

Introduced: 3/23/71  
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 341

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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. 12.45.083. 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. 12.45.085. EVIDENCE OF MENTAL DISEASE OR DEFECT. Evidence  
21 that the defendant suffered from a mental disease or defect is admissibl  
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. 12.45.087. PSYCHIATRIC EXAMINATION. (a) If a defendant has

1 filed a notice of intention to rely on the defense of mental disease or  
2 defect excluding responsibility, or there is reason to doubt his fitness  
3 to proceed, or there is reason to believe that mental disease or defect  
4 of the defendant will otherwise become an issue in the cause, the court  
5 shall appoint at least one qualified psychiatrist or shall request the  
6 superintendent of the Alaska Psychiatric Institute to designate at least  
7 one qualified psychiatrist, which designation may be or include himself,  
8 to examine and report upon the mental condition of the defendant. The  
9 court may order the defendant to be committed to a hospital or other  
10 suitable facility for the purpose of the examination for not more than  
11 60 days or such longer period as the court determines to be necessary  
12 for the purpose and may direct that a qualified psychiatrist retained by  
13 the defendant be permitted to witness and participate in the examination.

14 (b) In an examination under (a) of this section, any method may  
15 be employed which is accepted by the medical profession for the examina-  
16 tion of those alleged to be suffering from mental disease or defect.

17 (c) The report of an examination under (a) of this section shall  
18 include the following:

19 (1) a description of the nature of the examination;

20 (2) a diagnosis of the mental condition of the defendant;

21 (3) if the defendant suffers from a mental disease or defect,  
22 an opinion as to his capacity to understand the proceedings against him  
23 and to assist in his own defense;

24 (4) if a notice of intention to rely on the defense of  
25 irresponsibility has been filed, an opinion as to the extent, if any,  
26 to which the capacity of the defendant to appreciate the wrongfulness of  
27 his conduct or to conform his conduct to the requirements of law was  
28 impaired at the time of the criminal conduct charged; and

29 (5) if directed by the court, an opinion as to the capacity

1 of the defendant to have a particular state of mind which is an element  
2 of the offense charged.

3 (d) If the examination under (a) of this section cannot be  
4 conducted by reason of the unwillingness of the defendant to participate  
5 in it, the report shall so state and shall include, if possible, an  
6 opinion as to whether the unwillingness of the defendant was the result  
7 of mental disease or defect.

8 (e) The report of the examination under (a) of this section shall  
9 be filed with the clerk of the court, who shall cause copies to be  
10 delivered to the district attorney and to counsel for the defendant.

11 \* Sec. 2. AS 12.45.090 is amended to read:

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

21 \* Sec. 3. AS 12.45.100 is amended to read:

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

27 (b) When, after arrest and prior to the imposition of sentence  
28 or prior to the expiration of any period of probation, the attorney  
29 general, the district attorney, or the attorney for the accused has

1 reasonable cause to believe that a person charged with an offense may  
2 be presently suffering mental disease or defect [INSANE] or is other-  
3 wise so mentally incompetent that he is unable to understand the proceed-  
4 ings against him or properly to assist in his own defense, he may file  
5 a motion for a judicial determination of the mental competency of the  
6 accused. Upon that motion or upon a similar motion in behalf of the  
7 accused, or upon its own motion, the court shall have the accused,  
8 whether or not previously admitted to bail, examined as to his mental  
9 condition by at least one qualified psychiatrist, who shall report to  
10 the court. For the purpose of the examination the court may order the  
11 accused committed for a reasonable period as the court may determine  
12 to a suitable hospital or other facility to be designated by the  
13 court. If the report of the psychiatrist indicates a state of present  
14 mental disease or defect [INSANITY] or of other mental incompetency  
15 in the accused, the court shall hold a hearing, upon due notice, at  
16 which evidence as to the mental condition of the accused may be sub-  
17 mitted, including that of the reporting psychiatrist, and make a finding  
18 with respect thereto. No statement made by the accused in the course  
19 of an examination into his [SANITY OR] mental competency provided  
20 for by this section, whether the examination is with or without the  
21 consent of the accused, may be admitted in evidence against the  
22 accused on the issue of guilt in a criminal proceeding. A finding by  
23 the judge that the accused is mentally competent to stand trial in  
24 no way prejudices the accused in a defense based on mental disease  
25 or defect excluding responsibility [PLEA OF INSANITY AS A DEFENSE  
26 TO THE CRIME CHARGED]; the finding may not be introduced in evidence  
27 on that issue or otherwise be brought to the notice of the jury.

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

29 (b) If at the hearing the court determines that the accused is

1 presently [SANE OR] mentally competent to understand the nature of the  
2 proceedings against him or to assist in his own defense, appropriate  
3 criminal proceedings shall be commenced against the accused.

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

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

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

9 (d) A finding by the court that the accused is mentally competent  
10 to stand trial in no way prejudices the accused in a defense based on  
11 mental disease or defect excluding responsibility [PLEA OF INSANITY AS  
12 A DEFENSE TO THE CRIME CHARGED]. This finding may not be introduced  
13 in evidence on that issue or otherwise be brought to the notice of the  
14 jury.

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

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

20 \* Sec. 8. In sec. 1 of this Act, AS 12.45.085. has the effect of changing  
21 Rule 12(b), Rules of Criminal Procedure, in that it adds to the defenses  
22 which must be raised before trial.  
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