

In subsection (a)(1) of this section, the former determination by the State's Attorney that "further action by the court is not necessary" is deleted in light of the initial determination as to whether there is a factual basis to the complaint of a violation.

Throughout this section, the Task Force has recommended major change by providing that, unless the committed individual proves that he or she is no longer dangerous, revocation of a conditional release is dependent only on establishing that the conditional release has been violated. Formerly, the revocation required the State to establish the former criteria for initial commitment again -- that the individual had a mental disorder or mental retardation and, as a result of the mental disorder or retardation, was dangerous to self or the person or property of others.

In subsection (c)(5) of this section, the phrase "Department's designation of the facility to receive the returned committed individual" is substituted for the former phrase "the facility...that examined and evaluated the individual" on the advice of the Department that the court needs this information and that the former phrase only duplicated information already in the evaluation report required under (c)(4).

In subsection (d)(2) of this section, the State's Attorney is included as one of those to receive notice of a no probable cause determination.

In subsection (e)(2)(v) of this section, the hearing officer of the Department is added for clarity and the provision that notice to the counsel of record is "for information purposes only" is deleted.

In subsection (f) of this section, a change is made in the time the hearing on revocation of conditional release is held to be 10 days after the committed individual is returned. The former time frame required a hearing within 5 days which has in practice proved impractical.

Also in subsection (f) of this section, another major change is that the hearing will be an administrative hearing before a hearing officer of the Department, with review by the court, rather than a hearing in court as formerly provided. This change is for the sake of practicality and speeding the implementation of this procedure.

In subsection (g)(3) of this section, the burden of proof on the State to prove a violation of conditional release is changed to a preponderance of the evidence rather than the former degree of clear and convincing evidence. The burden of proof on the committed individual to prove eligibility for conditional release remains a preponderance of the evidence.