

responsibility. Having the test spelled out in full in this section, including the exclusion expressed in this subsection, returns the wording of the test to its substance before the 1982 style revision of this section and has practical benefit for purposes of expert testimony, examination and evaluation, instructions to the jury, and public understanding.

The Task Force recommends that the present test for criminal responsibility be retained, including both the volitional and cognitive components. As an integral part of this State's criminal justice system, it stands for one of the basic tenets of criminal law, that punishment for wrongdoing is predicated on culpability. The test for criminal responsibility defines the nature and degree of mental disorder or mental retardation that relieves an offender of criminal punishment. A study prepared for the Task Force by the staff at Clifton T. Perkins Hospital Center, S. Silver and M. Spodak, "Dissection of the Prongs of A.L.I." (June 12, 1983), indicates that deleting the volitional prong could "systematically eliminate a class of psychotic patient whose illness is clearest in symptomatology, most likely biologic in origin, most eminently treatable, and potentially most disruptive in penal detention." The study also suggests that a result of eliminating the volitional prong would be a significantly higher number of split opinions in the State's evaluation report to the court, which would most likely result in more contested cases and more psychiatric testimony at trials.

The Task Force found that in all jurisdictions, regardless of the substance of the insanity defense, the State hospital's evaluation report had the highest correlation to the outcome of a trial involving the test for criminal responsibility and was the single most important determinative factor in the outcome. Given this high correlation, the test is most important for the scope of evaluation it provides to the professional examination.

12-109. NOT CRIMINALLY RESPONSIBLE -- PLEA AND VERDICT.

(A) TIME AND MANNER OF PLEADING.

(1) IF A DEFENDANT INTENDS TO RELY ON A PLEA OF NOT CRIMINALLY RESPONSIBLE, THE DEFENDANT OR DEFENSE COUNSEL SHALL FILE A WRITTEN PLEA ALLEGING, IN SUBSTANCE, THAT WHEN THE ALLEGED CRIME WAS COMMITTED, THE DEFENDANT WAS NOT CRIMINALLY RESPONSIBLE BY REASON OF INSANITY UNDER THE TEST FOR CRIMINAL RESPONSIBILITY IN § 12-108 OF THIS TITLE.

(2) A WRITTEN PLEA OF NOT CRIMINALLY RESPONSIBLE BY REASON OF INSANITY SHALL BE FILED AT THE TIME PROVIDED FOR INITIAL PLEADING, UNLESS, FOR GOOD CAUSE SHOWN, THE COURT ALLOWS THE PLEA TO BE FILED LATER.