

"JAIL" MEANS A JAIL, DETENTION CENTER, OR CORRECTIONAL FACILITY.

(F) MENTAL DISORDER.

(1) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL ILLNESS THAT RESULTS FROM A PSYCHIATRIC OR NEUROLOGICAL DISORDER.

(2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF AN INDIVIDUAL AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE WELFARE OF THE INDIVIDUAL OR FOR THE SAFETY OF THE PERSON OR PROPERTY OF ANOTHER.

(3) "MENTAL DISORDER" DOES NOT INCLUDE MENTAL RETARDATION.

TASK FORCE COMMENT TO § 12-101.

This section replaces former Health - General Article, § 12-101. The following are the only changes to the former section recommended by the Governor's Task Force to Review the Defense of Insanity.

In subsection (b) of this section, a new definition, "committed individual", is added to make clear that a committed individual, one who is committed to the Department of Health and Mental Hygiene as not criminally responsible, is a different class of patient from those otherwise committed.

Former subsection (d) of this section, the definition of "insane", is deleted as an unnecessary definition for purposes of this title. The terms "insane" and "insanity" are avoided in this title, to the extent possible, and the phrase "not criminally responsible" is substituted. See § 12-109 of this title and the Task Force comment.

Subsection (f) of this section, the definition of "mental disorder" is modified by returning former item (3)(ii) to be part of the test for criminal responsibility, as was its location before the 1982 revision of that law. This item provides that, for purposes of determining whether a defendant is criminally responsible, mental disorder does not include an abnormality that is manifested only by repeated criminal or otherwise antisocial conduct. The relocation to the test for criminal responsibility, § 12-108 of this title, is recommended by the Task Force because the provision is a substantive part of the test and has specific application only for purposes of that section. As a practical consideration, the Task Force believes that the placement of this provision in the test for criminal responsibility is advantageous for purposes of jury instructions, the examination and evaluation, expert