

Each year, many people with mental illness come in contact with the criminal justice system. This video is one in a series designed to train defense attorneys for better understanding of how to best represent a client with mental illness. When a defendant pleads guilty but mentally ill, an exam can provide evidence from a psychiatrist or psychologist to help a court in determining whether that plea is factually supported. A defendant may also raise a defense of insanity at the time of the alleged offense.

Insanity is when a person is temporarily or partially deprived of reason, and at the time did not know it was wrong to commit the alleged act. If you prove your client was insane at the time of the offense, he or she cannot be found guilty. If the court accepts a guilty but mentally ill plea, the court can impose any sentence that could be imposed on a defendant pleading or found guilty of the same charge.

If sentenced to the state penitentiary, he or she will undergo further examination and may be given treatment for their mental illness under the jurisdiction of the Department of Social Services. If a defendant is placed on probation, the court may make treatment a condition of probation. The defendant's failure to complete treatment can be a basis for probation revocation.

If found not guilty by reason of insanity, a defendant will be committed to the care of the Human Services Center. When the HSC administrator determines that the person is adequately recovered, a certificate will be filed with the court and a copy will be sent to both the defense counsel and the prosecuting attorney. The court will then order the discharge of the acquitted person or hold a hearing to determine whether release is warranted.

The court may modify or eliminate medical, psychiatric, or psychological care or treatment at any time. If there is failure to comply with treatment, the court retains jurisdiction to remand the person to a suitable facility.