

(b) Any person who fails to comply with the provisions of this subtitle pertaining to patient records in a facility, or who detains a patient in a facility contrary to the provisions of this subtitle, is guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned for a period not to exceed two years, or fined an amount not to exceed \$5,000, or both.

(c) In addition to the penalties prescribed by subsection (a) and (b) above, any person who willfully violates any of the provisions of this subtitle, may be liable civilly, for damages sustained by any patient wrongfully admitted or detained against his will.

## 22. Open.

*Subtitle: Insanity as a Defense in Criminal Cases*

23. When court to determine competency to stand trial; habeas corpus to determine legality of detention; examination of defendant by Department of Mental Hygiene; report of findings; bail or recognizance pending examination; reconsideration of question after defendant found competent.

Whenever prior to or during the trial, any person charged with the commission of any crime shall appear to the court, or be alleged to be incompetent to stand trial, by the defendant himself, the court shall determine upon testimony and evidence presented on the record whether such person is unable to understand the nature of the object of the proceeding against him or to assist in his defense. As used in this subtitle, "court" means any court having any criminal jurisdiction. The court for good cause and after affording the defendant an opportunity to be heard on his own behalf or through counsel may pass an order requesting an examination of the defendant by the Department of Mental Hygiene. During the period for which any person may be held for examination under this section, he may at any time question the legality of his detention by means of the writ of habeas corpus. The court (save in capital cases), may upon consideration of the nature of the charge, require or permit the examination to be conducted on an out-patient basis and where such out-patient examination is authorized, shall set bail for the defendant or authorize his release upon recognizance. The court shall fix and from time to time may modify the conditions under which the examination shall be made. Whenever any defendant shall be referred to the Department of Mental Hygiene for an examination of his competency to stand trial under this section, he shall be examined and a full and complete report of findings shall be forwarded to the court having jurisdiction over the defendant, to the State's Attorney and to counsel for the defendant within the time specified in Section 26 below. If the court after receiving testimony and evidence determines that the defendant is competent to stand trial within the meaning of this section, the trial shall commence as soon as practicable or, if already commenced, shall continue. The court may in its discretion at any time during the trial and until the verdict is rendered, reconsider the question of the competency of the defendant to stand trial as otherwise provided in this section.

24. Bail or recognizance after defendant found not competent to stand trial; reconsideration of question of competency after such finding; committing defendant to institution; counsel's right to make objection to prosecution; dismissal of charges after finding of incompetency.