

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 14-01

(Delete SCR-Criminal 120)

WHEREAS, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved a resolution deleting Superior Court Rule of Criminal Procedure 120 and adding a comment to explain its deletion; and

WHEREAS, this rule does not modify the Federal Rules of Civil or Criminal Procedure; it is

ORDERED that Superior Court Rule of Criminal Procedure 120 is hereby deleted and the comment is amended as set forth below; and it is further

ORDERED that the deletion of Superior Court Rule of Criminal Procedure 120 with the addition of the comment set forth below shall take effect immediately and shall govern all proceedings hereafter commenced and insofar as is just and practicable in all pending proceedings.

SCR-CRIMINAL 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

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.

* * *

By the Court:

Date: February 18, 2014

/s/
Lee F. Satterfield
Chief Judge

Copies to:

All Judges
All Magistrate Judges
All Senior Judges
Dan Cipullo, Director, Criminal Division
Library
Daily Washington Law Reporter
Ryan K. Mullady, Assistant General Counsel