

evaluation. This was followed by a hearing, similar to the procedure for civil involuntary commitment, at which the State was required to prove by clear and convincing evidence that the individual was presently suffering from a mental disorder or mental retardation and was as a result dangerous. The procedure as to "committed individuals" is changed by this section which authorizes the State to automatically commit to the Department an individual found to be not criminally responsible, to be confined in a psychiatric institution until such time as the individual proves eligibility for release. The underlying rationale that permits the State to authorize automatic commitment is based on the nature of the verdict of not criminally responsible. The verdict establishes the two essential criteria for commitment: mental disorder or retardation, and dangerousness. See § 12-109 and the Task Force comment. Since § 12-109 of this title provides that this verdict is the result of two findings: that the defendant committed the criminal act charged and the defendant suffered, at the time, from a mental disorder or mental retardation, the State is justified in considering the defendant presently dangerous and continuing to suffer from the mental condition. Similar provisions have been approved by the Supreme Court. "A verdict of not [criminally responsible] by reason of insanity is sufficiently probative of mental illness and dangerousness to justify commitment of the defendant for the purposes of treatment and protection of society". Jones v. United States, 463 U.S. _____, 103 S. Ct. 3043 (1983).

Subsection (b) of this section is present law transferred here from former § 12-113(b)(3).

In subsection (c) of this section, the exception to automatic commitment is present law that the Task Force recommends be retained; however, a new provision requires that any decision of the court to release the defendant, with the State's Attorney's agreement, may take place only if the Department's examination and evaluation report indicates that the Department believes that the defendant is no longer, as a result of mental disorder or mental retardation, dangerous.

Subsection (d) of this section is a new provision added to require that the central criminal information computer record and track information about individuals who have been found not criminally responsible in the same manner as is provided for tracking information about others who have committed crimes.

12-112. REPORT ON COMMITTED INDIVIDUALS.

(A) REPORT TO DEPARTMENT.