING EVIDENCE AS TO WHETHER:

(I) THERE HAS BEEN A VIOLATION OF CONDITIONAL RELEASE; AND

(II) BY REASON OF A MENTAL DISORDER OR MENTAL RETARDATION THE INDIVIDUAL ON CONDITIONAL RELEASE IS A DANGER TO THE INDIVIDUAL OR THE PERSON OR PROPERTY OF OTHERS IF NOT CONFINED IN AN INSTITUTION FOR INPATIENT CARE OR TREATMENT OR IF THE CONDITIONS OF THE RELEASE ARE NOT MODIFIED.

(5) IF THE COURT DETERMINES THAT THE STANDARD SET FORTH IN PARAGRAPH 4 OF THIS SUBSECTION IS MET, THE COURT SHALL: