

**RULE 3.218 | COMMITMENT OF A DEFENDANT FOUND NOT GUILTY BY REASON OF INSANITY**

**(a) Commitment; 6-Month Report.** The Department of Children and Family Services shall admit to an appropriate facility a defendant found not guilty by reason of insanity under rule 3.217 and found to meet the criteria for commitment for hospitalization and treatment and may retain and treat the defendant. No later than 6 months from the date of admission, the administrator of the facility shall file with the court a report, and provide copies to all parties, which shall address the issues of further commitment of the defendant. If at any time during the 6 month period, or during any period of extended hospitalization that may be ordered under this rule, the administrator of the facility shall determine that the defendant no longer meets the criteria for commitment, the administrator shall notify the court by such a report and provide copies to all parties. The procedure for determinations of the confidential status of reports is governed by Rule of Judicial Administration 2.420.

**(b) Right to Hearing if Committed upon Acquittal.** The court shall hold a hearing within 30 days of the receipt of any report from the administrator of the facility on the issues raised thereby, and the defendant shall have a right to be present at the hearing. If the court determines that the defendant continues to meet the criteria for continued commitment or treatment, the court shall order further commitment or treatment for a period not to exceed 1 year. The same procedure shall be repeated before the expiration of each additional 1 year period in which the defendant is retained by the facility.

**(c) Evidence to Determine Continuing Insanity.** Before any hearing held under this rule, the court may, on its own motion, and shall, on motion of counsel for the state or defendant, appoint no fewer than 2 nor more than 3 experts to examine the defendant relative to the criteria for continued commitment or placement of the defendant and shall specify the date by which the experts shall report to the court on these issues and provide copies to all parties.



### Committee Notes

**1980 Adoption.** This provision provides for hospitalization of a defendant found not guilty by reason of insanity and is meant to track similar provisions in the rules relating to competency to stand trial and the complementary statutes. It provides for an initial 6 month period of commitment with successive 1-year periods; it provides for reports to the court and for the appointment of experts to examine the defendant when such hearings are necessary. The underlying rationale of this rule is to make standard, insofar as possible, the commitment process, whether it be for incompetency to stand trial or following a judgment of not guilty by reason of insanity.

For complementary statute providing for hospitalization of defendant adjudicated not guilty by reason of insanity, see section 912.15, Florida Statutes.

**1988 Amendment.** The amendments to this rule, including the title, provide for commitment of defendants found not guilty by reason of insanity in violation of probation or community control proceedings, as well as those so found at trial. The amendments further reflect 1985 amendments to chapter 916, Florida Statutes.

**Introductory Note Relating to Amendments to Rules 3.210 to 3.219.** See notes following rule 3.210 for the text of this note.

