

Introduced: 3/23/71
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 341 *am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal responsibility; and
7 changing Rule 12(b), Rules of Criminal Procedure."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.45 is amended by adding new sections to read:

10 Sec. 12.45.085. MENTAL DISEASE OR DEFECT EXCLUDING RESPONSIBILITY.

11 (a) A person is not responsible for criminal conduct if at the time
12 of the conduct, as a result of mental disease or defect, he lacks
13 substantial capacity either to appreciate the wrongfulness of his
14 conduct or to conform his conduct to the requirements of law.

15 (b) Reliance on mental disease or defect as excluding responsi-
16 bility is an affirmative defense.

17 (c) If the defendant is acquitted on the ground of mental disease
18 or defect excluding responsibility, the verdict and the judgment shall
19 so state.

20 Sec. 12.45.087. EVIDENCE OF MENTAL DISEASE OR DEFECT. Evidence
21 that the defendant suffered from a mental disease or defect is admissible
22 whenever it is relevant to prove that the defendant did or did not
23 have a state of mind which is an element of the offense. However,
24 evidence of mental disease or defect excluding responsibility is not
25 admissible unless the defendant, at the time of entering his plea of
26 not guilty or within 10 days thereafter or at such later time as the
27 court may for good cause permit, files a written notice of his intent
28 to rely on that defense.

29 * Sec. 2. AS 12.45.090 is amended to read:

1 Sec. 12.45.090. COMMITMENT AFTER JUDGMENT OF NOT GUILTY [OF
2 DEFENDANT ON GROUND OF INSANITY]. If the jury finds the defendant
3 not guilty on the ground of mental disease or defect [INSANITY] and the
4 court considers his being at large dangerous to the public peace or
5 safety, the court shall order him to be committed to an institution
6 authorized by the commissioner of health and welfare to receive that
7 person, and held in custody until the disease is cured or the defect
8 corrected [HE BECOMES SANE] or he is otherwise discharged from the
9 institution [THEREFROM] by authority of law.

10 * Sec. 3. AS 12.45.100 is amended to read:

11 Sec. 12.45.100. DETERMINATION OF MENTAL DISEASE OR DEFECT [INSANITY]
12 DURING TRIAL OR PROBATION. (a) No person who as a result of mental
13 disease or defect lacks capacity to understand the proceedings against
14 him or to assist in his own defense may be tried, convicted or sentenced
15 for the commission of an offense so long as the incapacity endures.

16 (b) When, after arrest and prior to the imposition of sentence
17 or prior to the expiration of any period of probation, the attorney
18 general, the district attorney, or the attorney for the accused has
19 reasonable cause to believe that a person charged with an offense may
20 be presently suffering mental disease or defect [INSANE] or is other-
21 wise so mentally incompetent that he is unable to understand the proceed-
22 ings against him or properly to assist in his own defense, he may file
23 a motion for a judicial determination of the mental competency of the
24 accused. Upon that motion or upon a similar motion in behalf of the
25 accused, or upon its own motion, the court shall have the accused,
26 whether or not previously admitted to bail, examined as to his mental
27 condition by at least one qualified psychiatrist, who shall report to
28 the court. For the purpose of the examination the court may order the
29 accused committed for a reasonable period as the court may determine

1 to a suitable hospital or other facility to be designated by the
2 court. If the report of the psychiatrist indicates a state of present
3 mental disease or defect [INSANITY] or of other mental incompetency
4 in the accused, the court shall hold a hearing, upon due notice, at
5 which evidence as to the mental condition of the accused may be sub-
6 mitted, including that of the reporting psychiatrist, and make a finding
7 with respect thereto. No statement made by the accused in the course
8 of an examination into his [SANITY OR] mental competency provided
9 for by this section, whether the examination is with or without the
10 consent of the accused, may be admitted in evidence against the
11 accused on the issue of guilt in a criminal proceeding. A finding by
12 the judge that the accused is mentally competent to stand trial in
13 no way prejudices the accused in a defense based on mental disease
14 or defect excluding responsibility [PLEA OF INSANITY AS A DEFENSE
15 TO THE CRIME CHARGED]; the finding may not be introduced in evidence
16 on that issue or otherwise be brought to the notice of the jury.

17 * Sec. 4. AS 12.45.115(b) is amended to read:

18 (b) If at the hearing the court determines that the accused is
19 presently [SANE OR] mentally competent to understand the nature of the
20 proceedings against him or to assist in his own defense, appropriate
21 criminal proceedings shall be commenced against the accused.

22 * Sec. 5. AS 12.45.115(c) is amended to read:

23 (c) If at the hearing the court determines that the accused is
24 still presently [INSANE OR] mentally incompetent, the court shall
25 recommit the accused as provided in sec. 110(a) of this chapter.

26 * Sec. 6. AS 12.45.115(d) is amended to read:

27 (d) A finding by the court that the accused is mentally competent
28 to stand trial in no way prejudices the accused in a defense based on
29 mental disease or defect excluding responsibility [PLEA OF INSANITY AS

1 A DEFENSE TO THE CRIME CHARGED]. This finding may not be introduced
2 in evidence on that issue or otherwise be brought to the notice of the
3 jury.

4 * Sec. 7. AS 12.45 is amended by adding a new section to read:

5 Sec. 12.45.117. DEFINITION OF "MENTAL DISEASE OR DEFECT". In
6 secs. 85 - 115 of this chapter "mental disease or defect" does not
7 include an abnormality manifested only by repeated criminal or other-
8 wise anti-social conduct.

9 * Sec. 8. In sec. 1 of this Act, AS 12.45.087 has the effect of changing
10 Rule 12(b), Rules of Criminal Procedure, in that it adds to the defenses
11 which must be raised before trial.