

GREEN SHEET REDIGEST

HB 1107

2026 Regular Session

Melerine

CRIMINAL/PROCEDURE: Provides relative to determination of intellectual disability in capital cases.

DIGEST

Present law (C.Cr.P. Art. 905.5.1) provides relative to capital defendants who have intellectual disabilities.

Proposed law generally retains present law.

Present law requires any defendant in a capital case who makes a claim of intellectual disability to prove the allegation by a preponderance of the evidence.

Proposed law amends present law to require the defendant to prove the following by clear and convincing evidence:

- (1) The defendant has significantly subaverage intellectual functioning with consideration of the margin of error when evaluating a defendant's intelligence quotient test score.
- (2) The defendant has significant and substantial deficits in adaptive behavior.
- (3) Both the significantly subaverage intellectual functioning and the substantial deficits in adaptive behavior manifested before the defendant reached the age of 18 years.
- (4) Both the significantly subaverage intellectual functioning and substantial deficits in adaptive behavior exist concurrently.

Present law (C.Cr.P. Art. 924) provides for definitions relative to post-conviction relief.

Proposed law retains present law and defines the terms "adaptive behavior", "intellectually disabled", and "significantly subaverage intellectual functioning".

Proposed law provides for the legislative overruling of *State v. Williams* and *State v. Dunn*, relative to capital defendants who allege a claim of intellectual disability.

Proposed law prohibits a person found to be intellectually disabled pursuant to proposed law from being subjected to a sentence of death.

Proposed law provides for criteria that a petitioner is required to prove by clear and convincing evidence in order to obtain post-conviction relief under proposed law.

Proposed law requires a petitioner to prove all of the criteria provided in proposed law to be considered intellectually disabled.

Proposed law requires the petitioner to provide a written expert report within certain time periods to prove significantly subaverage intellectual functioning for the purposes of post-conviction relief and requires the expert report to contain a determination of the petitioner's intelligence quotient (IQ).

Proposed law provides that the court will consider the cumulative effects of multiple scores when evaluating a petitioner's IQ test score and presume that higher scores more accurately reflect a person's capacity.

Proposed law provides an irrebuttable presumption that the petitioner does not have significantly subaverage intellectual functioning if he obtains a score above 75 on any scientifically recognized, standardized IQ test that is individually administered by a licensed psychiatrist or psychologist.

Proposed law also provides that if the minimum IQ score of 75 is held unconstitutional, invalid or unenforceable by either the La. Supreme Court or the U.S. Supreme Court, it will be increased by 1/2 point increments until it reaches the lowest minimum score deemed constitutional, valid, and enforceable.

Proposed law provides that the expert report is subject to the criteria for use of expert evidence as set forth by jurisprudence of the U.S. Supreme Court and the La. Supreme Court.

Proposed law prohibits an evidentiary hearing on a petitioner's claim of intellectual disability when the petitioner, on the sole basis of a written expert report, is unable to prove subaverage intellectual functioning by clear and convincing evidence.

Proposed law requires any evidentiary hearing, if applicable, to be conducted in accordance with present law (C.Cr.P. Art. 930).

Proposed law provides that present law (C.Cr.P. Art. 905.5.1) becomes inoperative immediately upon, and to the extent permitted by, a decision of the U.S. Supreme Court overruling *Atkins v. Virginia*, relative to the imposition of a sentence of death notwithstanding a claim of intellectual disability.

Proposed law provides for venue in the 21st JDC for any civil action seeking declaratory, injunctive, or other relief challenging the constitutionality of proposed law, in whole or in part.

Proposed law applies both retroactively and prospectively to all post-conviction relief that is sought on the basis of the petitioner's intellectual disability.

Proposed law applies only to claims of intellectual disability that are in post-conviction proceedings for capital cases. Further provides that nothing in proposed law controls, limits, expands, or otherwise affects any of the following:

- (1) The meaning of disability, intellectual disability, or any related term.
- (2) Any right, protection, benefit, or eligibility determination under any other provision of state or federal law.

Proposed law provides for duties of the La. State Law Institute relative to placement of proposed law.

(Amends C.Cr.P. Art. 905.5.1(C) and 924(intro. para.); Adds C.Cr.P. Arts. 905.5.1(I), 924(7)-(9), and 926.5)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Change the evidentiary standard from a preponderance of the evidence to clear and convincing evidence for any defendant in a capital case who makes a claim of intellectual disability.
2. Relative to submission of the petitioner's written expert report:
 - (a) Remove proposed law regarding a determination of the petitioner's IQ using current community, nationally, and culturally accepted intelligence testing procedures and submission of this report within 10 days of the testing of the petitioner.
 - (b) Provide that the petitioner has at least 30 days for submission before the state files procedural objections and, upon a finding of good cause by the court, at least 60 days for submission before any hearing on the merits.
 - (c) Require the expert report to contain a determination of the petitioner's IQ.

3. Provide that the expert report is subject to the criteria for use of expert evidence as set forth by jurisprudence of the U.S. Supreme Court and the La. Supreme Court.
4. Prohibit an evidentiary hearing on an intellectual disability claim for a petitioner who, on the sole basis of a written expert report, is unable to prove subaverage intellectual functioning by clear and convincing evidence.
5. Clarify that proposed law applies only to claims of intellectual disability that are raised in post-conviction proceedings for capital cases.
6. Provide that nothing in proposed law controls, limits, expands, or otherwise affects any of the following:
 - (a) The meaning of disability, intellectual disability, or any related term.
 - (b) Any right, protection, benefit, or eligibility determination under any other provision of state or federal law.
7. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Require the court, when evaluating a person's IQ test score, to also consider scores of adaptive behavior when the petitioner has an IQ ranging from 75 to 80.
2. Change the score needed on a scientifically recognized, standard IQ test to create an irrebuttable presumption that the petitioner does not have significantly subaverage intellectual functioning from above 75 to above 80.
3. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the reengrossed bill

1. Delete proposed law requirement that courts consider adaptive behavior scores when determining a person's capacity for purposes of granting post-conviction relief.
2. Change the proposed law minimum IQ score used to create an irrebuttable presumption of subaverage intellectual functioning from 80 to 75.
3. Increase the minimum IQ score used to create an irrebuttable presumption of subaverage intellectual functioning in 1/2 point increments if proposed law is held unconstitutional, invalid, or unenforceable until it reaches the lowest minimum score deemed constitutional, valid, and enforceable.