

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/19/13

A Bill

HOUSE BILL 1498

5 By: Representative H. Wilkins
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For An Act To Be Entitled

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

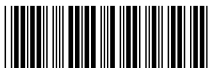
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17 TO CLARIFY DEFINITIONS AND LAWSUITS
18 CONCERNING THE CRIMINAL DEFENSE OF MENTAL
19 DISEASE OR DEFECT AND CONDITIONAL
20 RELEASES OF MENTALLY ILL DEFENDANTS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 5-2-301(7) and (8), concerning definitions
27 regarding the criminal defense of mental disease or defect are amended to
28 read as follows:

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

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



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

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

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

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

17
18 SECTION 3. Arkansas Code § 5-2-316(a), concerning petitions for
19 discharge, modification, or revocation from an order for conditional release
20 of a mentally ill person, is amended to add an additional subdivision to read
21 as follows:

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

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

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

31 (1) *A licensed psychiatrist who:*

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

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

36 (ii) *A Has successfully completed a forensic*

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

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

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

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

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

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

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15 /s/H. Wilkins
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