

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 24.**  
**PRISONERS AND THEIR TREATMENT.**

**CHAPTER 5.**  
**INSANE DEFENDANTS.**

**2001 Edition**

# DISTRICT OF COLUMBIA OFFICIAL CODE

## CHAPTER 5. INSANE DEFENDANTS.

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## **CHAPTER 5. INSANE DEFENDANTS.**

### **§ 24-501. ACQUITTAL BY REASON OF INSANITY; RELEASE AFTER CONFINEMENT; EXPENSES OF CONFINEMENT; INCONSISTENT STATUTES SUPERSEDED; ESCAPED PERSONS; INSANITY DEFENSE; MOTIONS FOR RELIEF.**

(a) Repealed.

(a-1) Repealed.

(b) Repealed.

(c) When any person tried upon an indictment or information for an offense, or tried in the Family Division of the Superior Court of the District of Columbia for an offense, is acquitted solely on the ground that he was insane at the time of its commission, that fact shall be set forth by the jury in their verdict.

(d)(1) If any person tried upon an indictment or information for an offense raises the defense of insanity and is acquitted solely on the ground that he was insane at the time of its commission, he shall be committed to a hospital for the mentally ill until such time as he is eligible for release pursuant to this subsection or subsection (e) of this section.

(2)(A) A person confined pursuant to paragraph (1) of this subsection shall have a hearing, unless waived, within 50 days of his confinement to determine whether he is entitled to release from custody. At the conclusion of the criminal action referred to in paragraph (1) of this subsection, the court shall provide such person with representation by counsel:

(i) In the case of a person who is eligible to have counsel appointed by the court, by continuing any appointment of counsel made to represent such person in the prior criminal action or by appointing new counsel; or

(ii) In the case of a person who is not eligible to have counsel appointed by the court, by assuring representation by retained counsel.

(B) If the hearing is not waived, the court shall cause notice of the hearing to be served upon the person, his counsel, and the prosecuting attorney and hold the hearing. Within 10 days from the date the hearing was begun, the court shall determine the issues and make findings of fact and conclusions of law with respect thereto. The person confined shall have the burden of proof. If the court finds by a preponderance of the evidence that the person confined is entitled to his release from custody, either conditional or unconditional, the court shall enter such order as may appear appropriate.

(3) An appeal may be taken from an order entered upon paragraph (2) of this subsection to the court having jurisdiction to review final judgments of the court entering the order.

(e) Where any person has been confined in a hospital for the mentally ill pursuant to subsection (d) of this section, and the superintendent of such hospital certifies: (1) that such person has recovered his sanity; (2) that, in the opinion of the superintendent, such person will not in the reasonable future be dangerous to himself or others; and (3) in the opinion of the superintendent, the person is entitled to his unconditional release from the hospital, and such certificate is filed with the clerk of the court in which the person was tried, and a copy thereof served on the United States Attorney or the Corporation Counsel of the District of Columbia, whichever office prosecuted the accused, such certificate shall be sufficient to authorize the court to order the unconditional release of the person so confined from further hospitalization at the expiration of 15 days from the time said certificate was filed and served as above; but the court in its discretion may, or upon objection of the United States or the District of Columbia shall, after due notice, hold a hearing at which evidence as to the mental condition of the person so confined may be submitted, including the testimony of 1 or more psychiatrists from said hospital. The court shall weigh the evidence and, if the court finds that such person has recovered his sanity and will not in the reasonable future be dangerous to himself or others, the court shall order such person unconditionally released from further confinement in said hospital. If the court does not so find, the court shall order such person returned to said hospital. Where, in the judgment of the superintendent of such hospital, a person confined under subsection (d) of this section is not in such condition as to warrant his unconditional release, but is in a condition to be conditionally released under supervision, and such certificate is filed and served as above

provided, such certificate shall be sufficient to authorize the court to order the release of such person under such conditions as the court shall see fit at the expiration of 15 days from the time such certificate is filed and served pursuant to this section; provided, that the provisions as to hearing prior to unconditional release shall also apply to conditional releases, and, if, after a hearing and weighing the evidence, the court shall find that the condition of such person warrants his conditional release, the court shall order his release under such conditions as the court shall see fit, or, if the court does not so find, the court shall order such person returned to such hospital.

(f)(1) Except as provided in paragraph (2) of this subsection, when an accused person is acquitted solely on the ground of insanity and ordered confined in a hospital for the mentally ill, the person and the person's estate shall be charged with the expense of the person's support in the hospital.

(2) The District shall not charge a person or his estate for the expense of the person's support in a hospital for the mentally ill if the source of the funds being sought to compensate the District were obtained as a result of:

(A) A judgment against the District pertaining to its care of the person; or

(B) A settlement reached by the District with a person or his estate pertaining to its care of the person.

(g) Nothing herein contained shall preclude a person confined under the authority of this section from establishing his eligibility for release under the provisions of this section by a writ of habeas corpus.

(h) The provisions of this section shall supersede in the District of Columbia the provisions of any federal statutes or parts thereof inconsistent with this section.

(i) When a person has been ordered confined in a hospital for the mentally ill pursuant to this section and has escaped from such hospital, the court which ordered confinement shall, upon request of the government, order the return of the escaped person to such hospital. The return order shall be effective throughout the United States. Any federal judicial officer within whose jurisdiction the escaped person shall be found shall, upon receipt of the return order issued by the committing court, cause such person to be apprehended and delivered up for return to such hospital.

(j) Insanity shall not be a defense in any criminal proceeding in the United States District Court for the District of Columbia or in the Superior Court of the District of Columbia, unless the accused or his attorney in such proceeding, at the time the accused enters his plea of not guilty, or within 15 days thereafter, or at such later time as the court may for good cause permit, files with the court and serves upon the prosecuting attorney written notice of his intention to rely on such defense. No person accused of an offense shall be acquitted on the ground that he was insane at the time of its commission unless his insanity, regardless of who raises the issue, is affirmatively established by a preponderance of the evidence.

(k)(1) A person in custody or conditionally released from custody, pursuant to the provisions of this section, claiming the right to be released from custody, the right to any change in the conditions of his release, or other relief concerning his custody, may move the court having jurisdiction to order his release, to release him from custody, to change the conditions of his release, or to grant other relief.

(2) A motion for relief may be made at any time after a hearing has been held or waived pursuant to subsection (d) (2) of this section.

(3) Unless the motion and the files and records of the case conclusively show that the person is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. On all issues raised by his motion, the person shall have the burden of proof. If the court finds by a preponderance of the evidence that the person is entitled to his release from custody, either conditional or unconditional, a change in the conditions of his release, or other relief, the court shall enter such order as may appear appropriate.

(4) A court may entertain and determine the motion without requiring the production of the persons at the hearing.

(5) A court shall not be required to entertain a second or successive motion for relief under this section more often than once every 6 months. A court for good cause shown may in its discretion entertain such a motion more often than once every 6 months.

(6) An appeal may be taken from an order entered under this section to the court having jurisdiction to review final judgments of the court entering the order.

(7) An application for habeas corpus on behalf of a person who is authorized to apply for relief by motion pursuant to this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court having jurisdiction to entertain a motion pursuant to this section, unless it also appears that the remedy by motion is inadequate or ineffective to test the validity of his detention.

ch. 217; Aug. 9, 1955, 69 Stat. 609, ch. 673, § 1; Dec. 27, 1967, 81 Stat. 735, Pub. L. 90-226, title II, § 201; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, §§ 155(a), 159(e), title II, § 207; May 7, 2005, D.C. Law 15-355, § 2, 51 DCR 10547; May 24, 2005, D.C. Law 15-358, § 201, 52 DCR 2015; May 1, 2008, D.C. Law 17-150, § 2, 55 DCR 1459.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 24-301.

1973 Ed., § 24-301.

##### *Effect of Amendments*

D.C. Law 15-355 added subsec. (a-1).

D.C. Law 15-358 repealed subsecs. (a), (a-1), and (b) which had read as follows:

"(a) If it appears to a court having jurisdiction of: (1) a person arrested, or indicted for, or charged by information with, an offense; or (2) a child subject to a transfer motion in the Family Division of the Superior Court of the District of Columbia pursuant to § 16-2307, that, from the court's own observations or from prima facie evidence submitted to it and prior to the imposition of sentence, the expiration of any period of probation, or the hearing on the transfer motion, as the case may be, such person or child (hereafter in this subsection and subsection (b) of this section referred to as the "accused") is of unsound mind or is mentally incompetent so as to be unable to understand the proceedings against him or properly to assist in his own defense, the court may order the accused committed to the District of Columbia General Hospital or other mental hospital designated by the court, for such reasonable period as the court may determine for examination and observation and for care and treatment if such is necessary by the psychiatric staff of said hospital. If, after such examination and observation, the superintendent of the hospital, in the case of a mental hospital, or the chief psychiatrist of the District of Columbia General Hospital, in the case of District of Columbia General Hospital, shall report that in his opinion the accused is of unsound mind or mentally incompetent, such report shall be sufficient to authorize the court to commit by order the accused to a hospital for the mentally ill unless the accused or the government objects, in which event the court, after hearing without a jury, shall make a judicial determination of the competency of the accused to stand trial or to participate in transfer proceedings. If the court shall find the accused to be then of unsound mind or mentally incompetent to stand trial or to participate in transfer proceedings, the court shall order the accused confined to a hospital for the mentally ill.

"(a-1)(1) If the court determines after a hearing, or pursuant to a report of the superintendent of the hospital to which neither party objects, that the accused person is mentally incompetent to stand trial or to participate in transfer proceedings, and not likely to regain such competence in the reasonable future, and, if after a petition has been filed pursuant to § 21-541, the court further determines that the person shall be released from further detention in the criminal or transfer proceeding, the court shall remand the person to the hospital and the hospital may detain the person pending a hearing on the petition conducted pursuant to § 21-542. Within 7 days of the remand order, a person so detained may request a probable cause hearing before the Family Court of the Superior Court of the District of Columbia under § 21-525 on the person's continued hospitalization, in which case a hearing shall be held within 24 hours after the receipt of the request.

"(2) If the court determines that the accused person shall be released from further detention in the criminal or transfer proceeding, but a petition has not been filed pursuant to D.C. Official Code § 21-541, the court may stay the person's release for a period not to exceed 48 hours and remand the person to the hospital for the period of the stay so that the superintendent of the hospital may have an opportunity to initiate proceedings for the person's hospitalization under subchapter III of Chapter 5 of Title 21.

"(b) Whenever an accused person confined to a hospital for the mentally ill is restored to mental competency in the opinion of the superintendent of said hospital, the superintendent shall certify such fact to the clerk of the court in which the indictment, information, or charge against the accused is pending and such certification shall be sufficient to authorize the court to enter an order thereon adjudicating him to be competent to stand trial or to participate in transfer proceedings, unless the accused or the government objects, in which event, the court, after hearing without a jury, shall make a judicial determination of the competency of the accused to stand trial or to participate in transfer proceedings."

D.C. Law 17-150 rewrote subsec. (f), which had read as follows:

"(f) When an accused person shall be acquitted solely on the ground of insanity and ordered confined in a hospital for the mentally ill, such person and his estate shall be charged with the expense of his support in such hospital."

##### *Temporary Amendments of Section*

Section 2 of D.C. Law 14-311 amended the section by adding subsec. (a-1) to read as follows:

"(a-1)(1) If the court determines after a hearing, or pursuant to a report of the superintendent of the hospital to which neither party objects, that the accused person is mentally incompetent to stand trial or to participate in transfer proceedings, and not likely to regain such competence in the reasonable future, and, if after a petition

has been filed pursuant to D.C. Official Code § 21-541, the court further determines that the person shall be released from further detention in the criminal or transfer proceeding, the court shall remand the person to the hospital and the hospital may detain the person pending a hearing on the petition conducted pursuant to D.C. Official Code § 21-542. Within 7 days of the remand order, a person so detained may request a probable cause hearing before the Family Court of the Superior Court of the District of Columbia under D.C. Official Code § 21-525 on the person's continued hospitalization, in which case a hearing shall be held within 24 hours after the receipt of the request.

"(2) If the court determines that the accused person shall be released from further detention in the criminal or transfer proceeding, but a petition has not been filed pursuant to D.C. Official Code § 21-541, the court may stay the person's release for a period not to exceed 48 hours and remand the person to the hospital for the period of the stay so that the superintendent of the hospital may have an opportunity to initiate proceedings for the person's hospitalization under subchapter III of Chapter 5 of Title 21 of the District of Columbia Official Code."

Section 4(b) of D.C. Law 14-311 provides that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 15-165 added subsec. (a-1) to read as follows:

"(a-1)(1) If the court determines after a hearing, or pursuant to a report of the superintendent of the hospital to which neither party objects, that the accused person is mentally incompetent to stand trial or to participate in transfer proceedings, and not likely to regain such competence in the reasonable future, and, if after a petition has been filed pursuant to D.C. Official Code § 21-541, the court further determines that the person shall be released from further detention in the criminal or transfer proceeding, the court shall remand the person to the hospital and the hospital may detain the person pending a hearing on the petition conducted pursuant to D.C. Official Code § 21-542. Within 7 days of the remand order, a person so detained may request a probable cause hearing before the Family Court of the Superior Court of the District of Columbia under D.C. Official Code § 21-525 on the person's continued hospitalization, in which case a hearing shall be held within 24 hours after the receipt of the request.

"(2) If the court determines that the accused person shall be released from further detention in the criminal or transfer proceeding, but a petition has not been filed pursuant to D.C. Official Code § 21-541, the court may stay the person's release for a period not to exceed 48 hours and remand the person to the hospital for the period of the stay so that the superintendent of the hospital may have an opportunity to initiate proceedings for the person's hospitalization under subchapter III of Chapter 5 of Title 21 of the District of Columbia Official Code."

Section 4(b) of D.C. Law 15-165 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2 of Prevention of Premature Release of Mentally Incompetent Defendants Emergency Act of 2002 (D.C. Act 14-611, January 7, 2003, 50 DCR 703).

For temporary (90 day) amendment of section, see § 2 of Prevention of Premature Release of Mentally Incompetent Defendants Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-44, March 24, 2003, 50 DCR 2809).

For temporary (90 day) amendment of section, see § 2 of Prevention of Premature Release of Mentally Incompetent Defendants Emergency Amendment Act of 2003 (D.C. Act 15-289, January 6, 2004, 51 DCR 876).

For temporary (90 day) amendment of section, see § 2 of Prevention of Premature Release of Mentally Incompetent Defendants Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-399, March 18, 2004, 51 DCR 3633).

For temporary (90 day) amendment of section, see § 2 of Prevention of Premature Release of Mentally Incompetent Defendants Emergency Amendment Act of 2004 (D.C. Act 15-647, December 29, 2004, 52 DCR 235).

For temporary (90 day) amendment of section, see § 2 of Prevention of Premature Release of Mentally Incompetent Defendants Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-56, March 17, 2005, 52 DCR 3178).

#### *Legislative History of Laws*

Law 14-311, the "Prevention of Premature Release of Mentally Incompetent Defendants Temporary Amendment Act of 2003", was introduced in Council and assigned Bill No. 14-1008, and was retained by Council. The Bill was adopted on first and second readings on December 17, 2002, and January 7, 2003, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No. 14-626 and transmitted to both Houses of Congress for its review. D.C. Law 14-311 became effective on June 12, 2003.

Law 15-165, the "Prevention of Premature Release of Mentally Incompetent Defendants Temporary Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-629, and was retained by Council. The Bill was adopted on first and second readings on December 16, 2003, and January 6, 2004, respectively. Signed by the Mayor on January 29, 2004, it was assigned Act No. 15-335 and transmitted to

both Houses of Congress for its review. D.C. Law 15- 165 became effective on May 21, 2004.

Law 15-355, the "Prevention of Premature Release of Mentally Incompetent Defendants Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-665, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on July 13, 2004, and October 5, 2004, respectively. Signed by the Mayor on November 1, 2004, it was assigned Act No. 15-566 and transmitted to both Houses of Congress for its review. D.C. Law 15- 355 became effective on May 2005.

Law 15-358, the "Incompetent Defendants Criminal Commitment Act of 2004", was introduced in Council and assigned Bill No. 15-967, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-748 and transmitted to both Houses of Congress for its review. D.C. Law 15-358 became effective on May 24, 2005.

Law 17-150, the "Frank Harris, Jr. Justice Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-436, which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on January 24, 2008, it was assigned Act No. 17-261 and transmitted to both Houses of Congress for its review. D.C. Law 17-150 became effective on May 1, 2008.

#### *Miscellaneous Notes*

Transfer of Persons Found Not Guilty by Reason of Insanity: For transfer of certain persons found not guilty by reason of insanity in the District of Columbia, see § 301 of Pub. L. 104-294, 110 Stat. 3489, codified at 18 U.S.C. § 4243.

### **§ 24-502. COMMITMENT WHILE SERVING SENTENCE.**

Any person while serving sentence of any court of the District of Columbia for crime, in a District of Columbia penal institution, and who, in the opinion of the Director of the Department of Corrections of the District of Columbia, is mentally ill, shall be referred by such Director to the psychiatrist functioning under § 24-306, and if such psychiatrist certifies that the person is mentally ill, this shall be sufficient to authorize the Director to transfer such person to a hospital for the mentally ill to receive care and treatment during the continuance of his mental illness.

(Mar. 3, 1901, 31 Stat. 1340, ch. 854, § 928; Aug. 9, 1955, 69 Stat. 611, ch. 673, § 2.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 24-302.

1973 Ed., § 24-302.

### **§ 24-503. RESTORATION TO SANITY.**

(a) Repealed.

(b) When any person confined in a hospital for the mentally ill while serving sentence shall be restored to mental health within the opinion of the superintendent of the hospital, the superintendent shall certify such fact to the Director of the Department of Corrections of the District of Columbia and such certification shall be sufficient to deliver such person to such Director according to his request.

(Mar. 3, 1901, 31 Stat. 1340, ch. 854, § 929; Aug. 9, 1955, 69 Stat. 611, ch. 673, § 3; May 24, 2005, D.C. Law 15-358, § 202, 53 DCR 2015.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 24-303.

1973 Ed., § 24-303.

##### *Effect of Amendments*

D.C. Law 15-358 repealed subsec. (a) which had read as follows:

"(a) When any person confined in a hospital for the mentally ill, charged with crime and subject to be tried therefor, shall be found competent to stand trial in the opinion of the superintendent of such hospital, the superintendent shall certify such fact to the clerk of the court in which the indictment, information, or charge is pending, in accordance with the procedure specified in § 24-501, and deliver such person to the court according to its proper precept."

For Law 15-358, see notes following § 24-501.