

(I) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD HAS COMMITTED THE DELINQUENT ACT; AND

(II) THERE IS REASON TO BELIEVE THAT THE CHILD MAY BE INCOMPETENT TO PROCEED WITH A WAIVER HEARING UNDER § 3-8A-06 OF THIS SUBTITLE, AN ADJUDICATORY HEARING UNDER § 3-8A-18 OF THIS SUBTITLE, A DISPOSITION HEARING UNDER § 3-8A-19 OF THIS SUBTITLE, OR A VIOLATION OF PROBATION HEARING.

(2) AN EVALUATION ORDERED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PERFORMED BY A QUALIFIED EXPERT.

(3) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT THE STATE OR THE CHILD FROM CALLING OTHER EXPERT WITNESSES TO TESTIFY AT A COMPETENCY HEARING.

(B) ANY MOTION QUESTIONING THE CHILD'S COMPETENCY TO PROCEED, AND ANY SUBSEQUENT LEGAL PLEADING RELATING TO THE CHILD'S COMPETENCY TO PROCEED, SHALL BE SERVED ON THE CHILD'S COUNSEL, THE STATE'S ATTORNEY, THE DEPARTMENT OF JUVENILE SERVICES, AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

3-8A-17.2.

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

(B) ON CONSIDERATION OF THE NATURE OF THE PETITION, THE COURT MAY REQUIRE THE EXAMINATION TO BE CONDUCTED ON AN OUTPATIENT BASIS IF THE CHILD WAS PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE AND SHALL REQUIRE THE EXAMINATION TO BE CONDUCTED ON AN OUTPATIENT BASIS IF THE CHILD WAS NOT PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE.

(C) (1) IF A CHILD WAS PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE, THE COURT MAY ORDER THE CHILD TO CONTINUE TO BE DETAINED BEYOND ANY PERIOD SPECIFIED IN § 3-8A-15 OF THIS SUBTITLE UNTIL THE EXAMINATION IS COMPLETED.

(2) IF THE COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY OF THE CHILD, OR FOR THE SAFETY OF OTHERS, THE COURT MAY ORDER CONFINEMENT OF THE JUVENILE, PENDING THE EXAMINATION, IN A MEDICAL FACILITY THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE DESIGNATES AS APPROPRIATE.

3-8A-17.3.

(A) (1) THE QUALIFIED EXPERT SHALL EXAMINE THE CHILD AND PREPARE A REPORT STATING WHETHER, IN THE EXPERT'S OPINION, THE CHILD IS INCOMPETENT TO PROCEED.

(2) IN CONDUCTING THE EXAMINATION, THE QUALIFIED EXPERT SHALL REVIEW ALL AVAILABLE MEDICAL, EDUCATIONAL, AND COURT RECORDS CONCERNING THE CHILD AND THE CHILD'S CASE.