

Also in subsection (c)(1) of this section, the former references to a "hospital" wing and facility are deleted as unnecessary in light of the general references to a "medical" wing and facility.

In subsection (d)(2) of this section, the former references to whether the court or defendant questions competency are deleted as unnecessary since the time period is the same in either instance.

As to subsection (d)(3) of this section and the addition of the words "mental retardation", see revisor's note to § 12-101(f) of this title.

In subsection (d)(3) of this section, the former reference to "releasing the defendant for out-patient care, bail or recognizance" is deleted as unnecessary since the issue is the danger presented by release, rather than conditions that the court sets for release under § 12-104 of this title.

As to subsection (a) of this section, note that, in practice, competency examinations are done, on a Statewide basis, by local screening units under grant from the Department, rather than by the Department directly. On a more limited basis, these local screening units also do examinations in connection with pleas of insanity.

Defined terms: "Court" § 12-101  
 "Department" § 1-101 "Secretary" § 1-101  
 "Incompetent to stand trial" § 12-101  
 "Insane" § 12-101  
 "Jail" § 12-101  
 "Mental disorder" § 12-101

12-104. FINDING OF INCOMPETENCY -- IN GENERAL.

(A) RELEASE.

EXCEPT IN A CAPITAL CASE, IF, AFTER A HEARING, THE COURT FINDS THAT THE DEFENDANT IS INCOMPETENT TO STAND TRIAL BUT IS NOT, BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER, A DANGER TO THE DEFENDANT OR THE PERSON OR PROPERTY OF ANOTHER, THE COURT MAY SET BAIL FOR THE DEFENDANT OR AUTHORIZE RELEASE OF THE DEFENDANT ON RECOGNIZANCE.

(B) COMMITMENT.

(1) IF, AFTER A HEARING, THE COURT FINDS THAT THE DEFENDANT IS INCOMPETENT TO STAND TRIAL AND, BECAUSE OF