

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 3002

By: Newell

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Sections 914 and 925, which relate to
9 criminal verdicts; adding guilty but mentally ill
10 verdict; defining terms; providing procedures;
11 specifying circumstances under which a defendant may
12 be found guilty but mentally ill; authorizing courts
13 to take certain actions; providing for codification;
14 and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 914, is
17 amended to read as follows:

18 Section 914. A general verdict upon a plea of not guilty, is
19 either "guilty", or "not guilty", which imports a conviction or
20 acquittal of the offense charged. Upon a plea of a former
21 conviction or acquittal of the same offense, it is either "for the
22 state", or "for the defendant". In cases in which the defendant
23 provides evidence at trial of mental illness or insanity at the time
24 of the offense, in addition to "guilty", or "not guilty", the jury
or court may also find the defendant "guilty but mentally ill" or
"not guilty by reason of insanity". When the defendant is acquitted

1 on the ground that he was insane at the time of the commission of
2 the act charged, the verdict must be "not guilty by reason of
3 insanity". When the defendant is convicted but found to be mentally
4 ill at the time of the commission of the act charged, the verdict
5 must be "guilty but mentally ill". When the defendant is acquitted
6 on the ground of variance between the charge and the proof, the
7 verdict must be "not guilty by reason of variance between charge and
8 proof".

9 SECTION 2. AMENDATORY 22 O.S. 2011, Section 925, is
10 amended to read as follows:

11 Section 925. When it is contended on behalf of the defendant in
12 any criminal prosecution that such defendant is at the time of the
13 trial a person who is impaired by reason of mental retardation, a
14 mentally ill person, an insane person, or a person of unsound mind,
15 the court shall submit to the jury a proper form of verdict, ~~and if.~~

16 1. If the jury finds the defendant not guilty on account of
17 such insanity, mental illness, or unsoundness of mind, they shall so
18 state in their verdict, and the court shall thereupon order the
19 defendant committed to the state hospital for the mentally ill, or
20 other state institution provided for the care and treatment of cases
21 such as the one before the court, until the sanity and soundness of
22 mind of the defendant be judicially determined, and such person be
23 discharged from the institution according to law.

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1 2. If the jury finds the defendant guilty but mentally ill at
2 the time of the offense, the court shall sentence the defendant to
3 the local jail or to the Department of Corrections in the same
4 manner as a defendant found guilty. If the defendant is found
5 guilty but mentally ill, treatment shall be provided the defendant
6 until the treating professional determines that treatment is no
7 longer necessary or until expiration of the sentence, whichever
8 occurs first. Treatment shall be a condition of probation,
9 conditional discharge, parole, or conditional release so long as the
10 defendant requires treatment for the mental illness in the opinion
11 of the treating professional of said defendant.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 925.1 of Title 22, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A person who at the time of the commission of a criminal
16 offense was not insane but was suffering from a mental illness is
17 not relieved of criminal responsibility for his or her conduct and
18 may be found guilty but mentally ill. As used in this section,
19 "mentally ill" means a substantial disorder of thought, mood or
20 behavior which afflicted a person at the time of the commission of
21 the offense and which impaired the judgment of that person, but not
22 to the extent that the person did not know what they were doing or
23 understand the consequences of the act or did not know the act was
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1 wrong or could not prevent himself or herself from committing the
2 act.

3 B. A plea or finding of guilty but mentally ill is not an
4 affirmative defense but an alternative plea or finding that may be
5 accepted or made pursuant to appropriate evidence when the
6 affirmative defense of insanity is raised or the plea of guilty but
7 mentally ill is made.

8 C. A plea of guilty but mentally ill shall not be accepted
9 until the defendant has undergone examination by a clinical
10 psychologist or psychiatrist and the court has examined the
11 psychological or psychiatric reports, held a hearing on the issue of
12 the mental condition of the defendant and is satisfied that there is
13 a factual basis that the defendant was mentally ill at the time of
14 the offense to which the plea is entered.

15 D. When a defendant has asserted a defense of insanity, the
16 court may find the defendant guilty but mentally ill if after
17 hearing all of the evidence the court finds beyond a reasonable
18 doubt that the defendant:

19 1. Is guilty of the offense charged;

20 2. Was mentally ill at the time of the commission of the
21 offense; and

22 3. Was not legally insane at the time of the commission of the
23 offense.

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1 E. When a defendant has asserted a defense of insanity, the
2 court, where warranted by the evidence, shall provide the jury with
3 a special verdict form of guilty but mentally ill and shall
4 separately instruct the jury that a verdict of guilty but mentally
5 ill may be returned instead of a verdict of guilty or not guilty,
6 and that such a verdict requires a finding by the jury beyond a
7 reasonable doubt that the defendant committed the offense charged
8 and that the defendant was not legally insane at the time of the
9 commission of the offense but that the defendant was mentally ill at
10 that time.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 925.2 of Title 22, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The defendant may be found guilty but mentally ill if:

15 1. The prosecution proves beyond a reasonable doubt that the
16 defendant is guilty of an offense; and

17 2. The defendant proves by a preponderance of the evidence
18 that he was mentally ill at the time of the offense.

19 B. If the defendant waives his or her right to trial, the
20 court may accept a plea of guilty but mentally ill if it finds that
21 the defendant was mentally ill at the time of the offense.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 925.3 of Title 22, unless there
24 is created a duplication in numbering, reads as follows:

1 If a defendant is found guilty but mentally ill, the court may
2 appoint at least one psychologist or psychiatrist to examine, treat,
3 and report on the mental condition of the defendant at the time of
4 sentencing.

5 SECTION 6. This act shall become effective November 1, 2012.

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7 53-2-9099 GRS 12/30/11

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