

MENTAL RETARDATION OR A MENTAL DISORDER, IS A DANGER TO THE DEFENDANT OR THE PERSON OR PROPERTY OF ANOTHER, THE COURT MAY ORDER THE DEFENDANT SENT TO THE FACILITY THAT THE DEPARTMENT DESIGNATES UNTIL THE COURT IS SATISFIED THAT THE DEFENDANT NO LONGER IS INCOMPETENT TO STAND TRIAL OR NO LONGER IS, BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER, A DANGER TO THE DEFENDANT OR THE PERSON OR PROPERTY OF ANOTHER.

(2) IF A COURT COMMITS THE DEFENDANT BECAUSE OF MENTAL RETARDATION, THE DEPARTMENT SHALL REQUIRE THE MENTAL RETARDATION ADMINISTRATION TO PROVIDE THE CARE OR TREATMENT THAT THE DEFENDANT NEEDS.

(C) RECONSIDERATION OF COMPETENCY AND COMMITMENT.

(1) ON SUGGESTION OF THE DEFENDANT OR ON ITS OWN MOTION AND SUBJECT TO THE LIMITATIONS ON FREQUENCY IN § 7-705 OR § 10-805 OF THIS ARTICLE, AS THE CASE MAY BE, THE COURT MAY RECONSIDER WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

(2) IF THE COURT ORDERS COMMITMENT UNDER SUBSECTION (B) OF THIS SECTION, THE DEFENDANT MAY APPLY FOR RELEASE UNDER § 7-705 OR § 10-805 OF THIS ARTICLE. IN COMPUTING THE AVAILABILITY OF REVIEW UNDER THOSE SECTIONS, AS THE CASE MAY BE, THE DATE OF THE COMMITMENT ORDER SHALL BE TREATED AS A HEARING.

(D) DETERMINATION OF OTHER LEGAL QUESTIONS.

IF THE DEFENDANT IS FOUND INCOMPETENT TO STAND TRIAL, DEFENSE COUNSEL MAY MAKE ANY LEGAL OBJECTION TO THE PROSECUTION THAT MAY BE DETERMINED FAIRLY BEFORE TRIAL AND WITHOUT THE PERSONAL PARTICIPATION OF THE DEFENDANT.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through the seventh sentences of former Article 59, § 24(a).

In subsections (a) and (b)(1) of this section, the references to a finding "that the defendant is incompetent to stand trial" are added for clarity. As to disposition on a finding that the defendant is competent, see § 12-102 of this title.

As to subsections (a) and (b)(1) of this section and the addition of the references to "mental retardation", see revisor's note to § 12-101(f) of this title.

In subsections (a) and (b) of this section, the reference "after a hearing" is added to clarify