

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 804
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, before “Criminal” insert “Criminal Procedure -”; in the same line, strike “and Juvenile Respondents”; and strike beginning with “- Task” in line 3 down through “Adjudication” in line 4.

On pages 1 and 2, strike beginning with “establishing” in line 23 on page 1 down through “Act;” in line 3 on page 2 and substitute “requiring a court to reconsider, under certain circumstances, a certain determination after receiving a certain report from the Health Department; authorizing the court to order commitment of a certain person in a Health Department facility under certain circumstances; requiring the Health Department to submit a certain report containing certain information to the court;”.

On page 2, in line 3, strike “and juvenile respondents”; and after line 4, insert:

“BY repealing and reenacting, with amendments,
Article - Criminal Procedure
Section 3-106 and 3-108
Annotated Code of Maryland
(2001 Volume and 2004 Supplement)”.

AMENDMENT NO. 2

On page 2, in line 11, after “That” insert “the Laws of Maryland read as follows”.

On pages 6 through 8, strike in their entirety the lines beginning with line 15 on page 6 through line 23 on page 8, inclusive, and substitute:

“Article - Criminal Procedure”

(Over)

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:

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

(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], ON RECEIPT OF A REPORT FROM THE HEALTH DEPARTMENT REQUIRED UNDER § 3-108 OF THIS SUBTITLE, the court [may] SHALL reconsider whether the defendant [is incompetent to stand trial] CONTINUES TO MEET THE CRITERIA FOR COMMITMENT SET FORTH IN SUBSECTION (B) OF THIS SECTION.

(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 case may be, the date of the commitment order shall be treated as a hearing.

(d) 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) The court shall notify the Criminal Justice Information System Central Repository of any commitment ordered or release authorized under this section and of any determination that a defendant is no longer incompetent to stand trial.

3-108.

(a) (1) In addition to any other report required under this title, the Health Department shall report [annually] to each court that has ordered commitment of a person under § 3-106 of this title:

(I) EVERY 6 MONTHS FROM THE DATE OF COMMITMENT; AND

(II) WHENEVER THE HEALTH DEPARTMENT DETERMINES THAT THE DEFENDANT IS NOT SUBSTANTIALLY LIKELY TO BECOME COMPETENT TO STAND TRIAL IN THE FORESEEABLE FUTURE.

(2) The report shall [contain]:

(i) [a list of the persons held under commitment orders; and] CONTAIN A DESCRIPTION OF THE SERVICES THAT THE DEFENDANT HAS RECEIVED;

(ii) [any recommendations that the Health Department considers appropriate] PROVIDE THE BASIS OF ANY OPINIONS CONTAINED IN THE REPORT;

(III) STATE WHETHER THE DEFENDANT:

1. IS SUBSTANTIALLY LIKELY TO BECOME COMPETENT TO STAND TRIAL IN THE FORESEEABLE FUTURE; AND

(Over)

2. REMAINS, DUE TO MENTAL RETARDATION OR A MENTAL DISORDER, A DANGER TO SELF OR THE PERSON OR PROPERTY OF ANOTHER.

(b) (1) The clerk of court shall give the last counsel for each person, as shown by the court records, notice that the client is listed in the report and a copy of any recommendation that relates to the client.

(2) The Health Department shall send a copy of the report to each State's Attorney who brought charges against a person in the report.

(c) (1) Within 30 days after a State's Attorney receives the report, the State's Attorney shall send a recommendation on disposition of charges against each person who has been held long enough to be eligible for release under § 3-107 of this title.

(2) The State's Attorney shall send the recommendation about a person to:

(i) the court that ordered commitment of the person; and

(ii) the last counsel for the person.

(d) The facility of the Health Department that has charge of a person committed as incompetent to stand trial shall notify the Criminal Justice Information System Central Repository if the person escapes.”.

On page 8, in line 25, strike “June” and substitute “October”; and strike beginning with “It” in line 25 down through “effect.” in line 27.