

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

# A Bill

HOUSE BILL 1498

5 By: Representative H. Wilkins  
6

## 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.  
21  
22  
23

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;

8  
 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.