

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 88

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-36-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) At the trial of a criminal case in which the defendant intends to interpose the defense of insanity, evidence may be introduced to prove the defendant's sanity or insanity at the time at which the defendant is alleged to have committed the offense charged in the indictment or information.

(b) When notice of an insanity defense is filed **in a case in which the defendant is not charged with a homicide offense under IC 35-42-1**, the court shall appoint two (2) or three (3) competent disinterested:

- (1) psychiatrists;
- (2) psychologists endorsed by the state psychology board as health service providers in psychology; or
- (3) physicians;

who have expertise in determining insanity. At least one (1) of ~~whom the individuals appointed under this subsection~~ must be a psychiatrist ~~to or~~ **psychologist.** ~~The individuals appointed under this subsection shall~~ examine the defendant and ~~to~~ testify at the trial. This testimony shall follow the presentation of the evidence for the prosecution and for the defense, including ~~the~~ testimony of any ~~medical~~ **mental health** experts employed by the state or by the defense.

(c) **When notice of an insanity defense is filed in a case in which**

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the defendant is charged with a homicide offense under IC 35-42-1, the court shall appoint two (2) or three (3) competent disinterested:

- (1) psychiatrists;
- (2) psychologists endorsed by the state psychology board as health service providers in psychology; or
- (3) physicians;

who have expertise in determining insanity. At least one (1) individual appointed under this subsection must be a psychiatrist and at least one (1) individual appointed under this subsection must be a psychologist. The individuals appointed under this subsection shall examine the defendant and testify at the trial. This testimony must follow the presentation of the evidence for the prosecution and for the defense, including the testimony of any mental health experts employed by the state or by the defense.

~~(c)~~ (d) If a defendant does not adequately communicate, participate, and cooperate with the ~~medical~~ **mental health** witnesses appointed by the court after being ordered to do so by the court, the defendant may not present as evidence the testimony of any other ~~medical~~ **mental health** witness:

- (1) with whom the defendant adequately communicated, participated, and cooperated; and
- (2) whose opinion is based upon examinations of the defendant;

unless the defendant shows by a preponderance of the evidence that the defendant's failure to communicate, participate, or cooperate with the ~~medical~~ **mental health** witnesses appointed by the court was caused by the defendant's mental illness.

~~(d)~~ (e) The ~~medical~~ **mental health** witnesses appointed by the court may be cross-examined by both the prosecution and the defense, and each side may introduce evidence in rebuttal to the testimony of ~~such~~ a ~~medical~~ **mental health** witness.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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