

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/19/13
A Bill

HOUSE BILL 1498

By: Representative H. Wilkins

For An Act To Be Entitled

AN ACT TO CLARIFY DEFINITIONS CONCERNING THE CRIMINAL DEFENSE OF MENTAL DISEASE OR DEFECT; TO AUTHORIZE THE DISMISSAL OF A FRIVOLOUS OR REPETITIVE LAWSUIT REGARDING THE CONDITIONAL RELEASE OF INDIVIDUALS PLACED IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES BY A CRIMINAL COURT AFTER A CRIMINAL DEFENSE OF MENTAL DISEASE OR DEFECT; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY DEFINITIONS AND LAWSUITS CONCERNING THE CRIMINAL DEFENSE OF MENTAL DISEASE OR DEFECT AND CONDITIONAL RELEASES OF MENTALLY ILL DEFENDANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-2-301(7) and (8), concerning definitions regarding the criminal defense of mental disease or defect are amended to read as follows:

(7) "Qualified psychiatrist" means a licensed psychiatrist who has successfully completed ~~either~~ or is currently participating in a post-residency fellowship in forensic psychiatry accredited by the American Board of Psychiatry and Neurology or has successfully completed a forensic certification course approved by the department, and who is currently approved by the department to administer a forensic examination as defined in this subchapter;

(8) "Qualified psychologist" means a licensed psychologist who



has ~~received a post-doctoral diploma in forensic psychology accredited by the American Board of Professional Psychology or~~ successfully completed or is currently participating in a formal postdoctoral fellowship training program in forensic psychology or has successfully completed a forensic certification course approved by the department, and who is currently approved by the department to administer a forensic examination as defined in this subchapter;

SECTION 2. Arkansas Code § 5-2-301, concerning definitions regarding the criminal defense of mental disease or defect, is amended to add two additional subdivisions to read as follows:

(11) "Frivolous" means clearly lacking any basis in fact or law;
and

(12) "Repetitive" means filed within six (6) months of an application under § 5-2-316 that has been previously denied and that fails to demonstrate a material change in circumstances.

SECTION 3. Arkansas Code § 5-2-316(a), concerning petitions for discharge, modification, or revocation from an order for conditional release of a mentally ill person, is amended to add an additional subdivision to read as follows:

(4) On its own motion or on the motion of a party, a court shall dismiss an application made under this section if the court determines that the application is frivolous or repetitive.

SECTION 4. Arkansas Code § 16-86-103(a), concerning examination and observation regarding an insanity defense, is amended to read as follows:

(a) If the court orders the defendant to undergo examination and observation, the examination and observation of the defendant shall be made by:

(1) A licensed psychiatrist who:

(A) Has successfully completed ~~either~~ either or is currently participating in:

(i) A post-residency fellowship in forensic psychiatry accredited by the American Board of Psychiatry and Neurology; or

(ii) A Has successfully completed a forensic

certification course approved by the Department of ~~Health and~~ Human Services;
and

(B) Is currently approved by the ~~department~~ Department of Human Services to administer forensic examinations; or

(2) A licensed psychologist who has ~~either~~:

~~(A)(i) Received a post-doctoral diploma in forensic psychology accredited by the American Board of Professional Psychology; or~~

(A) Successfully completed or is currently participating in a formal postdoctoral fellowship training program in forensic psychology or has ~~(ii) Successfully~~ successfully completed a forensic certification course approved by the ~~department~~ Department of Human Services; and

(B) Is currently approved by the ~~department~~ Department of Human Services to administer forensic examinations.

/s/H. Wilkins

APPROVED: 04/08/2013