

Defined terms: "Court" § 12-101  
"Incompetent to stand trial" § 12-101

12-103. EXAMINATION AS TO COMPETENCE.

(A) EXAMINATION AUTHORIZED.

(1) FOR GOOD CAUSE AND AFTER GIVING THE DEFENDANT AN OPPORTUNITY TO BE HEARD, THE COURT MAY ORDER THE DEPARTMENT TO EXAMINE THE DEFENDANT TO DETERMINE WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

(2) THE COURT SHALL SET AND MAY CHANGE THE CONDITIONS UNDER WHICH THE EXAMINATION IS TO BE MADE.

(B) BAIL OR RECOGNIZANCE DURING EXAMINATION.

EXCEPT IN A CAPITAL CASE, ON CONSIDERATION OF THE NATURE OF THE CHARGE, THE COURT:

(1) MAY REQUIRE OR PERMIT THE EXAMINATION TO BE DONE ON AN OUTPATIENT BASIS; AND

(2) IF AN OUTPATIENT EXAMINATION IS AUTHORIZED, SHALL SET BAIL FOR THE DEFENDANT OR AUTHORIZE RELEASE OF THE DEFENDANT ON RECOGNIZANCE.

(C) CONFINEMENT BEFORE AND DURING EXAMINATION; HABEAS CORPUS.

(1) IF A DEFENDANT IS TO BE HELD IN CUSTODY FOR EXAMINATION UNDER THIS SECTION, THE DEFENDANT SHALL BE CONFINED IN A JAIL, UNTIL THE DEPARTMENT CAN DO THE EXAMINATION. IF THE COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY OF THE DEFENDANT, THE COURT MAY ORDER CONFINEMENT:

(I) IN A MEDICAL WING OR OTHER ISOLATED AND SECURE UNIT OF THE JAIL; OR

(II) IF A MEDICAL WING OR OTHER UNIT IS NOT AVAILABLE, IN A MEDICAL FACILITY THAT THE SECRETARY DESIGNATES AS APPROPRIATE.

(2) (I) WHEN THE DEPARTMENT CAN DO THE EXAMINATION, A COURT AGENCY SHALL TAKE THE DEFENDANT TO THE EVALUATION FACILITY THAT THE DEPARTMENT DESIGNATES.

(II) AFTER THE EXAMINATION, A COURT AGENCY SHALL RETURN THE DEFENDANT TO THE PLACE OF CONFINEMENT.

(3) A DEFENDANT WHO IS HELD FOR EXAMINATION UNDER THIS SECTION MAY QUESTION AT ANY TIME THE LEGALITY OF THE DETENTION BY PETITION FOR A WRIT OF HABEAS CORPUS.