

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 **As used in this subsection, a documented history and diagnosis shall be from a**
27 **mental health professional as defined in KRS 645.020(7)(a) to (d).**

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

- 2 (1) At least **one hundred twenty (120)**~~[thirty (30)]~~ days before trial, the defendant shall
3 file a motion with the trial court wherein the defendant may allege that he **or she** is
4 a defendant with a serious intellectual disability **or a defendant with serious mental**
5 **illness** and present evidence with regard thereto. The Commonwealth may offer
6 evidence in rebuttal.
- 7 (2) At least **ninety (90)**~~[ten (10)]~~ days before the beginning of the trial, the court shall
8 determine whether or not the defendant is a defendant with a serious intellectual
9 disability **or a defendant with serious mental illness,** in accordance with the
10 **criteria set forth**~~[definition]~~ in KRS 532.130.
- 11 (3) The decision of the court shall be placed in the record.
- 12 (4) The pretrial determination of the trial court shall not preclude the defendant from
13 raising any legal defense during the trial. If it is determined the defendant is **a**
14 **defendant**~~[an offender]~~ with a serious intellectual disability **or a defendant with**
15 **serious mental illness,** he **or she** shall be sentenced as provided in KRS 532.140.

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

- 17 (1) KRS 532.010, 532.025, and 532.030 to the contrary notwithstanding, **a defendant**~~[~~
18 ~~no offender]~~ who has been determined to be **a defendant**~~[an offender]~~ with a
19 serious intellectual disability **or a defendant with serious mental illness** under~~[the~~
20 ~~provisions of]~~ KRS 532.135~~[,]~~ shall **not** be subject to execution. The same
21 procedure as required in KRS 532.025 and 532.030 shall be utilized in determining
22 the sentence of the **defendant**~~[offender]~~ with a serious intellectual disability **or**
23 **serious mental illness** under **this section and**~~[the provisions of]~~ KRS 532.135~~[and~~
24 532.140].
- 25 (2) **This section and**~~[The provisions of]~~ KRS 532.135~~[and 532.140]~~ do not preclude
26 the sentencing of **a defendant**~~[an offender]~~ with a serious intellectual disability **or**
27 **serious mental illness** to any other sentence authorized by KRS 532.010, 532.025,

1 or 532.030 for a crime which is a capital offense.

2 (3) (a) For a defendant with a serious intellectual disability, this section and~~the~~
3 ~~provisions of~~ KRS 532.135 ~~and 532.140~~ shall apply only to trials
4 commenced after July 13, 1990.

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