

(C) RECONSIDERATION OF COMPETENCY.

AT ANY TIME DURING THE TRIAL AND BEFORE VERDICT, THE COURT MAY RECONSIDER THE QUESTION OF WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

TASK FORCE COMMENT TO § 12-103.

This section replaces former Health - General Article, § 12-102, "Court determination of competency". The Governor's Task Force to Review the Defense of Insanity recommends no substantive change to this section.

12-104. EXAMINATION AS TO COMPETENCE.

(A) EXAMINATION AUTHORIZED.

(1) FOR GOOD CAUSE AND AFTER GIVING THE DEFENDANT AN OPPORTUNITY TO BE HEARD, THE COURT MAY ORDER THE DEPARTMENT TO EXAMINE THE DEFENDANT TO DETERMINE WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

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

(B) BAIL OR RECOGNIZANCE DURING EXAMINATION.

EXCEPT IN A CAPITAL CASE, ON CONSIDERATION OF THE NATURE OF THE CHARGE, THE COURT:

(1) MAY REQUIRE OR PERMIT THE EXAMINATION TO BE DONE ON AN OUTPATIENT BASIS; AND

(2) IF AN OUTPATIENT EXAMINATION IS AUTHORIZED, SHALL SET BAIL FOR THE DEFENDANT OR AUTHORIZE RELEASE OF THE DEFENDANT ON RECOGNIZANCE.

(C) CONFINEMENT BEFORE AND DURING EXAMINATION; HABEAS CORPUS.

(1) IF A DEFENDANT IS TO BE HELD IN CUSTODY FOR EXAMINATION UNDER THIS SECTION, THE DEFENDANT SHALL BE CONFINED IN A JAIL UNTIL THE DEPARTMENT CAN DO THE EXAMINATION. IF THE COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY OF THE DEFENDANT, THE COURT MAY ORDER CONFINEMENT:

(I) IN A MEDICAL WING OR OTHER ISOLATED AND SECURE UNIT OF THE JAIL; OR

(II) IF A MEDICAL WING OR OTHER UNIT IS NOT AVAILABLE, IN A MEDICAL FACILITY THAT THE DEPARTMENT DESIGNATES AS APPROPRIATE.

(2) (1) WHEN THE DEPARTMENT CAN DO THE EXAMINATION, A COURT AGENCY SHALL TAKE THE DEFENDANT TO THE EVALUATION FACILITY THAT THE DEPARTMENT DESIGNATES.