

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Notice of Proposed Amendments to Superior Court Rules of Criminal Procedure 47-I and 120

The District of Columbia Superior Court Rules Committee has recently completed review of proposed amendments to Superior Court Rules of Criminal Procedure 47-I and 120. The Rules Committee will recommend approval of the amendments to the Superior Court Board of Judges unless, after consideration of comments received from the Bar and the general public, they are withdrawn or modified.

Written comments in respect to these amendments must be submitted by April 1, 2013 to:

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Written comments may also be submitted as a PDF file to: Ryan.Mullady@dcsc.gov

All comments submitted in respect to this notice will be available to the general public. The proposed amendments are set forth below. New language is underlined and deleted language is stricken through.

**PROPOSED AMENDMENTS TO SUPERIOR COURT RULE OF CRIMINAL
PROCEDURE 47-I**

Rule 70-I. Motions procedure.

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(i) ~~[Deleted].Matters taken under advisement. When a judge takes any motion or other matter under advisement, the Clerk shall note on the docket the date on which the matter was taken under advisement. If within 30 days of such date a decision has not been rendered by the judge, the Clerk shall send notice of that fact to that judge and shall repeat such notice every 30 days thereafter until a decision is rendered. If no decision has been rendered within 60 days of the issuance of the 1st such notice, the Clerk thereafter shall so advise that judge and the Chief Judge. The Chief Judge may take any action deemed appropriate in order to cause the matter to be decided promptly.~~

COMMENT TO 2013 AMENDMENTS

Paragraph (i), "matters taken under advisement" was repealed; the matters previously addressed by this paragraph are now the subject of an administrative order.*

***Publication Note:** If deleted, the matters formerly included in this rule will be covered by an administrative order that will be issued at that time.

**PROPOSED AMENDMENTS TO SUPERIOR COURT RULE OF CRIMINAL
PROCEDURE 120**

Rule 120. ~~[Deleted]. Procedures for mental examination of defendants.~~

~~—(1) When a motion for mental examination is made or if the Court is of the view that such an examination may be appropriate, the Court may order a mental competence screening examination to be conducted by the Department of Mental Health, Legal Services Division (LSD), at the courthouse or on an outpatient basis. In the case of a courthouse screening, if the examination report is not returned the same day it is ordered, the Court shall address the issue of detention or release pursuant to the Bail Reform Act, D.C. Code §§ 23-1321, et seq.~~

~~—(2) The Court shall determine, based on the report of any screening examination and on any other relevant information, whether to order a full competence examination pursuant to D.C. Code § 24-501(a) and whether any such examination shall be done in an inpatient hospital setting or on an outpatient basis. If the Court commits a defendant to the Department of Mental Health as an inpatient for mental observation, a return date shall be set no sooner than thirty (30) nor more than forty five (45) days from the date the examination is ordered. If a defendant is ordered so committed, and the Department of Mental Health has on the day of the order of commitment sufficient available bed space to accommodate the defendant, the Court shall defer setting conditions of release until after it has received the report of the Department of Mental Health. If bed space is not available on the day of the order of commitment, the Court shall address the issue of detention or release pursuant to the D.C. Code § 23-1321 et seq. If the screening report recommends emergency hospitalization, and the Court determines that it is warranted, the Court may order the defendant's emergency hospitalization pursuant to D.C. Code § 24-501(a). If the Court orders an outpatient examination for a defendant who is detained at the D.C. Jail, the Court shall set a return date not more than thirty (30) days from the date of the examination order. If the Court orders an outpatient examination for a defendant who is released pending trial, it shall set a return date not more than forty five (45) days from the date of the order.~~

~~—(3) As soon as the Department of Mental Health reaches a determination regarding the defendant's competence to stand trial, it shall forward its report to the Court and counsel. For defendants being held at the D.C. Jail or at a hospital, if the Clerk's Office of the Criminal Division receives a written report from the Department of Mental Health more than one court day prior to the scheduled return date, and if the report states that the defendant is competent to stand trial, the Clerk shall cause the defendant to be brought before the appropriate judge on the court day next following receipt of the report. A new Pre-trial Services Agency report shall also be made available. If the report received by the Clerk's Office states that the defendant is incompetent to stand trial, the Clerk shall cause the defendant to be brought before the appropriate judge within seven days from receipt of the report or on the original return date, whichever is earlier. In any case, the report shall be sufficient for the Court to make a finding as to whether the defendant is competent to stand trial, unless either party objects, in which case the Court shall hold a prompt hearing. The Court may grant a continuance of the hearing if requested in order to permit examination by an independent expert. If, based upon the report or testimony at the hearing, the Court determines the defendant is competent, it shall determine the defendant's eligibility for release pursuant to D.C. Code § 23-1321 et. seq., if it has not done so previously. If the Court determines that the defendant is incompetent for trial, the Court shall remand the defendant to the Department of Mental Health for care and treatment and further~~

~~examination, in accordance with D.C. Code § 24-501, and shall set an appropriate return date, not to exceed sixty (60) days.~~

COMMENT TO 2013 AMENDMENTS

This rule has been deleted in light of the enactment of the Incompetent Defendants Criminal Commitment Act of 2004, D.C. Code §§ 24-531.01 et seq., which established a comprehensive framework for mental examinations of defendants, and which has obviated the need for a separate rule setting forth these procedures.