

(II) FOR ADEQUATE HABILITATION THE INDIVIDUAL NEEDS RESIDENTIAL SERVICES; AND

(III) THERE IS NO LESS RESTRICTIVE SETTING IN WHICH THOSE SERVICES NEEDED CAN BE PROVIDED AND WHICH IS AVAILABLE TO THE INDIVIDUAL OR WILL BE AVAILABLE TO THE INDIVIDUAL WITHIN A REASONABLE TIME.

(2) THE COURT SHALL ORDER THAT APPROPRIATE LESS RESTRICTIVE SERVICES BE OFFERED TO AN INDIVIDUAL, IF THE TRIER OF FACT DETERMINES THAT:

(I) THE INDIVIDUAL HAS MENTAL RETARDATION;

(II) FOR ADEQUATE HABILITATION THE INDIVIDUAL NEEDS RESIDENTIAL SERVICES; AND

(III) THERE IS A LESS RESTRICTIVE SETTING IN WHICH THE SERVICE CAN BE PROVIDED, AND WHICH FROM EVIDENCE SUBMITTED BY THE DIRECTOR IS AVAILABLE OR WILL BE AVAILABLE TO THE INDIVIDUAL WITHIN A REASONABLE TIME.

(3) THE INDIVIDUAL SHALL BE RELEASED FROM THE STATE RESIDENTIAL CENTER, IF THE TRIER OF FACT DETERMINES THAT:

(I) THE INDIVIDUAL DOES NOT HAVE MENTAL RETARDATION;

(II) FOR ADEQUATE HABILITATION THE INDIVIDUAL DOES NOT NEED RESIDENTIAL SERVICES; OR

(III) THERE IS A LESS RESTRICTIVE SETTING IN WHICH THE NEEDED SERVICES CAN BE PROVIDED THAT IS AVAILABLE TO THE INDIVIDUAL OR WILL BE AVAILABLE TO THE INDIVIDUAL WITHIN A REASONABLE TIME.

(H) ANY PARTY MAY APPEAL FROM A DECISION ON THE PETITION AS IN ANY OTHER CIVIL CASE.

(I) APPROPRIATE RECORDS OF THE PROCEEDING UNDER THIS SECTION SHALL BE MADE A PERMANENT PART OF THE INDIVIDUAL'S RECORD.

(J) (1) AFTER A DETERMINATION ON THE MERITS OF A PETITION UNDER THIS SECTION, A COURT MAY NOT HEAR A LATER PETITION FOR THE INDIVIDUAL WITHIN 1 YEAR AFTER THAT DETERMINATION, UNLESS:

(I) THE PETITION IS VERIFIED, AND ALLEGES AN IMPROVEMENT IN THE CONDITION OF THE INDIVIDUAL WITH MENTAL RETARDATION AFTER THE DETERMINATION; AND

(II) THE COURT, AFTER REVIEW OF THE VERIFIED PETITION, DETERMINES THAT THE MATTER SHOULD BE REOPENED.