

appeared only in the statement of policy in former Article 59, § 2, in the definition of "mental disorder" in former Article 59, § 3(f), and in the private group homes provisions in former Article 59, §§ 58, 59, 60, and 62. In § 10-102 of this article, which is derived from former Article 59, § 2, the term "mental disorder" is substituted for "mental illness" to conform to the broad scope of the balance of Title 10 of this article. In paragraph (1)(i) of this subsection -- and in § 10-101 of this article, which also is derived from former Article 59, § 39(f) and (g) -- the substance of former Article 59, § 3(f) is incorporated into the definition of "mental disorder". In § 10-514 et seq. of this article, which are derived, in part, from former Article 59, §§ 58, 59, 60, and 62, the term "mental disorder" is substituted for "mental illness" and "mentally ill". Therefore, a separate definition of "mental illness" no longer is needed.

In paragraph (2)(ii) of this subsection, the introductory phrase, "in determining whether a defendant is insane", is substituted for the reference "as used in this section". This substitution is necessary in light of the reorganization of the former law in this revision, but is intended to reflect the limitation on application of this provision.

The second sentence of former Article 59, § 3(f) provided that the "term {mental disorder} shall not include mental retardation except as used in {former Article 59} §§ 23 through 28, inclusive" -- i.e., the sections from which this title is derived. Rather than define "mental disorder" in a manner that contradicts the usual definition of the term -- see §§ 10-101 and 10-620 of this article -- specific reference to "mental retardation" or to an individual who is "mentally retarded" is added in the provisions of this title that contain a reference to a "mental disorder". Therefore, the exception in the second sentence of former Article 59, § 3(f) is deleted as unnecessary.

As to the law before enactment of the exception in former Article 59, § 3(f), see 63 Op. Att'y Gen. 230 (1978).

Defined terms: "includes"/"including" § 1-101
 "Insane" § 12-101

REVISOR'S NOTE TO SECTION: The Commission to Revise the