

**77-16a-304 Review after commitment.**

- (1)
  - (a) The executive director, or the executive director's designee, shall establish a review team of at least three qualified staff members to review the defendant's mental condition at least every six months.
  - (b) The team described in Subsection (1)(a) shall include:
    - (i) at least one psychiatrist; and
    - (ii) if the defendant has an intellectual disability, at least one staff member who is a designated intellectual disability professional.
- (2) If the review team described in Subsection (1) finds that the defendant has recovered from the defendant's mental illness, or, that the defendant still has a mental illness but does not present a substantial danger to self or others, the executive director, or the executive director's designee, shall:
  - (a) notify the court that committed the defendant that the defendant is a candidate for discharge; and
  - (b) provide the court with a report stating the facts that form the basis for the recommendation.
- (3)
  - (a) The court shall conduct a hearing within 10 business days after receipt of the executive director's, or the executive director's designee's, notification.
  - (b) The court clerk shall provide notice of the date and time of the hearing to:
    - (i) the prosecuting attorney;
    - (ii) the defendant's attorney; and
    - (iii) any victim of the crime for which the defendant was found not guilty by reason of insanity.
- (4)
  - (a) The court shall order that the defendant be discharged from commitment if the court finds that the defendant:
    - (i) no longer has a mental illness; or
    - (ii) has a mental illness, but no longer presents a substantial danger to self or others.
  - (b) The court shall order the person conditionally released in accordance with Section 77-16a-305 if the court finds that the defendant:
    - (i) has a mental illness;
    - (ii) is a substantial danger to self or others; and
    - (iii) can be controlled adequately if conditionally released with treatment as a condition of release.
  - (c) The court shall order that the commitment be continued if the court finds that the defendant:
    - (i) has not recovered from the defendant's mental illness;
    - (ii) is a substantial danger to self or others; and
    - (iii) cannot adequately be controlled if conditionally released on supervision.
  - (d)
    - (i) Except as provided in Subsection (4)(d)(ii), the court may not discharge a defendant whose mental illness is in remission as a result of medication or hospitalization if it can be determined within reasonable medical probability that without continued medication or hospitalization the defendant's mental illness will reoccur, making the defendant a substantial danger to self or others.
    - (ii) Notwithstanding Subsection (4)(d)(i), the defendant described in Subsection (4)(d)(i) may be a candidate for conditional release, in accordance with Section 77-16a-305.

Amended by Chapter 366, 2011 General Session

