

(b) For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rulemaking, shall be deemed not to include the phrase "general statements of policy".

(c) To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with the provisions of section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.

(d) Actions of the Commission pursuant to paragraphs (1), (2), and (3) of section 4203(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5, United States Code.

(Added Pub. L. 94-233, §2, Mar. 15, 1976, 90 Stat. 231.)

### CHAPTER 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

Sec.	
4241.	Determination of mental competency to stand trial or to undergo postrelease proceedings. <sup>1</sup>
4242.	Determination of the existence of insanity at the time of the offense.
4243.	Hospitalization of a person found not guilty only by reason of insanity.
4244.	Hospitalization of a convicted person suffering from mental disease or defect.
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4246.	Hospitalization of a person due for release but suffering from mental disease or defect.
4247.	General provisions for chapter.
4248.	Civil commitment of a sexually dangerous person <sup>2</sup>

#### AMENDMENTS

2006—Pub. L. 109-248, title III, §302(1), July 27, 2006, 120 Stat. 619, inserted "or to undergo postrelease proceedings" after "trial" in item 4241 and added item 4248.

1984—Pub. L. 98-473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2057, substituted "OFFENDERS WITH MENTAL DISEASE OR DEFECT" for "MENTAL DEFECTIVES" in chapter heading, "Determination of mental competency to stand trial" for "Examination and transfer to hospital" in item 4241, "Determination of the existence of insanity at the time of the offense" for "Re-transfer upon recovery" in item 4242, "Hospitalization of a person found not guilty only by reason of insanity" for "Delivery to state authorities on expiration of sentence" in item 4243, "Hospitalization of a convicted person suffering from mental disease or defect" for "Mental competency after arrest and before trial" in item 4244, "Hospitalization of an imprisoned person suffering from mental disease or defect" for "Mental incompetency undisclosed at trial" in item 4245, "Hospitalization of a person due for release but suffering from mental disease or defect" for "Procedure upon finding of mental incompetency" in item 4246, and "General provisions for chapter" for "Alternate procedure on expiration of sentence" in item 4247, and struck out item 4248 "Termination of custody by release or transfer".

1951—Act Oct. 31, 1951, ch. 655, §33, 65 Stat. 723, inserted "on expiration of sentence" in item 4243.

1949—Act Sept. 7, 1949, ch. 535, §2, 63 Stat. 688, added items 4244 to 4248.

#### § 4241. Determination of mental competency to stand trial to undergo postrelease proceedings<sup>1</sup>

(a) MOTION TO DETERMINE COMPETENCY OF DEFENDANT.—At any time after the commencement

of a prosecution for an offense and prior to the sentencing of the defendant, or at any time after the commencement of probation or supervised release and prior to the completion of the sentence, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility—

(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward; and

(2) for an additional reasonable period of time until—

(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward; or

(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the proceedings to go forward, the defendant is subject to the provisions of sections 4246 and 4248.

(e) DISCHARGE.—When the director of the facility in which a defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the

<sup>1</sup> So in original. Does not conform to section catchline.

<sup>2</sup> So in original. Probably should be followed by a period.

<sup>1</sup> So in original. Probably should be "stand trial or to undergo postrelease proceedings".