
DIGEST

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HB 328 Original

2023 Regular Session

Selders

Abstract: Prohibits the death penalty from being imposed upon any person with a severe mental illness.

Present law prohibits the death penalty from being imposed upon any person with an intellectual disability and provides for definitions and procedures to be followed after a capital defendant claims to have an intellectual disability.

Proposed law amends present law to also prohibit the death penalty from being imposed upon any person with a severe mental illness. Further provides that the procedures to be followed for a capital defendant who claims to have an intellectual disability shall also be applied to a capital defendant who claims to have a severe mental illness.

Proposed law provides that a person has a severe mental illness if both of the following conditions are applicable:

- (1) Before a claim of severe mental illness is raised, the person has been diagnosed with one or more of the following conditions:
 - (a) Schizophrenia or any other psychotic disorder.
 - (b) Bipolar disorder.
 - (c) Major depressive disorder.
 - (d) Delusional disorder.
 - (e) Post-traumatic stress disorder.
 - (f) Traumatic brain injury.
- (2) At the time of the offense, the condition or conditions described in proposed law, despite not meeting the standard set forth in present law (R.S. 14:14) to establish a defense of insanity, significantly impaired the person's capacity to do any of the following:
 - (a) Appreciate the nature, consequences, or wrongfulness of his conduct.

- (b) Exercise rational judgment in relation to his conduct.
- (c) Conform his conduct to the requirements of the law.

Proposed law provides that a disorder that is primarily manifested by a repeated pattern of criminal conduct or solely attributable to the acute effects of voluntary use of alcohol or drugs does not constitute a severe mental illness.

(Amends C.Cr.P. Art. 905.5.1(A)-(G); Adds C.Cr.P. Art. 905.5.1(I))