

(c) (1) If a defendant is to be held in custody for examination under this section, the defendant [shall] MAY be confined in a jail until the Department can [do] CONDUCT the examination. If the court finds it appropriate for the health or safety of the defendant, the court may order confinement[:

(i) In]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) (i) When the Department can do the examination, a court agency shall take the defendant to the evaluation facility that the Department designates.

(ii) After the examination, unless the Department retains the individual, a court agency shall return the defendant to the place of confinement].

(2) (I) IF THE COURT FINDS THAT, BECAUSE OF THE APPARENT SEVERITY OF THE MENTAL DISORDER OR MENTAL RETARDATION, A DEFENDANT IN CUSTODY WOULD BE ENDANGERED BY CONFINEMENT IN A JAIL, THE COURT MAY ORDER THAT THE DEPARTMENT, IN THE DEPARTMENT'S DISCRETION:

1. CONFINE THE DEFENDANT, PENDING EXAMINATION, IN A MEDICAL FACILITY THAT THE DEPARTMENT DESIGNATES AS APPROPRIATE; OR

2. IMMEDIATELY CONDUCT A COMPETENCY EXAMINATION OF THE DEFENDANT BY A COMMUNITY FORENSIC SCREENING PROGRAM OR OTHER AGENCY THAT THE DEPARTMENT FINDS APPROPRIATE.

(II) ~~A--COURT--AGENCY---SHALL---TRANSPORT---THE DEFENDANT--TO--THE-DESIGNATED-EVALUATION-FACILITY-AND,~~ UNLESS THE DEPARTMENT RETAINS THE DEFENDANT, ~~A--COURT--AGENCY~~ THE DEFENDANT SHALL BE PROMPTLY RETURN--~~THE--DEFENDANT~~ RETURNED TO THE COURT AFTER THE EXAMINATION.

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1985.

Approved May 28, 1985.

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