

**RULE 3.812 | HEARING ON INSANITY AT TIME OF EXECUTION: CAPITAL CASES**

**(a) Hearing on Insanity to Be Executed.** The hearing on the prisoner's insanity to be executed shall not be a review of the governor's determination, but shall be a hearing de novo.

**(b) Issue at Hearing.** At the hearing the issue shall be whether the prisoner presently meets the criteria for insanity at time of execution, that is, whether the prisoner lacks the mental capacity to understand the fact of the pending execution and the reason for it.

**(c) Procedure.** The court may do any of the following as may be appropriate and adequate for a just resolution of the issues raised:

- (1) require the presence of the prisoner at the hearing;
- (2) appoint no more than 3 disinterested mental health experts to examine the prisoner with respect to the criteria for insanity to be executed and to report their findings and conclusions to the court; or
- (3) enter such other orders as may be appropriate to effectuate a speedy and just resolution of the issues raised.

**(d) Evidence.** At hearings held pursuant to this rule, the court may admit such evidence as the court deems relevant to the issues, including but not limited to the reports of expert witnesses, and the court shall not be strictly bound by the rules of evidence.

**(e) Order.** If, at the conclusion of the hearing, the court shall find, by clear and convincing evidence, that the prisoner is insane to be executed, the court shall enter its order continuing the stay of the death warrant; otherwise, the court shall deny the motion and enter its order dissolving the stay of execution.

