

229A.9B Violations of release with or without supervision.

1. If a committed person violates the release plan, the agency with jurisdiction over the person may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original written request or a facsimile copy of the request shall be filed with the clerk of court no later than four-thirty p.m. on the next business day the office of the clerk of court is open.

2. If a committed person has absconded in violation of the conditions of the person's release plan, a presumption arises that the person poses a risk to public safety. The department of human services or contracting agency, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the committed person is on release with or without supervision from the sexually violent predator program, and any other information pertinent to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the committed person has been returned to a secure facility, and the court shall set hearing within five days to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the conditions of the release plan occurred. The court shall schedule a hearing within five days of receiving notice that the committed person has been returned to a secure facility.

4. At the hearing, the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the release plan occurred.

5. If the court determines a violation occurred, the court shall receive release recommendations from the department of human services and either order that the committed person be returned to release with or without supervision or placed in a transitional release program, or be confined in a secure facility. The court may impose further conditions upon the committed person if returned to release with or without supervision or placed in the transitional release program. If the court determines no violation occurred, the committed person shall be returned to release with or without supervision.

2002 Acts, ch 1139, §14, 27

Referred to in §229A.9A