

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
6

7 **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.
15

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17 **Subtitle**

18 TO CLARIFY DEFINITIONS AND LAWSUITS
19 CONCERNING THE CRIMINAL DEFENSE OF MENTAL
20 DISEASE OR DEFECT AND CONDITIONAL
21 RELEASES OF MENTALLY ILL DEFENDANTS.
22

23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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.

25
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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18 **APPROVED: 04/08/2013**