

disease or defect, a danger to himself or to the safety of the person or property of others, it shall (save in capital cases) set bail for the defendant or authorize his release upon recognizance. The court may at any time upon suggestion of the state or the accused OR UPON ITS OWN MOTION and subject to the limitations as to frequency contained in Section 21, reconsider the question of the accused's competency to stand trial. If the court determines that the defendant is by reason of mental disease or defect, a danger to himself or to the safety of the person or property of others, it may in its discretion order the defendant sent to a hospital or mental institution, public, corporate, or private designated by the Department until such time as the court is satisfied that the defendant is competent to stand trial or has ceased to be by reason of mental disease or defect a danger to himself or to the safety of the person or property of others. The defendant shall at any time after such order have the right to apply for his release pursuant to the provisions of Section 21 of this Article, the said order of committal to be treated as a hearing for purposes of determining the availability of subsequent review under that section. The fact that the defendant is found not competent to stand trial does not preclude his counsel if he elects to do so from making any legal objection to the prosecution which is susceptible of fair determination prior to trial and without the personal participation of the defendant.

(b) Whether or not the defendant is confined, if the court is of the view that so much time has elapsed since the finding of incompetency that it would be unjust to resume the criminal proceeding, the court may dismiss the charge; provided, that in capital cases the court may not dismiss the charge until ten (10) years have elapsed from the date of the finding of incompetency and in all other cases punishable by imprisonment in the penitentiary the court may not dismiss the charge until five (5) years have elapsed from the date of the finding of incompetency. The Department of Mental Hygiene shall annually report to each court under whose commitment it may hold any person pursuant to this section a list of all such persons in its custody, along with any recommendations which it may deem appropriate. A copy of each such report and recommendations shall be sent by the Department to the State's Attorney instituting the charges and an additional copy shall be filed with the clerk of the court. The clerk shall advise the last counsel for each such person as shown by the records of the court of the fact that his client is so listed and furnish to him a copy of any recommendation pertaining to his client. The State's Attorney instituting the charges shall within thirty (30) days forward to the court and to the last counsel for each person charged his recommendation as to the disposition of charges against persons who, by reason of the length of their detention, might be eligible for release under this section.

9.

(a) A defendant is not responsible for criminal conduct and shall be found insane at the time of the commission of the alleged crime if, at the time of such conduct as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements