

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 58 Session of 2009

INTRODUCED BY PICCOLA, WAUGH, ORIE, RAFFERTY AND BROWNE,
JANUARY 20, 2009

REFERRED TO JUDICIARY, JANUARY 20, 2009

AN ACT

1 Amending the act of July 9, 1976 (P.L.817, No.143), entitled "An
2 act relating to mental health procedures; providing for the
3 treatment and rights of mentally disabled persons, for
4 voluntary and involuntary examination and treatment and for
5 determinations affecting those charged with crime or under
6 sentence," further providing for incompetence to proceed on
7 criminal charges and lack of criminal responsibility as
8 defense.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 402(e) of the act of July 9, 1976 (P.L.
12 817, No.143), known as the Mental Health Procedures Act, is
13 amended to read:

14 Section 402. Incompetence to Proceed on Criminal Charges and
15 Lack of Criminal Responsibility as Defense.--* * *

16 (e) Conduct of Examination; Report.--When ordered by the
17 court, an incompetency examination shall take place under the
18 following conditions:

19 (1) It shall be conducted as an outpatient examination
20 unless an inpatient examination is, or has been, authorized
21 under another provision of this act.

1 (2) It shall be conducted by at least one psychiatrist and
2 may relate both to competency to proceed and to criminal
3 responsibility for the crime charged.

4 (3) The person shall be entitled to have counsel present
5 with him and shall not be required to answer any questions [or
6 to perform tests unless he has moved for or agreed to the
7 examination] that may tend to incriminate the person. Nothing
8 said or done by such person during the examination may be used
9 as evidence against him in any criminal proceedings on any issue
10 other than that of his mental condition.

11 (4) A report shall be submitted to the court and to counsel
12 and shall contain a description of the examination, which shall
13 include:

14 (i) diagnosis of the person's mental condition;

15 (ii) an opinion as to his capacity to understand the nature
16 and object of the criminal proceedings against him and to assist
17 in his defense;

18 (iii) when so requested, an opinion as to his mental
19 condition in relation to the standards for criminal
20 responsibility as then provided by law if it appears that the
21 facts concerning his mental condition may also be relevant to
22 the question of legal responsibility; and

23 (iv) when so requested, an opinion as to whether he had the
24 capacity to have a particular state of mind, where such state of
25 mind is a required element of the criminal charge.

26 * * *

27 Section 2. This act shall take effect in 60 days.