

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 active symptoms and a documented***
15 ***history, including a diagnosis, of one (1) or more of the following mental***
16 ***disorders using the most recent edition of the Diagnostic and Statistical***
17 ***Manual of Mental Disorders published by the American Psychiatric***
18 ***Association:***

19 ***1. Schizophrenia;***

20 ***2. Schizoaffective disorder;***

21 ***3. Bipolar disorder; or***

22 ***4. 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 ***one hundred twenty (120)***~~*thirty (30)*~~ days before trial, the defendant shall

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

5 (2) At least ninety (90)~~ten (10)~~ days before the beginning of the trial, the court shall
 6 determine whether or not the defendant is a defendant with a serious intellectual
 7 disability or a defendant with serious mental illness, in accordance with the
 8 criteria set forth~~definition~~ in KRS 532.130.

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

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

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

15 (1) KRS 532.010, 532.025, and 532.030 to the contrary notwithstanding, a defendant~~no offender~~
 16 ~~no offender~~ who has been determined to be a defendant~~an offender~~ with a
 17 serious intellectual disability or a defendant with serious mental illness under~~the~~
 18 ~~provisions of~~ KRS 532.135~~,~~ shall not be subject to execution. The same
 19 procedure as required in KRS 532.025 and 532.030 shall be utilized in determining
 20 the sentence of the defendant~~offender~~ with a serious intellectual disability or
 21 serious mental illness under this section and~~the provisions of~~ KRS 532.135~~and~~
 22 532.140].

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

27 (3) (a) For a defendant with a serious intellectual disability, this section and~~the~~

1 ~~provisions of~~ KRS 532.135 ~~and 532.140~~ shall apply only to trials
2 commenced after July 13, 1990.

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