

Article - Criminal Procedure

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§3–121.

(a) (1) If the State's Attorney receives a report that alleges that a committed person has violated a condition of a conditional release, or if the State's Attorney is notified by the court or Health Department under subsection (b) of this section, the State's Attorney shall determine whether there is a factual basis for the complaint.

(2) If the State's Attorney determines that there is no factual basis for the complaint, the State's Attorney shall notify the person who made the report and take no further action.

(3) If the State's Attorney determines that there is a factual basis to believe that the committed person has violated the terms of a conditional release and believes further action by the court is necessary, the State's Attorney promptly shall:

(i) notify the Health Department of the alleged violation; and

(ii) file with the court a petition for revocation or modification of conditional release and send a copy of the petition to the Health Department.

(b) (1) If a court receives a report that alleges that a committed person has violated a condition of a conditional release, the court promptly shall:

(i) notify the Health Department; and

(ii) notify the State's Attorney and provide the name, address, and telephone number of the person who reported the violation and a copy of the order for conditional release.

(2) If the Health Department receives a report that alleges that a committed person has violated conditional release, the Department shall:

(i) notify the court and the State's Attorney; and

(ii) provide the State's Attorney with the name, address, and telephone number of the person who reported the violation and a copy of the order for conditional release.

(c) The petition for revocation or modification of a conditional release shall contain:

(1) a statement that the committed person has violated a term of a conditional release and that there is therefore reason to believe that the committed person no longer meets the criteria for eligibility for conditional release;

- (2) a statement of the conditions violated;
- (3) the factual basis for the statements in items (1) and (2) of this subsection;
- (4) the most recent evaluation report on the committed person; and
- (5) the designation by the Health Department of the facility to receive the returned committed person.

(d) If the court's review of the petition determines that there is no probable cause to believe that the committed person has violated a conditional release, the court shall:

- (1) note the determination on the petition and file it in the court file on the committed person; and
- (2) notify the State's Attorney, the Health Department, and the person who reported the violation.

(e) If the court's review of the petition determines that there is probable cause to believe that the committed person has violated a conditional release, the court promptly shall:

- (1) issue a hospital warrant for the committed person and direct that on execution the committed person shall be transported to the facility designated by the Health Department; and
- (2) send a copy of the hospital warrant and the petition to:
 - (i) the State's Attorney;
 - (ii) the Public Defender;
 - (iii) the counsel of record for the committed person;
 - (iv) the person who reported the violation;
 - (v) the Office; and
 - (vi) the Health Department.

(f) Within 10 days after the committed person is returned to the Health Department in accordance with the hospital warrant, the Office shall hold a hearing unless:

- (1) the hearing is postponed or waived by agreement of the parties; or
- (2) the Office postpones the hearing for good cause shown.

(g) At the hearing on revocation or modification:

(1) the committed person is entitled to be represented by counsel including, if the committed person is indigent, the Public Defender or designee of the Public Defender;

(2) the committed person, Health Department, and State's Attorney are entitled to offer evidence, to cross-examine adverse witnesses, and to exercise any other rights that the Office considers necessary for a fair hearing; and

(3) the Office shall find:

(i) whether, by a preponderance of the evidence, the State has proved that the committed person violated conditional release; and

(ii) whether, by a preponderance of the evidence, the committed person nevertheless has proved eligibility for conditional release.

(h) (1) The Office promptly shall:

(i) send a report of the hearing and determination to the court; and

(ii) send copies of the report to the committed person, counsel for the committed person, the State's Attorney, and the Health Department.

(2) Within 5 days after receipt of the report of the Office, the committed person, the State's Attorney, or the Health Department may file exceptions to the determination of the Office.

(i) After the court considers the report of the Office, the evidence, and any exceptions filed, within 10 days after the court receives the report, the court shall:

(1) revoke the conditional release and order the committed person returned to the facility designated by the Health Department;

(2) modify the conditional release as required by the evidence;

(3) continue the present conditions of release; or

(4) extend the conditional release by an additional term of 5 years.

(j) The court shall notify the Criminal Justice Information System Central Repository of the issuance of any hospital warrant and any revocation it orders under this section.

(k) (1) An appeal from a District Court order shall be on the record in circuit court.

(2) An appeal from a circuit court order shall be by application for leave

to appeal to the Court of Special Appeals.

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