

Subsection (c) of this section is revised to clarify that recommendation is required only for individuals eligible for release and not for each individual in the report.

In subsection (c)(1) of this section, reference to receipt of the report is added for clarity.

Defined terms: "Court" § 12-101
"Department" § 1-101

12-107. INSANITY -- TEST OF RESPONSIBILITY FOR CRIMINAL CONDUCT.

A DEFENDANT IS NOT RESPONSIBLE FOR CRIMINAL CONDUCT IF, AT THE TIME OF THAT CONDUCT, THE DEFENDANT, BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER, LACKS SUBSTANTIAL CAPACITY:

(1) TO APPRECIATE THE CRIMINALITY OF THAT CONDUCT; OR

(2) TO CONFORM THAT CONDUCT TO THE REQUIREMENTS OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Article 59, § 25(a).

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

Defined term: "Mental disorder" § 12-101

12-108. SAME -- PLEA.

(A) TIME AND MANNER OF PLEADING.

A DEFENDANT OR DEFENSE COUNSEL SHALL RAISE THE DEFENSE OF INSANITY BY A WRITTEN PLEA ALLEGING, IN SUBSTANCE, THAT THE DEFENDANT WAS INSANE WHEN THE ALLEGED CRIME WAS COMMITTED. THIS WRITTEN PLEA SHALL BE FILED AT THE TIME OF INITIAL PLEADING, UNLESS, FOR GOOD CAUSE SHOWN, THE COURT ALLOWS IT TO BE FILED LATER. THIS PLEA MAY BE MADE IN ADDITION TO ANY OTHER LAWFUL PLEA.

(B) SPECIAL VERDICT REQUIRED.

AT THE TRIAL OF ANY CASE IN WHICH A PLEA OF INSANITY HAS BEEN FILED, THE TRIER OF FACT SHALL FIND, BY A SPECIAL VERDICT, WHETHER THE DEFENDANT WAS INSANE WHEN THE CRIME WAS COMMITTED.