

Offered: 4/11/85  
Referred: Judiciary

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 80 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the number of psychiatrists or  
7 psychologists appointed to examine a criminal defen-  
8 dant; and providing for an effective date."

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

10 \* Section 1. AS 12.47.070(a) is amended to read:

11 (a) If a defendant has filed a notice of intention to rely on  
12 the affirmative defense of insanity under AS 12.47.010 or has filed  
13 notice under AS 12.47.020(a), or there is reason to doubt the defen-  
14 dant's fitness to proceed, or there is reason to believe that a mental  
15 disease or defect of the defendant will otherwise become an issue in  
16 the case, the court shall appoint at least two qualified psychiatrists  
17 or two forensic psychologists certified by the American Board of  
18 Forensic Psychology to examine and report upon the mental condition of  
19 the defendant. However, if both the defendant and the prosecuting  
20 attorney waive the requirement for the appointment of at least two  
21 psychiatrists or psychologists, the court shall appoint one psychia-  
22 trist or psychologist. If the court appoints a psychiatrist [PSYCHIA-  
23 TRISTS], the psychiatrist [PSYCHIATRISTS] may select a psychologist  
24 [PSYCHOLOGISTS] to provide assistance. If the defendant has filed  
25 notice under AS 12.47.090(a), the report shall consider whether the  
26 defendant can still be committed under AS 12.47.090(c). The court may  
27 order the defendant to be committed to a secure facility for the  
28 purpose of the examination for not more than 60 days or such longer  
29 period as the court determines to be necessary for the purpose and may

1 direct that a qualified psychiatrist retained by the defendant be  
2 permitted to witness and participate in the examination.

3 \* Sec. 2. AS 12.47.100(b) is amended to read:

4 (b) When, after arrest and before the imposition of sentence or  
5 before the expiration of any period of probation, the attorney gener-  
6 al, the prosecuting attorney, or the attorney for the accused has  
7 reasonable cause to believe that a person charged with a crime may be  
8 presently suffering from a mental disease or defect or is otherwise so  
9 mentally incompetent that the accused is unable to understand the  
10 proceedings or to properly assist in the accused's own defense, the  
11 attorney general, prosecuting attorney, or the attorney for the  
12 accused may file a motion for a judicial determination of the mental  
13 competency of the accused. Upon that motion or upon a similar motion  
14 on behalf of the accused, or upon its own motion, the court shall  
15 appoint at least two qualified psychiatrists to examine and report  
16 upon the mental condition of the defendant. However, if both the  
17 defendant and the prosecuting attorney waive the requirement for the  
18 appointment of at least two psychiatrists, the court shall appoint one  
19 psychiatrist [HAVE THE ACCUSED, WHETHER OR NOT PREVIOUSLY ADMITTED TO  
20 BAIL, EXAMINED BY AT LEAST ONE QUALIFIED PSYCHIATRIST, WHO SHALL  
21 REPORT TO THE COURT CONCERNING THE MENTAL CONDITION OF THE ACCUSED].  
22 For the purpose of the examination the court may order the accused  
23 committed for a reasonable period as the court may determine to a  
24 suitable hospital or other facility to be designated by the court. If  
25 the report of the psychiatrist indicates a state of present mental  
26 disease or defect or of other mental incompetency in the accused, the  
27 court shall hold a hearing, upon due notice, at which evidence as to  
28 the mental condition of the accused may be submitted, including that  
29 of the reporting psychiatrist, and make a finding with respect to the

1        mental condition of the accused. No statement made by the accused in  
2        the course of an examination into the mental competency of the accused  
3        provided for by this section, whether the examination is with or  
4        without the consent of the accused, may be admitted in evidence  
5        against the accused on the issue of guilt in a criminal proceeding  
6        unless the accused later relies on a defense under AS 12.47.010 or  
7        12.47.020. A finding by the judge that the accused is mentally compe-  
8        tent to stand trial in no way prejudices the accused in a defense  
9        based on insanity; the finding may not be introduced in evidence on  
10       that issue or otherwise be brought to the notice of the jury.

11       \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
12       10.070(c).