

individuals who have been charged with criminal acts. The verdict of not criminally responsible which established that the individual committed an otherwise criminal act justifies the recording of this information. This information will significantly enhance this State's ability to prevent crime and protect the public. It will enable better institutional planning and analysis by this State.

Throughout this section the newly defined term "committed individual" is used for clarity. See § 12-101(b) of this title.

12-113. ELIGIBILITY FOR RELEASE.

(A) IN GENERAL.

A COMMITTED INDIVIDUAL MAY BE RELEASED UNDER THE PROVISIONS OF THIS SECTION AND §§ 12-114 THROUGH 12-121 OF THIS TITLE.

(B) ELIGIBILITY -- DISCHARGE.

A COMMITTED INDIVIDUAL IS ELIGIBLE FOR DISCHARGE FROM COMMITMENT ONLY IF THAT INDIVIDUAL WOULD NOT BE A DANGER, AS A RESULT OF MENTAL DISORDER OR MENTAL RETARDATION, TO SELF OR TO THE PERSON OR PROPERTY OF OTHERS IF DISCHARGED.

(C) SAME -- CONDITIONAL RELEASE.

A COMMITTED INDIVIDUAL IS ELIGIBLE FOR CONDITIONAL RELEASE FROM COMMITMENT ONLY IF THAT INDIVIDUAL WOULD NOT BE A DANGER, AS A RESULT OF MENTAL DISORDER OR MENTAL RETARDATION, TO SELF OR TO THE PERSON OR PROPERTY OF OTHERS IF RELEASED FROM CONFINEMENT WITH CONDITIONS IMPOSED BY THE COURT.

(D) BURDEN OF PROOF.

TO BE RELEASED, A COMMITTED INDIVIDUAL HAS THE BURDEN TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE ELIGIBILITY FOR DISCHARGE OR ELIGIBILITY FOR CONDITIONAL RELEASE.

TASK FORCE COMMENT TO § 12-113.

This section is new to this title and represents a significant change to the law recommended by the Governor's Task Force to Review the Defense of Insanity. The change relates to the disposition of a defendant who has been relieved of criminal responsibility and sanctions because of mental disorder or mental retardation.

This section provides that an individual found not criminally responsible and committed to the Department for an indeterminate period may not be released until the defendant proves eligibility for release, or, under § 12-119 of this title, the Department advises the court that the individual is eligible for release. Previously such a