

Annotated Code notes, for consideration by the General Assembly, that the terms "mentally retarded" and "mental retardation" are not defined for purposes of this title. Therefore, the General Assembly may wish to decide if the meaning of these terms should be delineated by the courts on a case-by-case basis or defined by statute.

12-102. COURT DETERMINATION OF COMPETENCY.

(A) HEARING.

IF, BEFORE OR DURING A TRIAL, THE DEFENDANT IN A CRIMINAL CASE APPEARS TO THE COURT TO BE INCOMPETENT TO STAND TRIAL OR THE DEFENDANT ALLEGES INCOMPETENCE TO STAND TRIAL, THE COURT SHALL DETERMINE, ON EVIDENCE PRESENTED ON THE RECORD, WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

(B) COURT ACTION IF DEFENDANT COMPETENT.

IF, AFTER RECEIVING EVIDENCE, THE COURT FINDS THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL, THE TRIAL SHALL BEGIN AS SOON AS PRACTICABLE OR, IF ALREADY BEGUN, SHALL CONTINUE.

(C). RECONSIDERATION OF COMPETENCY.

AT ANY TIME DURING THE TRIAL AND BEFORE VERDICT, THE COURT MAY RECONSIDER THE QUESTION OF WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, eighth, and ninth sentences of former Article 59, § 23.

In subsections (a) and (b) of this section, the former references to "testimony" are deleted as unnecessary in light of the broad references to "evidence".

In subsection (a) of this section, the defined term "incompetent to stand trial" is substituted for the phrase "unable to understand the nature of (sic) the object of the proceeding against him or to assist in his defense."

In subsection (c) of this section, the former reference "in its discretion" is deleted as unnecessary in light of the word "may".

As to examination of a defendant before findings on competence, see § 12-103 of this title.