

(III) STATES THE PERTINENT FACTS ON WHICH THE OPINION IS BASED.

(5) A COPY OF THE PETITION SHALL BE SERVED ON THE ATTORNEY GENERAL AND THE OFFICE OF THE STATE'S ATTORNEY THAT PROSECUTED THE INMATE, IN ACCORDANCE WITH THE SERVICE REQUIREMENTS OF THE MARYLAND RULES.

(6) UNLESS THE INMATE IS ALREADY REPRESENTED BY COUNSEL, THE COURT PROMPTLY SHALL APPOINT THE PUBLIC DEFENDER OR, IF THE PUBLIC DEFENDER FOR GOOD CAUSE DECLINES REPRESENTATION, OTHER COUNSEL TO REPRESENT THE INMATE IN THE PROCEEDING.

(7) UNLESS THE STATE'S ATTORNEY STIPULATES TO THE INMATE'S INCOMPETENCE, THE STATE'S ATTORNEY SHALL CAUSE THE INMATE TO BE EXAMINED AND EVALUATED BY ONE OR MORE PSYCHIATRISTS SELECTED BY THE STATE'S ATTORNEY.

(8) IF THE INMATE'S REQUEST IS REASONABLE AND TIMELY MADE, AN INMATE IS ENTITLED TO BE INDEPENDENTLY EXAMINED BY A PSYCHIATRIST THAT THE INMATE SELECTS.

(9) UNLESS, WITH THE COURT'S APPROVAL, THE PARTIES WAIVE A HEARING, THE ADMINISTRATIVE JUDGE OF THE COURT SHALL DESIGNATE A TIME FOR AN EVIDENTIARY HEARING TO DETERMINE THE INMATE'S COMPETENCE.

(E) HEARING.

(1) A HEARING UNDER THIS SECTION SHALL BE HELD WITHOUT A JURY:

- (I) IN COURT;
- (II) AT THE PLACE WHERE THE INMATE IS CONFINED; OR
- (III) AT ANOTHER CONVENIENT PLACE.

(2) AT THE HEARING, THE INMATE:

(I) SUBJECT TO REASONABLE RESTRICTIONS RELATED TO THE INMATE'S CONDITION, MAY BE PRESENT;

(II) THROUGH COUNSEL, MAY OFFER EVIDENCE, CROSS-EXAMINE WITNESSES AGAINST THE INMATE, AND MAKE ARGUMENT; AND

(III) HAS THE BURDEN OF ESTABLISHING INCOMPETENCE BY A PREPONDERANCE OF THE EVIDENCE.

(F) ORDER.

THE COURT SHALL ENTER AN ORDER THAT:

- (1) DECLARES THE INMATE TO BE COMPETENT OR INCOMPETENT; AND
- (2) STATES THE FINDINGS ON WHICH THE DECLARATION IS BASED.