

12-105. FINDING OF INCOMPETENCY -- IN GENERAL.

(A) RELEASE.

EXCEPT IN A CAPITAL CASE, IF, AFTER A HEARING, THE COURT FINDS THAT THE DEFENDANT IS INCOMPETENT TO STAND TRIAL BUT IS NOT DANGEROUS BY REASON OF A MENTAL DISORDER OR MENTAL RETARDATION, TO SELF OR THE PERSON OR PROPERTY OF OTHERS, THE COURT MAY SET BAIL FOR THE DEFENDANT OR AUTHORIZE RELEASE OF THE DEFENDANT ON RECOGNIZANCE.

(B) COMMITMENT.

(1) IF, AFTER A HEARING, THE COURT FINDS THAT THE DEFENDANT IS INCOMPETENT TO STAND TRIAL AND, BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER, IS A DANGER TO SELF OR THE PERSON OR PROPERTY OF ANOTHER, THE COURT MAY ORDER THE DEFENDANT COMMITTED TO THE FACILITY THAT THE DEPARTMENT DESIGNATES UNTIL THE COURT IS SATISFIED THAT THE DEFENDANT NO LONGER IS INCOMPETENT TO STAND TRIAL OR NO LONGER IS, BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER, A DANGER TO SELF OR THE PERSON OR PROPERTY OF OTHERS.

(2) IF A COURT COMMITS THE DEFENDANT BECAUSE OF MENTAL RETARDATION, THE DEPARTMENT SHALL REQUIRE THE MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES ADMINISTRATION TO PROVIDE THE CARE OR TREATMENT THAT THE DEFENDANT NEEDS.

(C) RECONSIDERATION OF COMPETENCY AND COMMITMENT.

(1) ON SUGGESTION OF THE DEFENDANT OR ON ITS INITIATIVE AND SUBJECT TO THE LIMITATIONS ON FREQUENCY IN § 7-705 OR § 10-805 OF THIS ARTICLE, AS THE CASE MAY BE, THE COURT MAY RECONSIDER WHETHER THE DEFENDANT IS INCOMPETENT TO STAND TRIAL.

(2) IF THE COURT ORDERS COMMITMENT UNDER SUBSECTION (B) OF THIS SECTION, THE DEFENDANT MAY APPLY FOR RELEASE UNDER § 7-705 OR § 10-805 OF THIS ARTICLE. IN COMPUTING THE AVAILABILITY OF REVIEW UNDER THOSE SECTIONS, AS THE CASE MAY BE, THE DATE OF THE COMMITMENT ORDER SHALL BE TREATED AS A HEARING.

(D) DETERMINATION OF OTHER LEGAL QUESTIONS.

IF THE DEFENDANT IS FOUND INCOMPETENT TO STAND TRIAL, DEFENSE COUNSEL MAY MAKE ANY LEGAL OBJECTION TO THE PROSECUTION THAT MAY BE DETERMINED FAIRLY BEFORE TRIAL AND WITHOUT THE PERSONAL PARTICIPATION OF THE DEFENDANT.

(E) INCLUSION IN CENTRAL COMPUTER DATA.

THE COURT SHALL NOTIFY THE CENTRAL REPOSITORY OF THE CRIMINAL JUSTICE INFORMATION SYSTEM OF ANY COMMITMENT ORDERED OR RELEASE AUTHORIZED UNDER THIS SECTION AND OF ANY DETERMINATION THAT A DEFENDANT IS NO LONGER INCOMPETENT TO STAND TRIAL.