

## HB 476 Insanity Defense Amendments Talking Points

### Mental condition defenses in statute

- **Adds an insanity defense** for a **first degree or capital felony** charge: as a result of a mental condition, defendant was **unable to appreciate** the **nature and quality** of actions or the **wrongfulness** of actions.
- Retains existing mental-state defense and mitigation of language.

### Insanity/diminished mental capacity designation & burden of proof

- Current statute does not specify a clear-and-convincing burden for a defendant asserting insanity.
- **Burden of proof:** defendant must plead and prove by **clear and convincing evidence** the facts necessary to be found not guilty under the section.

### Voluntary intoxication limitation

- If a person asserting insanity or diminished mental capacity was under the influence of voluntarily consumed substances at the time of the alleged offense, the person is not excused if the substance caused, triggered, or substantially contributed to the mental condition.
- Intoxication bars excuse if it **caused or substantially contributed** to the defendant's **inability to appreciate** (nature/quality or wrongfulness) or to **lacking the required mental state**.

### Mental examination

- **Competency prerequisite:** no evaluation under this section unless the defendant has first been, or concurrently, evaluated for competency to proceed.
- **At least two examinations** required for a defendant asserting a defense. Exams may be court-ordered or conducted by an independent examiner.
- Examinations must be conducted by a **forensic psychiatrist or forensic**

**psychologist.**

- Court order changes **shall** → **may** (judicial discretion).
- DHHS completion deadline extends **30** → **90 days**.
- **Removes “upon stipulation”** condition for admissibility of an independent examiner Report.

#### **Review after commitment**

- Review frequency extends **6** → **12 months**.
- Review team must be **licensed mental health professionals** and consider **best practices for assessing the risk of violence**.
- Court hearing timeframe extends **10 business days** → **30 days**.
- Updates conditional release/discharge findings and phrasing.

#### **Conditional release**

- Plans must describe **care, supervision, medication, and treatment** and incorporate **risk of violence in best practices**.
- Providers must **immediately notify** DHHS of noncompliance.
- DHHS may **temporarily revoke** conditional release; **peace officer authorized** to transport to DHHS custody.
- Court holds an **initial hearing within seven business days** after custody; routes back into review process as applicable.

#### **Mental condition defenses in statute**

- Treatment entity reviews status at least once every 6 months; if candidate for discharge, executive director notifies court; court hearing within 10 business days; remission Limitation applies.
- Adds notice to the **victim** (in addition to court/parties).
- Clarifies that remission scenario may still allow a **candidate for conditional release**.