

4247(d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence 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, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial or other proceedings. Upon discharge, the defendant is subject to the provisions of chapters 207 and 227.

(f) **ADMISSIBILITY OF FINDING OF COMPETENCY.**—A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged.

(June 25, 1948, ch. 645, 62 Stat. 855; Pub. L. 98-473, title II, § 403(a), Oct. 12, 1984, 98 Stat. 2057; Pub. L. 109-248, title III, § 302(2), July 27, 2006, 120 Stat. 619.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 876 (May 13, 1930, ch. 254, § 6, 46 Stat. 271).

Changes were made in phraseology and surplusage omitted.

#### Editorial Notes

##### AMENDMENTS

2006—Pub. L. 109-248, § 302(2)(A), inserted “to undergo postrelease proceedings” after “trial” in section catchline.

Subsec. (a). Pub. L. 109-248, § 302(2)(B), inserted “or at any time after the commencement of probation or supervised release and prior to the completion of the sentence,” after “sentencing of the defendant.”

Subsec. (d). Pub. L. 109-248, § 302(2)(C), substituted “proceedings to go forward” for “trial to proceed” wherever appearing and “sections 4246 and 4248” for “section 4246” in concluding provisions.

Subsec. (e). Pub. L. 109-248, § 302(2)(D), inserted “or other proceedings” after “trial” and substituted “chapters 207 and 227” for “chapter 207”.

1984—Pub. L. 98-473 amended section generally, substituting “Determination of mental competency to stand trial” for “Examination and transfer to hospital” in section catchline, and substituting provisions relating to motion, report, hearing, etc., for determination of competency of defendant, for provisions relating to boards of examiners for examination of inmates of Federal penal and correctional institutions and transfer of such inmates to hospitals.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-473, title II, § 401, Oct. 12, 1984, 98 Stat. 2057, provided that: “This chapter [chapter IV (§§ 401-406)] of title II of Pub. L. 98-473, enacting section 20 of this title and amending this chapter, section 3006A of this title, and rule 12.2 of the Federal Rules of Criminal Procedure and rule 704 of the Federal Rules of Evidence set out in the Appendix to this title] may be cited [cited] as the ‘Insanity Defense Reform Act of 1984.’”

#### § 4242. Determination of the existence of insanity at the time of the offense

(a) **MOTION FOR PRETRIAL PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.**—Upon the filing of a notice, as provided in Rule 12.2 of the Federal

Rules of Criminal Procedure, that the defendant intends to rely on the defense of insanity, the court, upon motion of the attorney for the Government, shall 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).

(b) **SPECIAL VERDICT.**—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the Government, or on the court’s own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant—

- (1) guilty;
- (2) not guilty; or
- (3) not guilty only by reason of insanity.

(June 25, 1948, ch. 645, 62 Stat. 855; Pub. L. 98-473, title II, § 403(a), Oct. 12, 1984, 98 Stat. 2059.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 877 (May 13, 1930, ch. 254, § 7, 46 Stat. 272).

Minor change was made in phraseology.

#### Editorial Notes

##### AMENDMENTS

1984—Pub. L. 98-473 amended section generally, substituting “Determination of the existence of insanity at the time of the offense” for “Retransfer upon recovery” in section catchline, and substituting provisions relating to motion for pretrial psychiatric or psychological examination, and special verdict, for provisions relating to retransfer to a penal or correctional institution upon recovery of an inmate of the United States hospital for defective delinquents.

#### § 4243. Hospitalization of a person found not guilty only by reason of insanity

(a) **DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.**—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).

(b) **PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.**—Prior to the date of the hearing, pursuant to subsection (c), the court shall 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.**—A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.

(d) **BURDEN OF PROOF.**—In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect. With respect to any other offense, the person has the