

THIS SECTION IS NOT ADMISSIBLE IN A CRIMINAL PROCEEDING FOR THE PURPOSE OF PROVING THE COMMISSION OF A CRIMINAL OFFENSE OR TO ENHANCE THE SENTENCE OF THE DEFENDANT.

3-106.

(a) Except in a capital case, if, after a hearing, the court finds that the defendant is incompetent to stand trial but is not dangerous, as a result 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) (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 Health Department designates until the court [is satisfied that] FINDS THAT:

(I) the defendant no longer is incompetent to stand [trial or] TRIAL;

(II) THE DEFENDANT no longer is, because of mental retardation or a mental disorder, a danger to self or the person or property of others; OR

(III) THERE IS NOT A SUBSTANTIAL LIKELIHOOD THAT THE DEFENDANT WILL BECOME COMPETENT TO STAND TRIAL IN THE FORESEEABLE FUTURE.

(2) If a court commits the defendant because of mental retardation, the Health Department shall require the Developmental Disabilities Administration to provide the care or treatment that the defendant needs.

(c) (1) [On suggestion of the defendant or on its initiative and subject to the limitations on frequency in § 7-507 or § 10-805 of the Health - General Article, as the case may be, the court may reconsider whether the defendant is incompetent to stand trial.] TO DETERMINE WHETHER THE DEFENDANT CONTINUES TO MEET THE CRITERIA FOR COMMITMENT SET FORTH IN SUBSECTION (B) OF THIS SECTION, THE COURT SHALL HOLD A HEARING:

(I) EVERY YEAR FROM THE DATE OF COMMITMENT;

(II) WITHIN 30 DAYS AFTER THE FILING OF A MOTION BY THE STATE'S ATTORNEY OR COUNSEL FOR THE DEFENDANT SETTING FORTH NEW FACTS OR CIRCUMSTANCES RELEVANT TO THE DETERMINATION; AND

(III) WITHIN 30 DAYS AFTER RECEIVING A REPORT FROM THE HEALTH DEPARTMENT STATING OPINIONS, FACTS, OR CIRCUMSTANCES THAT HAVE NOT BEEN PREVIOUSLY PRESENTED TO THE COURT AND ARE RELEVANT TO THE DETERMINATION.

(2) [If the court orders commitment under subsection (b) of this section, the defendant may apply for release under § 7-507 or § 10-805 of the Health - General Article. In computing the availability of review under those sections, as the