

By Senator Rich

34-03676A-08

20081950\_\_

1                   A bill to be entitled  
2           An act relating to forensic services for persons who are  
3           retarded or autistic; amending s. 916.106, F.S.; revising  
4           definitions; redefining the terms "autism" and  
5           "retardation"; amending s. 916.301, F.S.; requiring the  
6           Agency for Persons with Disabilities to be notified and  
7           given an opportunity to be heard in any proceeding  
8           relating to the competency of a defendant to proceed;  
9           providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Subsections (2) and (15) of section 916.106,  
14 Florida Statutes, are amended to read:

15           916.106 Definitions.--For the purposes of this chapter, the  
16 term:

17           (2) "Autism" means a pervasive, neurologically based  
18 developmental disability of extended duration which causes severe  
19 learning, communication, and behavior disorders, with age of  
20 onset during infancy or childhood. Individuals who have autism  
21 exhibit impairment in reciprocal social interaction, impairment  
22 in verbal and nonverbal communication and imaginative ability,  
23 and a markedly restricted repertoire of activities and interests  
24 has the same meaning as in s. 393.063.

25           (15) "Retardation" means significantly subaverage general  
26 intellectual functioning existing concurrently with deficits in  
27 adaptive behavior which manifests before the age of 18, and which  
28 can reasonably be expected to continue indefinitely. For the  
29 purpose of this definition:

34-03676A-08

20081950\_\_

30           (a) "Significantly subaverage general intellectual  
31 functioning" means performance that is two or more standard  
32 deviations from the mean score on a standardized intelligence  
33 test specified in rules of the agency.

34           (b) "Adaptive behavior" means the effectiveness or degree  
35 with which an individual meets the standards of personal  
36 independence and social responsibility expected of his or her  
37 age, cultural group, and community ~~has the same meaning as in s.~~  
38 ~~393.063.~~

39           Section 2. Subsection (2) of section 916.301, Florida  
40 Statutes, is amended, and subsection (5) is added to that  
41 section, to read:

42           916.301 Appointment of experts.--

43           (2) If a defendant's suspected mental condition is  
44 retardation or autism, the court shall appoint the following:

45           (a) At least one, or at the request of any party, two  
46 experts to evaluate whether the defendant meets the definition of  
47 retardation or autism and, if so, whether the defendant is  
48 competent to proceed; and-

49           (b) A psychologist selected by the agency who is licensed  
50 or authorized by law to practice in this state, with experience  
51 in evaluating persons suspected of having retardation or autism,  
52 and a social service professional, with experience in working  
53 with persons with retardation or autism.

54           1. The psychologist shall evaluate whether the defendant  
55 meets the definition of retardation or autism and, if so, whether  
56 the defendant is incompetent to proceed due to retardation or  
57 autism.

34-03676A-08

20081950\_\_

58           2. The social service professional shall provide a social  
59 and developmental history of the defendant.

60           (5) The agency shall be provided with notice and an  
61 opportunity to be heard in all proceedings where experts are  
62 appointed pursuant to this part, and in any other proceeding that  
63 relates to the competency of a defendant or former defendant  
64 under this part.

65           Section 3. This act shall take effect July 1, 2008.