

Introduced: 2/19/87
Referred: Health, Education and
Social Services and Judiciary

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 140

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH 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 or two forensic psycholo-
16 gists certified by the American Board of Forensic Psychology to exam-
17 ine and report upon the mental condition of the defendant. However,
18 if both the defendant and the prosecuting attorney waive the require-
19 ment for the appointment of at least two psychiatrists or psycholo-
20 gists, the court shall appoint one psychiatrist or psychologist. If
21 the court appoints a psychiatrist, the psychiatrist may select a
22 psychologist to provide assistance [HAVE THE ACCUSED, WHETHER OR NOT
23 PREVIOUSLY ADMITTED TO BAIL, EXAMINED BY AT LEAST ONE QUALIFIED PSY-
24 CHIATRIST, WHO SHALL REPORT TO THE COURT CONCERNING THE MENTAL CONDI-
25 TION OF THE ACCUSED]. For the purpose of the examination the court
26 may order the accused committed for a reasonable period as the court
27 may determine to a suitable hospital or other facility to be designat-
28 ed by the court. If the report of the psychiatrist or psychologist
29 indicates a state of present mental disease or defect or of other

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mental incompetency in the accused, the court shall hold a hearing, upon due notice, at which evidence as to the mental condition of the accused may be submitted, including that of the reporting psychiatrist or psychologist, and make a finding with respect to the mental condition of the accused. No statement made by the accused in the course of an examination into the mental competency of the accused provided for by this section, whether the examination is with or without the consent of the accused, may be admitted in evidence against the accused on the issue of guilt in a criminal proceeding unless the accused later relies on a defense under AS 12.47.010 or 12.47.020. A finding by the judge that the accused is mentally competent to stand trial in no way prejudices the accused in a defense based on insanity; the findings may not be introduced in evidence on that issue or otherwise be brought to the notice of the jury.

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