

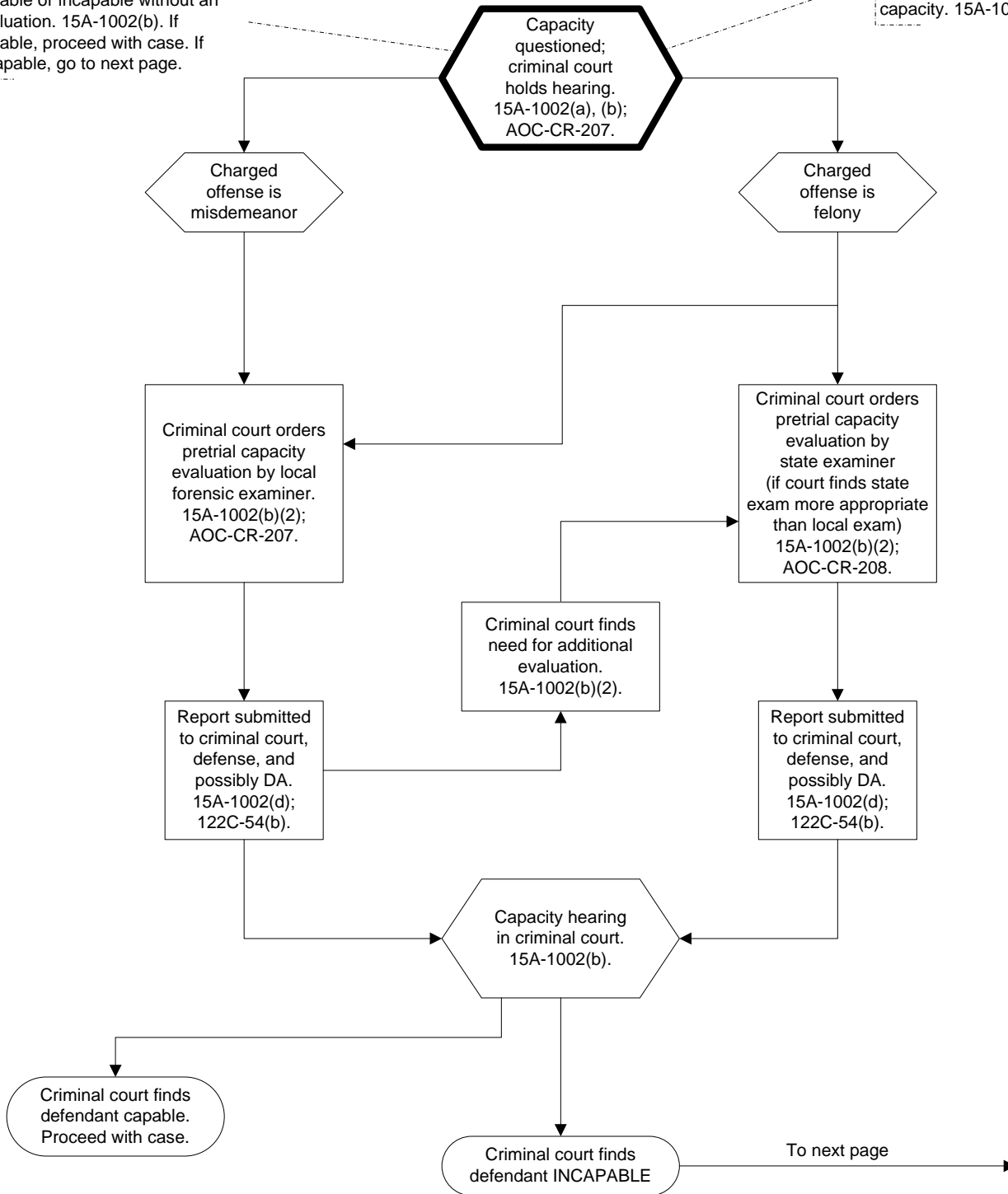
Capacity and Commitment Flowchart

From next page

Criminal Side: Capacity

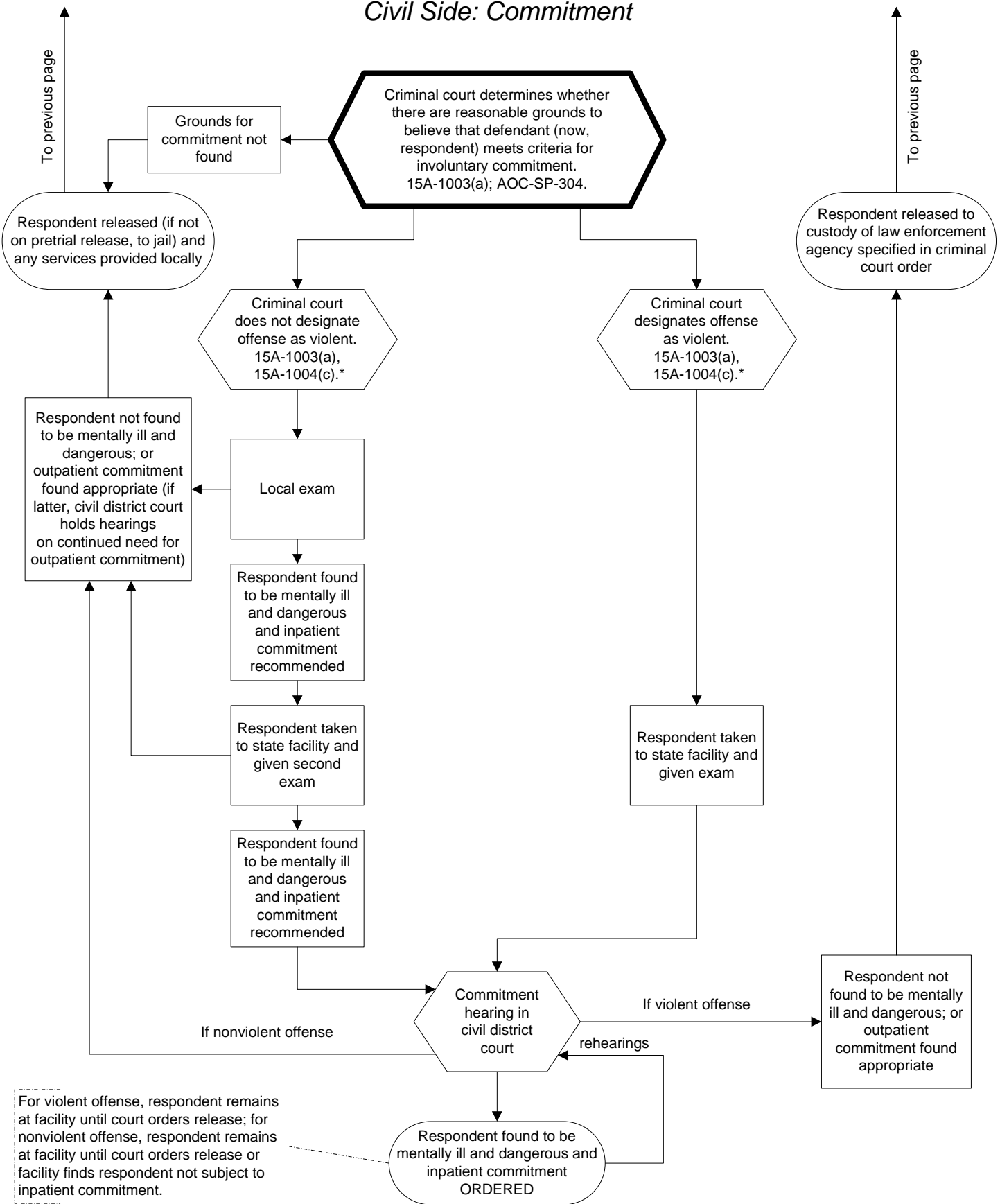
Criminal court may find defendant capable or incapable without an evaluation. 15A-1002(b). If capable, proceed with case. If incapable, go to next page.

On defendant's release from commitment, criminal court may initiate supplemental hearings on capacity. 15A-1007.*



*At a supplemental hearing, the court may find the defendant capable or incapable of proceeding, modify pretrial release conditions, find that the defendant meets the statutory criteria for dismissal under GS 15A-1008, or find that the defendant is constitutionally entitled to dismissal under *Jackson v. Indiana*, 406 U.S. 715 (1972). If the defendant is incapable and is not entitled to dismissal, the prosecutor may dismiss with or without leave under GS 15A-1009 (although dismissal with leave may make it difficult for the defendant to obtain treatment because criminal charges remain pending).

Civil Side: Commitment



*Various statutes in GS 122C distinguish between the handling of nonviolent and violent offenses following a finding of incapacity and referral for commitment proceedings. For a more detailed discussion of those requirements, see Chapter 8 of the North Carolina Civil Commitment Manual, available at www.ncids.org under Reference Manuals.