

SB019_L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.SB16-019 be amended as follows:

1 Amend printed bill, page 2, line 22, after "PRESERVED." insert "THE
2 COURT SHALL ADVISE THE DEFENDANT THAT ANY EXAMINATION WITH THE
3 MENTAL HEALTH PROFESSIONAL WILL BE VIDEO AND AUDIO RECORDED."

4 Page 2, line 24, after the period add "ANY JAIL OR OTHER FACILITY WHERE
5 THE COURT ORDERS THE EXAMINATION TO TAKE PLACE MUST PERMIT THE
6 RECORDING TO OCCUR AND MUST PROVIDE THE SPACE AND EQUIPMENT
7 NECESSARY FOR SUCH RECORDING, IF AVAILABLE. IF SPACE AND
8 EQUIPMENT ARE NOT AVAILABLE, THE SHERIFF OR FACILITY DIRECTOR
9 SHALL ATTEMPT TO COORDINATE A LOCATION AND THE AVAILABILITY OF
10 EQUIPMENT WITH THE LOCAL DISTRICT ATTORNEY. IF THE RECORDING
11 FACILITIES ARE DEEMED UNAVAILABLE BY THE SHERIFF AFTER THE
12 CONSULTATION WITH THE DISTRICT ATTORNEY, THE COURT MAY ORDER
13 THE EXAMINATION TO TAKE PLACE AT THE STATE HOSPITAL.

14 (c) PRIOR TO OR DURING ANY EXAMINATION REQUIRED BY THIS
15 SECTION, THE EXPERT SHALL ASSESS WHETHER THE VIDEOTAPING OF THE
16 EXAMINATION IS LIKELY TO CAUSE OR IS CAUSING MENTAL OR PHYSICAL
17 HARM TO THE DEFENDANT OR OTHERS. IF SUCH A DETERMINATION IS MADE
18 AND DOCUMENTED CONTEMPORANEOUSLY IN WRITING, THE EXPERT SHALL
19 NOT VIDEOTAPE THE EXAMINATION OR SHALL CEASE VIDEOTAPING THE
20 EXAMINATION, AND THE EXPERT SHALL ADVISE THE COURT AND THE
21 PARTIES OF THIS DETERMINATION AND THE REASONS THEREFORE IN A
22 WRITTEN REPORT TO THE COURT. IF ONLY A PARTIAL RECORDING IS MADE,
23 THE EXPERT SHALL PROVIDE THE PARTIAL RECORDING TO THE COURT AND
24 THE PARTIES, AND THE PARTIAL RECORDING MAY BE USED BY ANY EXPERT
25 IN FORMING AN OPINION, SUBMITTING A REPORT, OR TESTIFYING ON THE
26 ISSUE OF THE DEFENDANT'S MENTAL HEALTH.

27 (d) IF NO RECORDING IS MADE OR ONLY A PARTIAL RECORDING IS
28 MADE FOR THE REASONS SET FORTH IN PARAGRAPH (c) OF THIS
29 SUBSECTION (1), OR FOR ANY OTHER REASON BEYOND THE REASONABLE
30 CONTROL OF THE EXPERT OR THE FACILITY WHERE THE RECORDING IS TO
31 TAKE PLACE, THE COURT MAY CONSIDER THE LACK OF COMPLIANCE AND
32 THE STATED REASONS FOR THE LACK OF COMPLIANCE IN DETERMINING THE
33 WEIGHT AND ADMISSIBILITY OF THE EXPERT TESTIMONY."

34 Page 2, line 27, after "(1)" insert "(a)".

35 Page 3, line 7, after "PRESERVED." insert "THE COURT SHALL ADVISE THE



1 DEFENDANT THAT ANY EXAMINATION WITH THE MENTAL HEALTH
2 PROFESSIONAL WILL BE AUDIO AND VIDEO RECORDED."

3 Page 3, line 8, after the period add "ANY JAIL OR OTHER FACILITY WHERE
4 THE COURT ORDERS THE EXAMINATION TO TAKE PLACE MUST PERMIT THE
5 RECORDING TO OCCUR AND MUST PROVIDE THE SPACE AND EQUIPMENT
6 NECESSARY FOR SUCH RECORDING, IF AVAILABLE. IF SPACE AND
7 EQUIPMENT ARE NOT AVAILABLE, THE SHERIFF OR FACILITY DIRECTOR
8 SHALL ATTEMPT TO COORDINATE A LOCATION AND THE AVAILABILITY OF
9 EQUIPMENT WITH THE LOCAL DISTRICT ATTORNEY. IF THE RECORDING
10 FACILITIES ARE DEEMED UNAVAILABLE BY THE SHERIFF AFTER THE
11 CONSULTATION WITH THE DISTRICT ATTORNEY, THE COURT MAY ORDER
12 THE EXAMINATION TO TAKE PLACE AT THE STATE HOSPITAL.

13 (b) PRIOR TO OR DURING ANY EXAMINATION REQUIRED BY THIS
14 SECTION, THE EXPERT SHALL ASSESS WHETHER THE VIDEOTAPING OF THE
15 EXAMINATION IS LIKELY TO CAUSE OR IS CAUSING MENTAL OR PHYSICAL
16 HARM TO THE DEFENDANT OR OTHERS. IF SUCH A DETERMINATION IS MADE
17 AND DOCUMENTED CONTEMPORANEOUSLY IN WRITING, THE EXPERT SHALL
18 NOT VIDEOTAPE THE EXAMINATION OR SHALL CEASE VIDEOTAPING THE
19 EXAMINATION, AND THE EXPERT SHALL ADVISE THE COURT AND THE
20 PARTIES OF THIS DETERMINATION AND THE REASONS THEREFORE IN A
21 WRITTEN REPORT TO THE COURT. IF ONLY A PARTIAL RECORDING IS MADE,
22 THE EXPERT SHALL PROVIDE THE PARTIAL RECORDING TO THE COURT AND
23 THE PARTIES, AND THE PARTIAL RECORDING MAY BE USED BY ANY EXPERT
24 IN FORMING AN OPINION, SUBMITTING A REPORT, OR TESTIFYING ON THE
25 ISSUE OF THE DEFENDANT'S MENTAL HEALTH.

26 (c) IF NO RECORDING IS MADE OR ONLY A PARTIAL RECORDING IS
27 MADE FOR THE REASONS SET FORTH IN PARAGRAPH (b) OF THIS
28 SUBSECTION (1) OR FOR ANY OTHER REASON BEYOND THE REASONABLE
29 CONTROL OF THE EXPERT OR THE FACILITY WHERE THE RECORDING IS TO
30 TAKE PLACE, THE COURT MAY CONSIDER THE LACK OF COMPLIANCE AND
31 THE STATED REASONS FOR THE LACK OF COMPLIANCE IN DETERMINING THE
32 WEIGHT AND ADMISSIBILITY OF THE EXPERT TESTIMONY."

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