

HOUSE BILL NO. HB0019

Criminal procedure-mental evaluations.

Sponsored by: Select Committee on Mental Health and Substance Abuse Services

A BILL

for

1 AN ACT relating to criminal procedure; clarifying  
2 procedures for mental evaluations in criminal cases as  
3 specified; amending a definition; and providing for an  
4 effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 7-11-301(a)(iii), 7-11-303(c)(intro),  
9 7-11-304(d), (e), by creating new subsections (f) and (g)  
10 and by renumbering (f) as (h) are amended to read:

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12 **7-11-301. Definitions.**

13

14 (a) As used in this act:

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1 (iii) "Mental deficiency" means a defect  
2 attributable to intellectual disability, brain damage and  
3 ~~learning-cognitive~~ disabilities;

4  
5 **7-11-303. Examination of accused to determine fitness**  
6 **to proceed; reports; commitment; defenses and objections.**

7  
8 (c) Written reports of the ~~pretrial~~ examination shall  
9 be filed with the clerk of court. The report shall include:

10  
11 **7-11-304. Responsibility for criminal conduct; plea;**  
12 **examination; commitment; use of statements by defendant.**

13  
14 (d) In all cases where a plea of "not guilty by  
15 reason of mental illness or deficiency" is made, the ~~judge~~  
16 ~~court~~ shall order ~~the defendant examined as provided in~~  
17 ~~W.S. 7-11-303(b). If an examination provided in W.S.~~  
18 ~~7-11-303(b) was made, the report may be received in~~  
19 ~~evidence and no new examination shall be required unless,~~  
20 ~~in the discretion of the court, another examination is~~  
21 ~~necessary. Within five (5) days after receiving a copy of~~  
22 ~~the report, both the accused and the state, upon written~~  
23 ~~request, may obtain an order granting them an examination~~  
24 ~~of the accused by a designated examiner of their own~~

1 ~~choosing. The clerk of court shall deliver copies of the~~  
2 ~~report or reports to the district attorney and to the~~  
3 ~~accused or his counsel. All reports required by this~~  
4 ~~subsection shall conform to the requirements of W.S.~~  
5 ~~7-11-303(c). These reports are not public records or open~~  
6 ~~to the public~~ an examination of the defendant by a  
7 designated examiner. The order may include, but is not  
8 limited to, an examination of the defendant at the Wyoming  
9 state hospital on an inpatient or outpatient basis, at a  
10 local mental health center on an inpatient or outpatient  
11 basis, or at his place of detention. In selecting the  
12 examination site, the court may consider proximity to the  
13 court, availability of an examiner and the necessity for  
14 security precautions. If the order provides for commitment  
15 of the defendant to a designated facility, the commitment  
16 shall continue no longer than a thirty (30) day period for  
17 the study of the mental condition of the defendant.

18  
19 (e) If ~~the initial report contains the recommendation~~  
20 ~~that the accused be held in a designated facility pending~~  
21 ~~trial, the court may order that the accused be committed to~~  
22 ~~or held in a designated facility pending trial~~ an  
23 examination of a defendant's fitness to proceed has been  
24 ordered pursuant to W.S. 7-11-303, an examination following

1 a plea of "not guilty by reason of mental illness or  
2 deficiency" shall not occur, or be ordered, until the court  
3 has found the defendant is competent to proceed under W.S.  
4 7-11-303.

5  
6 (f) A written report of the examination shall be  
7 filed with the clerk of court. The report shall include:

8  
9 (i) Detailed findings, including, but not  
10 limited to, the data and reasoning that link the opinions  
11 specified in paragraphs (ii) and (iii) of this subsection;

12  
13 (ii) An opinion as to whether the defendant has  
14 a mental illness or deficiency;

15  
16 (iii) An opinion as to whether at the time of  
17 the alleged criminal conduct the defendant, as a result of  
18 mental illness or deficiency, lacked substantial capacity  
19 to appreciate the wrongfulness of his conduct or to conform  
20 his conduct to the requirements of law.

21  
22 (g) The clerk of court shall deliver copies of the  
23 report to the district attorney and to the defendant or his  
24 counsel. The report shall not be a public record or open

1 to the public. If an examination provided under subsection  
2 (d) of this section was conducted, the report may be  
3 received in evidence and no new examination shall be  
4 required unless requested under this subsection. Within  
5 five (5) days after receiving a copy of the report, the  
6 defendant or the state, upon written request, may obtain an  
7 order granting an examination of the defendant by a  
8 designated examiner chosen by the requester of the  
9 examination.

10  
11 ~~(f)~~(h) Except as otherwise provided in this  
12 subsection, no statement made by the defendant in the  
13 course of any examination or treatment pursuant to this  
14 section and no information received by any person in the  
15 course thereof is admissible in evidence in any criminal  
16 proceeding on any issue other than that of the mental  
17 condition of the defendant. If the defendant testifies in  
18 his own behalf, any statement made by him in the course of  
19 any examination or treatment pursuant to this section may  
20 be admitted:

21  
22 (i) For impeachment purposes; or  
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1                   (ii) As evidence in a criminal prosecution for  
2 perjury.

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4           **Section 2.** W.S. 7-11-303(c)(iv) is repealed.

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6           **Section 3.** This act is effective July 1, 2009.

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(END)