

By Senator Farmer

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1 A bill to be entitled
2 An act relating to defendants with a traumatic brain
3 injury; amending s. 916.106, F.S.; redefining the term
4 "intellectual disability" as it relates to defendants
5 who have been found to be incompetent to proceed by
6 adding the terms "significantly deficient in adaptive
7 functioning" and "traumatic brain injury"; amending s.
8 916.303, F.S.; requiring the Agency for Persons with
9 Disabilities to assist certain defendants found
10 incompetent to proceed with application to the long-
11 term care managed care program; providing an effective
12 date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsection (13) of section 916.106, Florida
17 Statutes, is amended to read:

18 916.106 Definitions.—For the purposes of this chapter, the
19 term:

20 (13) "Intellectual disability" means significantly
21 subaverage general intellectual functioning existing
22 concurrently with deficits in adaptive behavior which manifests
23 before the age of 18, or significantly deficient in adaptive
24 functioning resulting from a traumatic brain injury, and which
25 can reasonably be expected to continue indefinitely. For the
26 purposes of this definition, the term:

27 (a) "Adaptive behavior" means the effectiveness or degree
28 with which an individual meets the standards of personal
29 independence and social responsibility expected of his or her

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30 age, cultural group, and community.

31 (b) "Significantly deficient in adaptive functioning" means
32 the extreme limitation of one, or marked limitation of two, of
33 the following areas of mental functioning:

34 1. Understanding, remembering, or applying information;

35 2. Interacting with others;

36 3. Concentrating, persisting, or maintaining pace; or

37 4. Adapting or managing oneself.

38 (c) "Significantly subaverage general intellectual
39 functioning" means performance that is two or more standard
40 deviations from the mean score on a standardized intelligence
41 test specified in the rules of the agency.

42 (d) "Traumatic brain injury" means a disruption in the
43 normal function of the brain which can be caused by a bump,
44 blow, or jolt to the head or a penetrating head injury ~~has the~~
45 ~~same meaning as in s. 393.063.~~

46 Section 2. Subsection (4) is added to section 916.303,
47 Florida Statutes, to read:

48 916.303 Determination of incompetency; dismissal of
49 charges.—

50 (4) If the charges are dismissed and the defendant has been
51 found incompetent to proceed due to an intellectual disability
52 caused by a traumatic brain injury, the agency must assist the
53 defendant with application to the long-term care managed care
54 program described in ss. 409.978-409.985.

55 Section 3. This act shall take effect July 1, 2022.