

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 KRS 532.135 and
6 532.140 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) A defendant is referred to in Sections 2 and 3 of this Act as a defendant with**
13 **serious mental illness if, at the time of the offense, he or she has a**
14 **documented history of one (1) or more of the following mental disorders**
15 **using the current edition of the American Psychiatric Association's**
16 **Diagnostic and Statistical Manual of Mental Disorders:**

17 **1. Schizophrenia;**

18 **2. Schizoaffective disorder;**

19 **3. Bipolar disorder;**

20 **4. Major depressive disorder;**

21 **5. Delusional disorder; or**

22 **6. Post-traumatic stress disorder.**

23 **(b) Serious mental illness does not include a disorder manifested primarily by**
24 **repeated criminal conduct or attributable solely to the acute effects of the**
25 **voluntary use of alcohol or 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 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 definition in KRS
7 532.130.

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 an
11 offender with a serious intellectual disability or an offender with serious mental
12 illness, he 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 offender
15 who has been determined to be an offender with a serious intellectual disability or
16 an offender with serious mental illness under the provisions of KRS 532.135, shall
17 be subject to execution. The same procedure as required in KRS 532.025 and
18 532.030 shall be utilized in determining the sentence of the offender with a serious
19 intellectual disability or serious mental illness under the provisions of KRS
20 532.135 and 532.140.

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

25 (3) (a) For a defendant with a serious intellectual disability, the provisions of KRS
26 532.135 and 532.140 shall apply only to trials commenced after July 13, 1990.

27 (b) For a defendant with serious mental illness, the provisions of this section

1 *and Section 2 of this Act shall apply only to trials commenced after the*
2 *effective date of this Act.*