

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 6: CRIMINAL PROCEDURE

§ 6604. Psychiatric Examination, Reports, Evidence.

(a) Whenever a plea of not guilty by reason of mental illness, disease or defect is entered or a notice is given pursuant to the Commonwealth Rules of Criminal Procedure the court shall appoint at least one qualified psychiatrist or other mental health professional (hereinafter referred to as psychiatrist) to examine the defendant and to report upon his mental condition.

(b) Whenever, in the opinion of the court, any other expert evidence concerning the defendant's mental condition is or will be required by the court or either party, the court shall appoint one or more such experts to examine the defendant and to report upon his mental condition as the court may direct. Appointments made upon the request of an indigent defendant shall be paid by the Commonwealth.

(c) In addition to the expert witnesses appointed by the court, either party in a criminal action may retain other psychiatrists or other experts to examine the defendant and to report upon his mental condition. Experts retained pursuant to this section shall be permitted to have reasonable access to the defendant for the purposes of examination.

(d) The psychiatrists and other experts appointed by the court shall be allowed, in addition to their actual traveling expenses, such fees as in the discretion of the court seem reasonable.

(e) On recommendation of a psychiatrist and for good cause, after notice to the defendant and an opportunity to be heard, the court may order the defendant committed to an evaluation facility for observation and examination as it may designate for a period not to exceed 14 days. Any defendant so committed may be given such care and treatment as is determined to be necessary by the psychiatric staff of such evaluation facility, consistent with the patient's rights. A full report of any such care and treatment shall be included in the report required under subsection (g) of this section. The superintendent or other person in charge of such facility shall permit those psychiatrists or other experts appointed under this section to have reasonable access to the defendant.

(f) Copies of any reports, records, documents or information furnished by either party to the psychiatrists appointed pursuant to this section shall be given to the other party in the action. Any psychiatrist appointed pursuant to this section, or retained by either party, shall have the right to inspect and make copies of reports and records relating to the defendant in any facility or institution in which they are located.

(g) Each psychiatrist appointed by the court who examines the defendant pursuant to this section shall file a written report with the clerk of the court who shall deliver copies to each party. The report of the examination shall include, but need not be limited to, the following:

- (1) A description of the nature of the examination.
- (2) The number of examinations and duration of each examination.
- (3) The sources of information about the defendant.

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(4) A diagnosis or description of the defendant's mental condition.

(5) An opinion as to the defendant's competency to be proceeded against, together with the reasons and basis for the opinion.

(6) If the defendant has been convicted, an opinion as to his competency to be sentenced, together with the reasons and basis for the opinion.

(7) If prior to conviction, an opinion as to whether or not the defendant was suffering from any mental illness, disease or defect at the time of the conduct alleged to have constituted the offense charged against the defendant and whether, as a result thereof, he lacked substantial capacity to know or understand what he was doing, or to know or understand that his conduct was wrongful or to control his actions, or the extent to which, as a consequence of mental illness, disease or defect, the defendant did or did not have a state of mind or the capacity to have a state of mind relevant to any issue in the trial of the action.

(8) A report of the care and treatment received by the defendant prior to the examination.

(h) Upon the trial, any psychiatrist appointed by the court may be called as a witness by either party to the action or by the court, and, when so called, shall be subject to all legal objections as to competency and bias and as to qualification as an expert witness. When called by the court or by either party to the action the court may examine the psychiatrist, but either party shall have the same right to object to questions asked by the court and the evidence adduced as though the psychiatrist were called by an adverse party. When the psychiatrist is called and examined by the court, the parties may cross-examine him in the order directed by the court. When called by either party to the action, any adverse party may examine him the same as in the case of any other witness.

(i) When any psychiatrist or other expert who has examined the defendant, whether or not appointed under this section, testifies concerning the defendant's mental condition, he shall be permitted to make a statement as to:

(1) The nature of his examination;

(2) His diagnosis of the mental condition of the defendant at the time of the commission of the offense charged;

(3) An opinion, if relevant, of the extent to which the defendant, as a result of mental illness, disease or defect, was incapable of knowing or understanding what he was doing, or that he did not know and understand that his conduct was wrongful, or of the extent to which his capacity to control his actions was substantially impaired;

(4) An opinion, if relevant, that the defendant did or did not have the state of mind or capacity to have the state of mind which is in issue during the trial;
or

(5) An opinion, if relevant, of the defendant's competency to be proceeded against or to be sentenced.

The psychiatrist shall be permitted to make an explanation reasonably serving to clarify his diagnosis and opinion.

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(j) Nothing in this section shall be construed to limit the court's power to impose by court rule or otherwise additional safeguards for the defendant concerning testimony of expert witnesses.

Source: PL 8-37, § 5 (§ 6603).