

(2) AN APPEAL FROM A CIRCUIT COURT ORDER SHALL BE BY APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS.

TASK FORCE COMMENT ON § 12-117.

This section replaces former Health - General Article, § 12-112(a) and the second clause of (b)(2), "Order Without Hearing" and § 12-113, "Court order after hearing or waiver". The only substantive changes recommended by the Governor's Task Force to Review the Defense of Insanity are as follows.

In subsection (a) of this section, in accordance with the general recommendations of the Task Force concerning commitment and release, the court now determines whether the committed individual proved, by a preponderance of evidence, eligibility for release. Formerly the court determined whether the State had proved that the individual suffered from a mental disorder or mental retardation and, as a result of that mental condition, was dangerous to self or to the person or property of others.

Subsection (b)(2) of this section is substituted for clarity for the phrase in former Health - General Article, § 12-112(b)(1), " If...the court does not intend to follow the recommendations in the report, the court shall hold a hearing...".

In subsection (c) of this section, the Task Force has determined that this State's conditional release program is successful and highly regarded nationwide. The Task Force strongly recommends retention of the present 5-year conditional release program.

12-118. APPLICATION FOR RELEASE.

(A) APPLICATION -- TIME.

(1) NOT EARLIER THAN 1 YEAR AFTER THE INITIAL RELEASE HEARING ENDS OR WAS WAIVED, AND NOT MORE THAN ONCE A YEAR THEREAFTER, A COMMITTED INDIVIDUAL MAY APPLY FOR RELEASE UNDER EITHER SUBSECTION (B) OR (C) OF THIS SECTION, BUT NOT BOTH.

(2) NOTWITHSTANDING THE TIME RESTRICTIONS IN PARAGRAPH (1) OF THIS SUBSECTION, A COMMITTED INDIVIDUAL MAY FILE AN APPLICATION FOR RELEASE AT ANY TIME IF THE APPLICATION IS ACCOMPANIED BY AN AFFIDAVIT OF A PHYSICIAN OR LICENSED PSYCHOLOGIST THAT STATES AN IMPROVEMENT IN THE MENTAL CONDITION OF THE COMMITTED INDIVIDUAL SINCE THE LAST HEARING.

(B) ADMINISTRATIVE PROCEEDING.

(1) TO APPLY FOR RELEASE UNDER THIS SUBSECTION, THE COMMITTED INDIVIDUAL SHALL FILE AN APPLICATION FOR RELEASE WITH