

testimony, and public understanding of the nature of the test for criminal responsibility.

The Task Force noted that the transfer to § 12-108 would then make the definition in subsection (f) of this section identical to the definition of "mental disorder" in Title 10 of this article. The Task Force recommends, however, that the definition in this title be stated in full instead of incorporated as a cross reference to Title 10 because the definition is so important to this title and because future variations between the two definitions is not unforeseeable.

The Task Force Advises against defining "mental retardation" for purposes of this title.

#### 12-102. RULES AND REGULATIONS.

IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS ARTICLE, THE SECRETARY SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS TITLE THAT RELATE TO THE DEPARTMENT.

##### TASK FORCE COMMENT TO § 12-102.

This section is a new provision added on the recommendation of the Governor's Task Force to Review the Defense of Insanity. The Task Force notes that rules and regulations adopted by the Secretary under Title 10 of the Health - General Article have apparently been applied to similar procedures under this title; however, enactment of this proposed title will necessitate new procedures for release hearings and revocation hearings.

The Task Force specifically recommends that rules and regulations be adopted to set standards for pre-trial screenings, examinations and evaluations under this title; to govern supervision of temporary leaves and conditional releases; and to describe procedures to be followed in the event of an escape from custody by a committed individual.

#### 12-103. COURT DETERMINATION OF COMPETENCY.

##### (A) HEARING.

IF, BEFORE OR DURING A TRIAL, THE DEFENDANT IN A CRIMINAL CASE APPEARS TO THE COURT TO BE INCOMPETENT TO STAND TRIAL OR THE DEFENDANT ALLEGES INCOMPETENCE TO STAND TRIAL, THE COURT SHALL DETERMINE, ON EVIDENCE PRESENTED ON THE RECORD, WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

##### (B) COURT ACTION IF DEFENDANT COMPETENT.

IF, AFTER RECEIVING EVIDENCE, THE COURT FINDS THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL, THE TRIAL SHALL BEGIN AS SOON AS PRACTICABLE OR, IF ALREADY BEGUN, SHALL CONTINUE.