

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

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:*

7

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:

11

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

13

1 (a) As used in this act:

2

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

6

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

9

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

12

13 **7-11-304. Responsibility for criminal conduct; plea;**
14 **examination; commitment; use of statements by defendant.**

15

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

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

21
22 (e) If ~~the initial report contains the recommendation~~
23 ~~that the accused be held in a designated facility pending~~

1 ~~trial, the court may order that the accused be committed to~~
2 ~~or held in a designated facility pending trial~~ an
3 examination of a defendant's fitness to proceed has been
4 ordered pursuant to W.S. 7-11-303, an examination following
5 a plea of "not guilty by reason of mental illness or
6 deficiency" shall not occur, or be ordered, until the court
7 has found the defendant is competent to proceed under W.S.
8 7-11-303.

9
10 (f) A written report of the examination shall be
11 filed with the clerk of court. The report shall include:

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13 (i) Detailed findings, including, but not
14 limited to, the data and reasoning that link the opinions
15 specified in paragraphs (ii) and (iii) of this subsection;

16
17 (ii) An opinion as to whether the defendant has
18 a mental illness or deficiency;

19
20 (iii) An opinion as to whether at the time of
21 the alleged criminal conduct the defendant, as a result of
22 mental illness or deficiency, lacked substantial capacity

1 to appreciate the wrongfulness of his conduct or to conform
2 his conduct to the requirements of law.

3
4 (g) The clerk of court shall deliver copies of the
5 report to the district attorney and to the defendant or his
6 counsel. The report shall not be a public record or open
7 to the public. If an examination provided under subsection
8 (d) of this section was conducted, the report may be
9 received in evidence and no new examination shall be
10 required unless requested under this subsection. Within
11 five (5) days after receiving a copy of the report, the
12 defendant or the state, upon written request, may obtain an
13 order granting an examination of the defendant by a
14 designated examiner chosen by the requester of the
15 examination.

16
17 ~~(f)~~(h) Except as otherwise provided in this
18 subsection, no statement made by the defendant in the
19 course of any examination or treatment pursuant to this
20 section and no information received by any person in the
21 course thereof is admissible in evidence in any criminal
22 proceeding on any issue other than that of the mental
23 condition of the defendant. If the defendant testifies in

1 his own behalf, any statement made by him in the course of
2 any examination or treatment pursuant to this section may
3 be admitted:

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5 (i) For impeachment purposes; or

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7 (ii) As evidence in a criminal prosecution for
8 perjury.

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

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12 **Section 3** This act is effective July 1, 2009

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(END)