

1 AN ACT relating to mental illness.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 532.130 is amended to read as follows:

4 (1) An adult, or a minor under eighteen (18) years of age who may be tried as an adult,
5 convicted of a crime and subject to sentencing, is referred to in **this section and**
6 KRS 532.135 and 532.140 as a defendant.

7 (2) A defendant with significant subaverage intellectual functioning existing
8 concurrently with substantial deficits in adaptive behavior and manifested during
9 the developmental period is referred to in KRS 532.135 and 532.140 as a defendant
10 with a serious intellectual disability. "Significantly subaverage general intellectual
11 functioning" is defined as an intelligence quotient (I.Q.) of seventy (70) or below.

12 **(3) A defendant is referred to in Sections 2 and 3 of this Act as a defendant with**
13 **serious mental illness if:**

14 **(a) At the time of the offense, he or she has a manifest history of one (1) or**
15 **more of the following mental disorders using the most recent edition of the**
16 **Diagnostic and Statistical Manual of Mental Disorders published by the**
17 **American Psychiatric Association:**

18 **1. Schizophrenia;**

19 **2. Schizoaffective disorder;**

20 **3. Bipolar disorder;**

21 **4. Major depressive disorder; or**

22 **5. Delusional disorder; and**

23 **(b) The disorder is not manifested primarily by repeated criminal conduct or**
24 **attributable solely to the acute effects of the voluntary use of alcohol or**
25 **other drugs.**

26 ➔Section 2. KRS 532.135 is amended to read as follows:

27 (1) At least thirty (30) days before trial, the defendant shall file a motion with the trial

1 court wherein the defendant may allege that he or she is a defendant with a serious
 2 intellectual disability or a defendant with serious mental illness, and present
 3 evidence with regard thereto. The Commonwealth may offer evidence in rebuttal.

4 (2) At least ten (10) days before the beginning of the trial, the court shall determine
 5 whether or not the defendant is a defendant with a serious intellectual disability or a
 6 defendant with serious mental illness, in accordance with the criteria set
 7 forth~~[definition]~~ in KRS 532.130.

8 (3) The decision of the court shall be placed in the record.

9 (4) The pretrial determination of the trial court shall not preclude the defendant from
 10 raising any legal defense during the trial. If it is determined the defendant is a
 11 defendant~~[an offender]~~ with a serious intellectual disability or a defendant with
 12 serious mental illness, he or she shall be sentenced as provided in KRS 532.140.

13 ➔Section 3. KRS 532.140 is amended to read as follows:

14 (1) KRS 532.010, 532.025, and 532.030 to the contrary notwithstanding, no
 15 defendant~~[offender]~~ who has been determined to be a defendant~~[an offender]~~ with
 16 a serious intellectual disability or a defendant with serious mental illness under~~[~~
 17 ~~the provisions of]~~ KRS 532.135, shall be subject to execution. The same procedure
 18 as required in KRS 532.025 and 532.030 shall be utilized in determining the
 19 sentence of the defendant~~[offender]~~ with a serious intellectual disability or serious
 20 mental illness under this section and~~[the provisions of]~~ KRS 532.135~~[and~~
 21 ~~532.140]~~.

22 (2) This section and~~[The provisions of]~~ KRS 532.135~~[and 532.140]~~ do not preclude
 23 the sentencing of a defendant~~[an offender]~~ with a serious intellectual disability or
 24 serious mental illness to any other sentence authorized by KRS 532.010, 532.025,
 25 or 532.030 for a crime which is a capital offense.

26 (3) (a) For a defendant with a serious intellectual disability, this section and~~[the~~
 27 ~~provisions of]~~ KRS 532.135~~[and 532.140]~~ shall apply only to trials

1 commenced after July 13, 1990.

2 **(b) For a defendant with serious mental illness, this section and Section 2 of**
3 **this Act shall apply only to trials commenced after the effective date of this**
4 **Act.**