

*ENROLLED BILL*  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegate Dumais**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Criminal Defendants - Incompetency and Criminal**  
3 **Responsibility**

4 FOR the purpose of requiring a court, under certain circumstances, to determine, on  
5 evidence presented on the record, whether a defendant is incompetent to stand  
6 trial for a violation of probation proceeding; authorizing a court to reconsider the  
7 question of whether a defendant is incompetent to stand trial at any time before  
8 ~~the verdict is final judgment~~; prohibiting the admissibility of a statement made  
9 by a defendant in the course of a certain evaluation or a report prepared as the  
10 result of a certain evaluation from being used to prove the commission of a  
11 criminal offense or to enhance the sentence of the defendant; authorizing a court  
12 to take certain actions after the court makes a certain determination at a  
13 competency hearing; authorizing the court to order commitment of a certain  
14 person in a Health Department facility under certain circumstances; requiring a  
15 court to hold a hearing to determine whether a certain person continues to meet  
16 certain criteria for commitment to a Health Department facility under certain  
17 circumstances; authorizing a court to hold a certain conference or hearing to

1 review the status of the case of a certain person; requiring a court to order  
 2 commitment of a certain person to a certain medical facility under certain  
 3 circumstances; requiring a court to reconsider, under certain circumstances, a  
 4 certain determination for a certain person released on bail or on recognizance;  
 5 requiring a court to dismiss, under certain circumstances, a certain charge after  
 6 passage of certain time periods; requiring a certain notification to a certain  
 7 person who has filed a certain request for notification; requiring the Health  
 8 Department to submit a certain report containing certain information to the  
 9 court; requiring the Health Department to submit certain reports containing  
 10 certain information within certain time periods to certain persons; requiring a  
 11 certain clerk of court to give a certain report to certain persons; requiring that a  
 12 certain victim or victim's representative be notified regarding a certain  
 13 individual who is committed to the custody of a Health Department facility  
 14 under certain circumstances if certain events occur after certain criminal  
 15 charges are dismissed; and generally relating to criminal defendants and  
 16 incompetency and criminal responsibility.

17 BY repealing and reenacting, with amendments,  
 18 Article - Criminal Procedure  
 19 Section 3-104 through 3-108, inclusive  
 20 Annotated Code of Maryland  
 21 (2001 Volume and 2005 Supplement)

22 BY repealing and reenacting, without amendments,  
 23 Article - Criminal Procedure  
 24 Section 3-123(a), (b), and (c)  
 25 Annotated Code of Maryland  
 26 (2001 Volume and 2005 Supplement)

27 BY adding to  
 28 Article - Criminal Procedure  
 29 Section 3-123(l)  
 30 Annotated Code of Maryland  
 31 (2001 Volume and 2005 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 33 MARYLAND, That the Laws of Maryland read as follows:

34 **Article - Criminal Procedure**

35 3-104.

36 (a) If, before or during a trial, the defendant in a criminal case OR A  
 37 VIOLATION OF PROBATION PROCEEDING appears to the court to be incompetent to  
 38 stand trial or the defendant alleges incompetence to stand trial, the court shall  
 39 determine, on evidence presented on the record, whether the defendant is  
 40 incompetent to stand trial.

1 (b) If, after receiving evidence, the court finds that the defendant is competent  
2 to stand trial, the trial shall begin as soon as practicable or, if already begun, shall  
3 continue.

4 (c) At any time [during the trial and] before ~~THE VERDICT IS FINAL~~  
5 JUDGMENT, the court may reconsider the question of whether the defendant is  
6 incompetent to stand trial.

7 3-105.

8 (a) (1) For good cause and after giving the defendant an opportunity to be  
9 heard, the court may order the Health Department to examine the defendant to  
10 determine whether the defendant is incompetent to stand trial.

11 (2) The court shall set and may change the conditions under which the  
12 examination is to be made.

13 (b) Except in a capital case, on consideration of the nature of the charge, the  
14 court:

15 (1) may require or allow the examination to be done on an outpatient  
16 basis; and

17 (2) if an outpatient examination is authorized, shall set bail for the  
18 defendant or authorize release of the defendant on recognizance.

19 (c) (1) If a defendant is to be held in custody for examination under this  
20 section, the defendant may be confined in a correctional facility until the Health  
21 Department can conduct the examination. If the court finds it appropriate for the  
22 health or safety of the defendant, the court may order confinement in a medical wing  
23 or other isolated and secure unit of the correctional facility.

24 (2) (i) If the court finds that, because of the apparent severity of the  
25 mental disorder or mental retardation, a defendant in custody would be endangered  
26 by confinement in a correctional facility, the court may order that the Health  
27 Department, in the Health Department's discretion:

28 1. confine the defendant, pending examination, in a medical  
29 facility that the Health Department designates as appropriate; or

30 2. immediately conduct a competency examination of the  
31 defendant by a community forensic screening program or other agency that the  
32 Health Department finds appropriate.

33 (ii) Unless the Health Department retains the defendant, the  
34 defendant shall be promptly returned to the court after the examination.

35 (3) A defendant who is held for examination under this section may  
36 question at any time the legality of the detention by petition for a writ of habeas  
37 corpus.

1 (d) (1) If a court orders an examination under this section, the Health  
2 Department shall:

- 3 (i) examine the defendant; and
- 4 (ii) send a complete report of its findings to:
- 5 1. the court;
- 6 2. the State's Attorney; and
- 7 3. the defense counsel.

8 (2) Unless there is a plea that the defendant was not criminally  
9 responsible under § 3-109 of this title, the defendant is entitled to have the report  
10 within 7 days after the court orders the examination. However, failure of the Health  
11 Department to send the complete report within that time is not, of itself, grounds for  
12 dismissal of the charges. On good cause shown, the court may extend the time for  
13 examination.

14 (3) If the Health Department reports that, in its opinion, the defendant  
15 is incompetent to stand trial, the report shall state, in a complete supplementary  
16 opinion, whether, because of mental retardation or mental disorder, the defendant  
17 would be a danger to self or the person or property of another, if released.

18 (4) A STATEMENT MADE BY THE DEFENDANT IN THE COURSE OF AN  
19 EXAMINATION UNDER THIS SECTION IS NOT ADMISSIBLE IN A CRIMINAL  
20 PROCEEDING FOR THE PURPOSE OF PROVING THE COMMISSION OF A CRIMINAL  
21 OFFENSE OR TO ENHANCE THE SENTENCE OF THE DEFENDANT.

22 (5) EXCEPT FOR THE PURPOSE OF IMPEACHING THE TESTIMONY OF THE  
23 DEFENDANT, A REPORT PREPARED AS THE RESULT OF AN EXAMINATION UNDER  
24 THIS SECTION IS NOT ADMISSIBLE IN A CRIMINAL PROCEEDING FOR THE PURPOSE  
25 OF PROVING THE COMMISSION OF A CRIMINAL OFFENSE OR TO ENHANCE THE  
26 SENTENCE OF THE DEFENDANT.

27 3-106.

28 (a) Except in a capital case, if, after a hearing, the court finds that the  
29 defendant is incompetent to stand trial but is not dangerous, as a result of a mental  
30 disorder or mental retardation, to self or the person or property of others, the court  
31 may set bail for the defendant or authorize release of the defendant on recognizance.

32 (b) (1) If, after a hearing, the court finds that the defendant is incompetent  
33 to stand trial and, because of mental retardation or a mental disorder, is a danger to  
34 self or the person or property of another, the court may order the defendant  
35 committed to the facility that the Health Department designates until the court [is  
36 satisfied that] FINDS THAT:

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

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

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

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

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

17 (I) EVERY YEAR FROM THE DATE OF COMMITMENT;

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

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

25 (2) [If the court orders commitment under subsection (b) of this section,  
26 the defendant may apply for release under § 7-507 or § 10-805 of the Health -  
27 General Article. In computing the availability of review under those sections, as the  
28 case may be, the date of the commitment order shall be treated as a hearing.] AT ANY  
29 TIME, AND ON ITS OWN INITIATIVE, THE COURT MAY HOLD A CONFERENCE OR A  
30 HEARING ON THE RECORD WITH THE STATE'S ATTORNEY AND THE COUNSEL OF  
31 RECORD FOR THE DEFENDANT TO REVIEW THE STATUS OF THE CASE.

32 (D) AT A COMPETENCY HEARING UNDER SUBSECTION (C) OF THIS SECTION, IF  
33 THE COURT FINDS THAT THE DEFENDANT IS INCOMPETENT AND IS NOT LIKELY TO  
34 BECOME COMPETENT IN THE FORESEEABLE FUTURE, THE COURT SHALL:

35 (1) CIVILLY COMMIT THE DEFENDANT AS AN INPATIENT IN A MEDICAL  
36 FACILITY THAT THE HEALTH DEPARTMENT DESIGNATES PROVIDED THE COURT  
37 FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

38 (I) THE DEFENDANT HAS A MENTAL DISORDER;

1 (II) INPATIENT CARE IS NECESSARY FOR THE DEFENDANT;

2 (III) THE DEFENDANT PRESENTS A DANGER TO THE LIFE OR  
3 SAFETY OF SELF OR OTHERS;

4 (IV) THE DEFENDANT IS UNABLE OR UNWILLING TO BE  
5 VOLUNTARILY COMMITTED TO A MEDICAL FACILITY; AND

6 (V) THERE IS NO LESS RESTRICTIVE FORM OF INTERVENTION  
7 THAT IS CONSISTENT WITH THE WELFARE AND SAFETY OF THE DEFENDANT; OR

8 (2) ORDER THE CONFINEMENT OF THE DEFENDANT FOR 21 DAYS AS A  
9 RESIDENT IN A DEVELOPMENTAL DISABILITIES ADMINISTRATION FACILITY FOR THE  
10 INITIATION OF ADMISSION PROCEEDINGS UNDER § 7-503 OF THE HEALTH - GENERAL  
11 ARTICLE PROVIDED THE COURT FINDS THAT THE DEFENDANT, BECAUSE OF MENTAL  
12 RETARDATION, IS A DANGER TO SELF OR OTHERS.

13 (E) THE PROVISIONS UNDER TITLE 10 OF THE HEALTH - GENERAL ARTICLE  
14 SHALL APPLY TO THE CONTINUED RETENTION OF A DEFENDANT CIVILLY  
15 COMMITTED UNDER SUBSECTION (D) OF THIS SECTION.

16 (F) (1) FOR A DEFENDANT WHO HAS BEEN FOUND INCOMPETENT TO STAND  
17 TRIAL BUT NOT DANGEROUS, AS A RESULT OF A MENTAL DISORDER OR MENTAL  
18 RETARDATION, TO SELF OR THE PERSON OR PROPERTY OF OTHERS, AND RELEASED  
19 ON BAIL OR ON RECOGNIZANCE, THE COURT:

20 (I) SHALL HOLD A HEARING ANNUALLY FROM THE DATE OF  
21 RELEASE;

22 (II) MAY HOLD A HEARING, AT ANY TIME, ON ITS OWN INITIATIVE;  
23 OR

24 (III) SHALL HOLD A HEARING, AT ANY TIME, UPON MOTION OF THE  
25 STATE'S ATTORNEY OR THE COUNSEL FOR THE DEFENDANT.

26 (2) AT A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE  
27 COURT SHALL RECONSIDER WHETHER THE DEFENDANT REMAINS INCOMPETENT TO  
28 STAND TRIAL OR A DANGER TO SELF OR THE PERSON OR PROPERTY OF ANOTHER  
29 BECAUSE OF MENTAL RETARDATION OR A MENTAL DISORDER.

30 (3) AT A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE  
31 COURT MAY MODIFY OR IMPOSE ADDITIONAL CONDITIONS OF RELEASE ON THE  
32 DEFENDANT.

33 (4) IF THE COURT FINDS, AT A HEARING UNDER PARAGRAPH (1) OF THIS  
34 SUBSECTION, THAT THE DEFENDANT IS INCOMPETENT AND IS NOT LIKELY TO  
35 BECOME COMPETENT IN THE FORESEEABLE FUTURE AND IS A DANGER TO SELF OR  
36 THE PERSON OR PROPERTY OF ANOTHER BECAUSE OF MENTAL RETARDATION OR A  
37 MENTAL DISORDER, THE COURT SHALL REVOKE THE PRETRIAL RELEASE OF THE  
38 DEFENDANT AND:

1 (I) CIVILLY COMMIT THE DEFENDANT IN ACCORDANCE WITH  
2 PARAGRAPH (1) OF SUBSECTION (D) OF THIS SECTION; OR

3 (II) ORDER CONFINEMENT OF THE DEFENDANT IN ACCORDANCE  
4 WITH SUBSECTION (D)(2) OF THIS SECTION.

5 [(d)] (G) If the defendant is found incompetent to stand trial, defense counsel  
6 may make any legal objection to the prosecution that may be determined fairly before  
7 trial and without the personal participation of the defendant.

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

12 3-107.

13 (a) WHETHER OR NOT THE DEFENDANT IS CONFINED AND UNLESS THE  
14 STATE PETITIONS THE COURT FOR EXTRAORDINARY CAUSE TO EXTEND THE TIME,  
15 THE COURT SHALL DISMISS THE CHARGE AGAINST A DEFENDANT FOUND  
16 INCOMPETENT TO STAND TRIAL UNDER THIS SUBTITLE:

17 (1) WHEN CHARGED WITH A CAPITAL OFFENSE, AFTER THE EXPIRATION  
18 OF 10 YEARS;

19 (2) WHEN CHARGED WITH A FELONY OR A CRIME OF VIOLENCE AS  
20 DEFINED UNDER § 14-101 OF THE CRIMINAL LAW ARTICLE, AFTER THE LESSER OF  
21 THE EXPIRATION OF 5 YEARS OR THE MAXIMUM SENTENCE FOR THE MOST SERIOUS  
22 OFFENSE CHARGED; OR

23 (3) WHEN CHARGED WITH AN OFFENSE NOT COVERED UNDER  
24 PARAGRAPH (1) OR (2) OF THIS SUBSECTION, AFTER THE LESSER OF THE EXPIRATION  
25 OF 3 YEARS OR THE MAXIMUM SENTENCE FOR THE MOST SERIOUS OFFENSE  
26 CHARGED.

27 (B) Whether or not the defendant is confined, if the court considers that  
28 resuming the criminal proceeding would be unjust because so much time has passed  
29 since the defendant was found incompetent to stand trial, the court [may] SHALL  
30 dismiss the charge ~~WITH~~ WITHOUT PREJUDICE. However, the court may not dismiss a  
31 [charge:

32 (1) CHARGE without providing the State's Attorney and a victim or  
33 victim's representative who has [filed a notification request form] REQUESTED  
34 NOTIFICATION under [§ 11-104] § 3-123(C) of this [article] TITLE advance notice and  
35 an opportunity to be heard[; and

36 (2) (i) until 10 years after the defendant was found incompetent to  
37 stand trial in any capital case; or

1 (ii) until 5 years after the defendant was found incompetent to  
 2 stand trial in any other case where the penalty may be imprisonment in a State  
 3 correctional facility].

4 [(b)] (C) If charges are dismissed under this section, the court shall notify:

5 (1) the victim of the crime charged or the victim's representative who has  
 6 [filed a notification request form] REQUESTED NOTIFICATION under [§ 11-104] §  
 7 3-123(C) of this article; and

8 (2) the Criminal Justice Information System Central Repository.

9 3-108.

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

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

15 (II) WHENEVER THE HEALTH DEPARTMENT DETERMINES THAT:

16 1. THE DEFENDANT NO LONGER IS INCOMPETENT TO STAND  
 17 TRIAL;

18 2. THE DEFENDANT NO LONGER IS, BECAUSE OF MENTAL  
 19 RETARDATION OR A MENTAL DISORDER, A DANGER TO SELF OR THE PERSON OR  
 20 PROPERTY OF OTHERS; OR

21 3. THERE IS NOT A SUBSTANTIAL LIKELIHOOD THAT THE  
 22 DEFENDANT WILL BECOME COMPETENT TO STAND TRIAL IN THE FORESEEABLE  
 23 FUTURE.

24 (2) [The report shall contain:

25 (i) a list of the persons held under commitment orders; and

26 (ii) any recommendations that the Health Department considers  
 27 appropriate.] ~~IF A REPORT REQUIRED UNDER THIS TITLE STATES AN OPINION THAT~~  
 28 ~~THE DEFENDANT IS COMPETENT TO STAND TRIAL OR IS NOT DANGEROUS, AS A~~  
 29 ~~RESULT OF A MENTAL DISORDER OR MENTAL RETARDATION, TO SELF OR THE~~  
 30 ~~PERSON OR PROPERTY OF OTHERS, THE DEPARTMENT SHALL INCLUDE A~~  
 31 ~~SUPPLEMENTAL REPORT STATING A PLAN FOR SERVICES TO FACILITATE THE~~  
 32 ~~DEFENDANT REMAINING:~~

33 ~~(I) COMPETENT TO STAND TRIAL; OR~~

34 ~~(II) NOT DANGEROUS, AS A RESULT OF MENTAL DISORDER OR~~  
 35 ~~MENTAL RETARDATION, TO SELF OR THE PERSON OR PROPERTY OF OTHERS.~~



1           ~~(3) IF NECESSARY TO MAINTAIN THE DEFENDANT SAFELY IN THE~~  
 2 ~~COMMUNITY OR TO MAINTAIN OR RESTORE COMPETENCY, THE PLAN REQUIRED IN~~  
 3 ~~THE REPORT UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE~~  
 4 ~~RECOMMENDED THE DEPARTMENT SHALL INCLUDE A SUPPLEMENTAL REPORT~~  
 5 ~~THAT PROVIDES A PLAN FOR SERVICES TO FACILITATE THE DEFENDANT REMAINING~~  
 6 ~~COMPETENT TO STAND TRIAL OR NOT DANGEROUS, AS A RESULT OF MENTAL~~  
 7 ~~RETARDATION OR A MENTAL DISORDER, TO SELF OR THE PERSON OR PROPERTY OF~~  
 8 ~~OTHERS, IF:~~

9           ~~(I) A REPORT REQUIRED UNDER THIS TITLE STATES AN OPINION~~  
 10 ~~THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL OR IS NOT DANGEROUS, AS A~~  
 11 ~~RESULT OF MENTAL RETARDATION OR A MENTAL DISORDER, TO SELF OR THE~~  
 12 ~~PERSON OR PROPERTY OF OTHERS; AND~~

13           ~~(II) A PLAN IS SERVICES ARE NECESSARY TO MAINTAIN THE~~  
 14 ~~DEFENDANT SAFELY IN THE COMMUNITY, TO MAINTAIN COMPETENCY, OR TO~~  
 15 ~~RESTORE COMPETENCY.~~

16           ~~(3) IF APPROPRIATE, THE PLAN REQUIRED IN THE REPORT UNDER~~  
 17 ~~PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE RECOMMENDED:~~

18           ~~(I) MENTAL HEALTH TREATMENT, INCLUDING PROVIDERS OF~~  
 19 ~~CARE;~~

20           ~~(II) VOCATIONAL, REHABILITATIVE, OR SUPPORT SERVICES;~~

21           ~~(III) HOUSING;~~

22           ~~(IV) CASE MANAGEMENT SERVICES;~~

23           ~~(V) ALCOHOL OR SUBSTANCE ABUSE TREATMENT; AND~~

24           ~~(VI) OTHER CLINICAL SERVICES, AS ~~CLINICALLY APPROPRIATE.~~~~

25           ~~(4) IF THE REPORT REQUIRED UNDER PARAGRAPH (2) OF THIS~~  
 26 ~~SUBSECTION RECOMMENDS:~~

27           ~~(+) COMMUNITY PLACEMENT FOR THE DEFENDANT, THE REPORT~~  
 28 ~~SHALL INCLUDE:~~

29           ~~1- (I) THE LOCATION OF THE RECOMMENDED COMMUNITY~~  
 30 ~~PLACEMENT;~~

31           ~~2- (II) THE NAMES AND ADDRESSES OF THE~~  
 32 ~~RECOMMENDED SERVICE PROVIDERS;~~

33           ~~3- (III) A STATEMENT INDICATING IF THE SERVICE~~  
 34 ~~PROVIDER IS WILLING AND ABLE TO SERVE THE DEFENDANT; AND~~

35           ~~4- (IV) IF AVAILABLE, THE DATE OF PLACEMENT OR~~  
 36 ~~SERVICE FOR THE DEFENDANT.~~

1 ~~(H) COMMITMENT TO A STATE RESIDENTIAL FACILITY, THE~~  
2 ~~REPORT SHALL STATE WHETHER:~~

3 (5) IF THE PLAN REQUIRED IN THE REPORT UNDER PARAGRAPH (2) OF  
4 THIS SUBSECTION IS FOR A DEFENDANT COMMITTED TO A STATE RESIDENTIAL  
5 FACILITY CENTER, THE REPORT SHALL STATE WHETHER:

6 ~~1-~~ (I) THE DEFENDANT MEETS THE REQUIREMENTS FOR  
7 COMMITMENT UNDER § 3-106(D) OF THIS TITLE;

8 ~~2-~~ (II) THE SERVICES REQUIRED FOR THE DEFENDANT MAY  
9 BE PROVIDED IN A LESS RESTRICTIVE SETTING; AND

10 ~~3-~~ (III) THE DEFENDANT IS ELIGIBLE FOR SERVICES  
11 PURSUANT TO § 7-404 OF THE HEALTH - GENERAL ARTICLE.

12 ~~(5)~~ (6) IF THE REPORT REQUIRED UNDER PARAGRAPH (2) OF THIS  
13 SUBSECTION STATES AN OPINION THAT THERE IS NOT A SUBSTANTIAL LIKELIHOOD  
14 THAT THE DEFENDANT WILL BECOME COMPETENT IN THE FORESEEABLE FUTURE,  
15 THE REPORT SHALL CONTAIN AN OPINION REGARDING WHETHER THE DEFENDANT  
16 MEETS THE CRITERIA FOR COMMITMENT UNDER § 3-106(D) OF THIS TITLE.

17 ~~(6) IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, A~~  
18 ~~SUPPLEMENTAL REPORT REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION~~  
19 ~~SHALL COMPLY WITH THE PROVISIONS OF § 10-809 OF THE HEALTH - GENERAL~~  
20 ~~ARTICLE.~~

21 (7) A STATEMENT MADE BY THE DEFENDANT IN THE COURSE OF ANY  
22 EXAMINATION FOR A REPORT UNDER THIS SECTION IS NOT ADMISSIBLE AS  
23 EVIDENCE IN ANY CRIMINAL PROCEEDING FOR THE PURPOSE OF PROVING THE  
24 COMMISSION OF A CRIMINAL OFFENSE OR TO ENHANCE THE SENTENCE OF THE  
25 DEFENDANT.

26 (8) A REPORT PREPARED UNDER THIS SECTION IS NOT ADMISSIBLE IN A  
27 CRIMINAL PROCEEDING FOR THE PURPOSE OF PROVING THE COMMISSION OF A  
28 CRIMINAL OFFENSE OR TO ENHANCE THE SENTENCE OF THE DEFENDANT.

29 (b) [(1)] The clerk of court shall give THE STATE'S ATTORNEY AND the last  
30 counsel [for each person, as shown by the court records, notice that the client is listed  
31 in the report and a copy of any recommendation that relates to the client] OF RECORD  
32 FOR THE DEFENDANT A COPY OF ANY REPORT RECEIVED UNDER THIS SECTION.

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

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

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

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

4 (ii) the last counsel for the person.

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

8 3-123.

9 (a) (1) In this section the following terms have the meanings indicated.

10 (2) "Defendant" means:

11 (i) a committed individual;

12 (ii) an individual found incompetent to stand trial; or

13 (iii) an individual charged with a crime and the issue of whether the  
14 individual is incompetent to stand trial has been raised or where a plea of not  
15 criminally responsible has been entered.

16 (3) "Victim" means a victim of a crime of violence or a victim who has  
17 filed a notification request form under § 11-104 of this article.

18 (4) "Victim's representative" includes a family member or guardian of a  
19 victim who is:

20 (i) a minor;

21 (ii) deceased; or

22 (iii) disabled.

23 (b) A State's Attorney shall notify a victim or victim's representative of all  
24 rights provided under this section.

25 (c) (1) A victim or victim's representative may request notification under  
26 this section by:

27 (i) notifying the State's Attorney and the Health Department of the  
28 request for notification; or

29 (ii) filing a notification request form under § 11-104 of this article.

30 (2) A request for notification under paragraph (1)(i) of this subsection  
31 shall designate:

1 (i) the address and telephone number of the victim; or

2 (ii) the name, address, and telephone number of a victim's  
3 representative.

4 (3) A victim or victim's representative may, at any time, withdraw a  
5 request for notification.

6 (L) (1) THIS SUBSECTION APPLIES ONLY TO A DEFENDANT AS DEFINED IN  
7 SUBSECTION (A)(2)(II) OR (III) OF THIS SECTION AFTER THE CRIMINAL CHARGES  
8 AGAINST THE DEFENDANT HAVE BEEN DISMISSED UNDER § 3-107 OR § 3-108 OF THIS  
9 SUBTITLE.

10 (2) IF A VICTIM OR VICTIM'S REPRESENTATIVE HAS REQUESTED  
11 NOTIFICATION IN THE MANNER PROVIDED UNDER SUBSECTION (C) OF THIS  
12 SECTION, THE HEALTH DEPARTMENT SHALL PROMPTLY NOTIFY THE VICTIM OR THE  
13 VICTIM'S REPRESENTATIVE IN WRITING IF THE DEFENDANT:

14 (I) ESCAPES;

15 (II) IS RECAPTURED;

16 (III) IS TRANSFERRED TO ANOTHER FACILITY;

17 (IV) IS RELEASED; OR

18 (V) HAS DIED.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2006.