



Adopted

Rejected

COMMITTEE REPORT

YES: 13
NO: 0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1432, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 35-36-9-2.5 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2026]: **Sec. 2.5. (a) After the state has filed the charging**
- 5 **instrument under IC 35-50-2-9(a) that seeks a death sentence, the**
- 6 **court shall appoint two (2) or three (3) competent disinterested:**
- 7 **(1) psychiatrists;**
- 8 **(2) psychologists endorsed by the state psychology board as**
- 9 **health service providers in psychology; or**
- 10 **(3) physicians;**
- 11 **who have expertise in diagnosing and treating intellectual**
- 12 **disabilities. At least one (1) person appointed under this subsection**
- 13 **must be a psychiatrist and at least one (1) person appointed under**

1 this subsection must be a psychologist.

2 (b) The persons appointed under subsection (a) shall examine
3 the defendant and each shall prepare a separate written evaluation
4 for the purpose of providing evidence of the following:

5 (1) Whether the defendant has a significantly subaverage level
6 of intellectual functioning.

7 (2) Whether the defendant's adaptive behavior is substantially
8 impaired.

9 (3) Whether the conditions described in subdivisions (1) and
10 (2) existed before the defendant became twenty-two (22) years
11 of age.

12 (c) After all written evaluations have been completed, each
13 person appointed under subsection (a) shall:

14 (1) transmit a copy their evaluation to the defendant; and

15 (2) notify the court that they have transmitted a copy of their
16 evaluation to the defendant.

17 SECTION 2. IC 35-36-9-3, AS AMENDED BY P.L.117-2015,
18 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2026]: Sec. 3. (a) The defendant may file a petition alleging
20 that the defendant is an individual with an intellectual disability **not**
21 **later than thirty (30) days after receipt of all evaluations described**
22 **in section 2.5 of this chapter.**

23 (b) The petition must be filed not later than twenty (20) days before
24 the omnibus date.

25 (c) Whenever the defendant files a petition under this section, the
26 court shall order an evaluation of the defendant for the purpose of
27 providing evidence of the following:

28 (1) Whether the defendant has a significantly subaverage level of
29 intellectual functioning.

30 (2) Whether the defendant's adaptive behavior is substantially
31 impaired.

32 (3) Whether the conditions described in subdivisions (1) and (2)
33 existed before the defendant became twenty-two (22) years of age.

34 (b) If the defendant elects not to file a petition alleging that the
35 defendant is an individual with a disability, the intellectual
36 disability evaluations and any other evidence produced as a result
37 of the examination of the defendant are privileged and inadmissible
38 at trial by either party for any purpose.

1 (c) If the defendant files a petition alleging that the defendant is
2 an individual with a disability the court shall:

3 (1) order the persons who conducted the examinations of the
4 defendant under section 2.5 of this chapter to transmit a copy
5 of their evaluations to the court and to the appropriate
6 prosecuting attorney; and

7 (2) set the matter for hearing.

8 SECTION 3. IC 35-36-9-4, AS AMENDED BY P.L.117-2015,
9 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2026]: Sec. 4. (a) ~~The court shall conduct a~~ **The persons who**
11 **examined the defendant under section 2.5 of this chapter shall**
12 **testify at the** hearing on ~~the a~~ petition **filed** under this chapter

13 (b) At the hearing, the defendant must prove by clear and
14 convincing evidence that the defendant is an individual with an
15 intellectual disability.

16 SECTION 4. IC 35-36-9-5, AS AMENDED BY P.L.117-2015,
17 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2026]: Sec. 5. ~~Not later than ten (10) days before the initial~~
19 ~~trial date;~~ The court shall determine **before trial** whether the defendant
20 is an individual with an intellectual disability based on the evidence set
21 forth at the hearing under section 4 of this chapter. The court shall
22 articulate findings supporting the court's determination under this
23 section.

(Reference is to HB 1432 as introduced.)

and when so amended that said bill do pass.

Representative McNamara