

## **Chapter 14 Defenses**

### **77-14-1 Time and place of alleged offense -- Specification.**

The prosecuting attorney, on timely written demand of the defendant, shall within 10 days, or such other time as the court may allow, specify in writing as particularly as is known to him the place, date and time of the commission of the offense charged.

Enacted by Chapter 15, 1980 General Session

### **77-14-2 Alibi -- Notice requirements -- Witness lists.**

- (1) A defendant, whether or not written demand has been made, who intends to offer evidence of an alibi shall, not less than 10 days before trial or at such other time as the court may allow, file and serve on the prosecuting attorney a notice, in writing, of his intention to claim alibi. The notice shall contain specific information as to the place where the defendant claims to have been at the time of the alleged offense and, as particularly as is known to the defendant or his attorney, the names and addresses of the witnesses by whom he proposes to establish alibi. The prosecuting attorney, not more than five days after receipt of the list provided herein or at such other time as the court may direct, shall file and serve the defendant with the addresses, as particularly as are known to him, of the witnesses the state proposes to offer to contradict or impeach the defendant's alibi evidence.
- (2) The defendant and prosecuting attorney shall be under a continuing duty to disclose the names and addresses of additional witnesses which come to the attention of either party after filing their alibi witness lists.
- (3) If a defendant or prosecuting attorney fails to comply with the requirements of this section, the court may exclude evidence offered to establish or rebut alibi. However, the defendant may always testify on his own behalf concerning alibi.
- (4) The court may, for good cause shown, waive the requirements of this section.

Enacted by Chapter 15, 1980 General Session

### **77-14-3 Testimony regarding mental state of defendant or another -- Notice requirements -- Right to examination.**

- (1)
  - (a) If the prosecution or the defense intends to call any expert to testify at trial or at any hearing regarding the mental state of the defendant or another, the party intending to call the expert shall give notice to the opposing party as soon as practicable but not less than 30 days before trial or 10 days before any hearing at which the testimony is offered. Notice shall include the name and address of the expert, the expert's curriculum vitae, and a copy of the expert's report.
  - (b) The expert shall prepare a written report relating to the proposed testimony. If the expert has not prepared a report or the report does not adequately inform concerning the substance of the expert's proposed testimony including any opinion and the bases and reasons of that opinion, the party intending to call the expert shall provide a written explanation of the expert's anticipated testimony sufficient to give the opposing party adequate notice to prepare to meet the testimony, followed by a copy of any report prepared by the expert when available.

- (2) As soon as practicable after receipt of the expert's report, the party receiving notice shall provide notice to the other party of witnesses whom the party anticipates calling to rebut the expert's testimony, including the name and address of any expert witness and the expert's curriculum vitae. If available, a report of any rebuttal expert shall be provided. If the rebuttal expert has not prepared a report or the report does not adequately inform concerning the substance of the expert's proposed rebuttal testimony, or in the event the witness is not an expert, the party intending to call the rebuttal witness shall provide a written explanation of the witness's anticipated rebuttal testimony sufficient to give the opposing party adequate notice to prepare to meet the testimony, followed by a copy of any report prepared by any rebuttal expert when available.
- (3) If the prosecution or the defense proposes to introduce testimony of an expert which is based upon personal contact, interview, observation, or psychological testing of the defendant, testimony of an expert involving a mental diagnosis of the defendant, or testimony of an expert that the defendant does or does not fit a psychological or sociological profile, the opposing party shall have a corresponding right to have its own expert examine and evaluate the defendant.
- (4) This section applies to any trial, sentencing hearing, and other hearing, excluding a preliminary hearing, whether or not the defendant proposes to offer evidence of the defense of insanity or diminished mental capacity.
- (5) If the defendant or the prosecution fails to meet the requirements of this section, the opposing party shall be entitled to a continuance of the trial or hearing sufficient to allow preparation to meet the testimony. If the court finds that the failure to comply with this section is the result of bad faith on the part of any party or attorney, the court shall impose appropriate sanctions.
- (6) This section may not require the admission of evidence not otherwise admissible.

Amended by Chapter 139, 1994 General Session

**77-14-4 Insanity or diminished mental capacity -- Notice requirement.**

- (1) If a defendant proposes to offer evidence that the defendant is not guilty as a result of insanity or that the defendant had diminished mental capacity, or proposes to offer evidence in mitigation of a criminal homicide or attempted criminal homicide offense under Subsection 76-5-205.5(1)(a), the defendant shall file and serve the prosecuting attorney with written notice of the intention to claim the defense at the time of arraignment or as soon afterward as practicable, but not fewer than 30 days before the trial.
- (2) If the court receives notice that a defendant intends to claim that the defendant is not guilty by reason of insanity or that the defendant had diminished mental capacity, the court shall proceed in accordance with the requirements described in Section 77-16a-301.

Amended by Chapter 206, 2009 General Session

**77-14-6 Entrapment -- Notice of claim required.**

Notice of a claim of entrapment shall be given by the defendant in accord with Section 76-2-303.

Amended by Chapter 194, 1986 General Session