

**As Amended by House Committee**

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**As Amended by Senate Committee**

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Session of 2014

**SENATE BILL No. 270**

By Committee on Judiciary

1-16

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1 AN ACT concerning criminal procedure; relating to mental status  
2 defenses; notice and procedure; amending K.S.A. 22-3219 and  
3 repealing the existing section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 22-3219 is hereby amended to read as follows: 22-  
7 3219. (a) *As used in this section, "mental status" includes, but is not*  
8 *limited to, mental disease or defect, voluntary intoxication, compulsion,*  
9 *use of force, or any other mental status of the defendant bearing on either:*  
10 *(1) The issue of intent; or (2) the issue of punishment in a capital case or*  
11 *an off-grid person felony case.*

12 (b) *Expert evidence relating to a defendant's mental status is not*  
13 *admissible upon a trial unless the defendant complies with the provisions*  
14 *of this section. The court shall exclude any expert evidence for which the*  
15 *defendant has failed to comply with any requirements of this section.*

16 (c) (1) Evidence of mental disease or defect excluding criminal  
17 responsibility is not admissible upon a trial unless the defendant serves  
18 upon the prosecuting attorney and files with the court a written notice of  
19 such defendant's intention to assert the defense that the defendant, as a  
20 result of mental disease or defect, lacked the mental state required as an  
21 element of the offense charged. Such notice must be served and filed  
22 before trial and not more than 30 days after entry of the plea of not guilty  
23 to the information or indictment. For good cause shown the court may  
24 permit notice at a later date.

25 (2) A defendant who files a notice of intention to assert the defense  
26 that the defendant, as a result of mental disease or defect lacked the mental  
27 state required as an element of the offense charged thereby submits and  
28 consents to abide by such further orders as the court may make requiring  
29 the mental examination of the defendant and designating the place of  
30 examination and the physician or licensed psychologist by whom such  
31 examination shall be made. No order of the court respecting a mental  
32 examination shall preclude the defendant from procuring at such  
33 defendant's own expense an examination by a physician or licensed  
34 psychologist of such defendant's own choosing. A defendant requesting a

1 mental examination pursuant to K.S.A. 22-4508, and amendments thereto,  
2 may request a physician or licensed psychologist of such defendant's own  
3 choosing. The judge shall inquire as to the estimated cost for such  
4 examination and shall appoint the requested physician or licensed  
5 psychologist if such physician or licensed psychologist agrees to accept  
6 compensation in an amount in accordance with the compensation  
7 standards set by the board of supervisors of panels to aid indigent  
8 defendants. A report of each mental examination of the defendant shall be  
9 filed in the court and copies thereof shall be supplied to the defendant and  
10 the prosecuting attorney.

11 *(d) (1) Except as provided in subsection (c), expert evidence through*  
12 *an expert who has examined the defendant relating to a defendant's*  
13 *mental status is not admissible upon a trial unless the defendant, within*  
14 *the time provided for filing a pretrial motion or at any later time set by the*  
15 *court:*

16 *(A) Notifies the prosecuting attorney in writing of defendant's*  
17 *intention to introduce such expert evidence and files a copy of the written*  
18 *notice with the court; and*

19 *(B) discloses to the prosecuting attorney the results and reports of*  
20 *any examination on mental status conducted by the defendant's expert.*

21 *(2) A defendant who provides notice under this subsection thereby*  
22 *submits and consents to abide by such further orders as the court may*  
23 *make requiring the mental examination of the defendant. Upon the*  
24 *prosecuting attorney's motion, the court shall order an additional expert*  
25 *examination of the defendant under procedures ordered by the court, if a*  
26 *defense expert has already examined such defendant.*

27 **(e) (1) The procedures of this subsection apply to any**  
28 **examination conducted under this section whether or not the**  
29 **defendant consents to the examination.**

30 **(2) Any examination ordered under this section that will be used**  
31 **as evidence by either party shall be filed with the court under seal**  
32 **within the deadline set by the court for such filing. The deadline may**  
33 **be extended for good cause shown.**

34 **(3) No statement made by a defendant in the course of any**  
35 **examination conducted under this section, no testimony by the expert**  
36 **based on the statement and no other fruits of the statement may be**  
37 **admitted into evidence against the defendant in any criminal**  
38 **proceeding except on an issue regarding mental status as set forth in**  
39 **subsection (a).**

40 **(4) The prosecution may not admit any evidence obtained**  
41 **pursuant to this section unless the defendant first admits evidence**  
42 **regarding such defendant's mental status.**

43 **(5) Evidence of any notice filed under this section which is later**

1 **withdrawn is not, in any civil or criminal proceeding, admissible**  
2 **against the person who gave notice.**

3 **(f)** *The amendments to this section by this act establish a procedural*  
4 *rule, and as such shall be construed and applied retroactively.*

5 Sec. 2. K.S.A. 22-3219 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after its  
7 publication in the statute book.