

(II) AFTER THE EXAMINATION, UNLESS THE DEPARTMENT RETAINS THE INDIVIDUAL, A COURT AGENCY SHALL RETURN THE DEFENDANT TO THE PLACE OF CONFINEMENT.

(3) A DEFENDANT WHO IS HELD FOR EXAMINATION UNDER THIS SECTION MAY QUESTION AT ANY TIME THE LEGALITY OF THE DETENTION BY PETITION FOR A WRIT OF HABEAS CORPUS.

(D) REPORT ON EXAMINATION.

(1) IF A COURT ORDERS AN EXAMINATION UNDER THIS SECTION, THE DEPARTMENT SHALL:

(I) EXAMINE THE DEFENDANT; AND

(II) SEND A COMPLETE REPORT OF ITS FINDINGS:

1. TO THE COURT;
2. TO THE STATE'S ATTORNEY; AND
3. TO THE DEFENSE COUNSEL.

(2) UNLESS THERE IS A PLEA THAT THE DEFENDANT WAS NOT CRIMINALLY RESPONSIBLE UNDER § 12-108 OF THIS TITLE, THE DEFENDANT IS ENTITLED TO HAVE THE REPORT WITHIN 7 DAYS AFTER THE COURT ORDERS THE EXAMINATION. HOWEVER, FAILURE OF THE DEPARTMENT TO SEND THE COMPLETE REPORT WITHIN THAT TIME IS NOT, OF ITSELF, GROUNDS FOR DISMISSAL OF THE CHARGES. ON GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR EXAMINATION.

(3) IF THE DEPARTMENT REPORTS THAT, IN ITS OPINION, THE DEFENDANT IS INCOMPETENT TO STAND TRIAL, THE REPORT SHALL STATE, IN A COMPLETE SUPPLEMENTARY OPINION, WHETHER, BECAUSE OF MENTAL RETARDATION OR MENTAL DISORDER, THE DEFENDANT WOULD BE A DANGER TO SELF OR THE PERSON OR PROPERTY OF ANOTHER, IF RELEASED.

TASK FORCE COMMENT TO § 12-104.

This section replaces former Health - General Article, § 12-103. The Governor's Task Force to Review the Defense of Insanity recommends only the following substantive changes.

In subsection (c)(1)(ii) of this section, the phrase "unless the Department retains the defendant" is added to expressly provide a procedure that is presently followed as current administrative practice.

In subsection (d)(2) of this section, a technical change is made to conform to other changes made to this title. The Task Force recommends deletion from this title of the terms "insane" and "insanity" to the extent possible. See § 12-109 of this title and the Task Force Comment.