

HOUSE BILL REPORT

SHB 1718

As Amended by the Senate

Title: An act relating to offenders with developmental disabilities or traumatic brain injuries.

Brief Description: Concerning offenders with developmental disabilities or traumatic brain injuries.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Roberts, Moeller, Dammeier and Green).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/11/11, 2/16/11 [DP];
Ways & Means: 2/23/11, 2/24/11 [DPS].

Floor Activity:

Passed House: 3/5/11, 97-0.
Senate Amended.
Passed Senate: 4/12/11, 45-0.

Brief Summary of Substitute Bill

- Expands eligibility for mental health court to nonviolent offenders who have a developmental disability (DD) or who have suffered a traumatic brain injury (TBI).
- Requires jail staff to make a reasonable effort to communicate the nature of a person's DD or TBI to a receiving facility's staff.
- Requires the Department of Social and Health Services to adopt rules to expedite enrollment in Medical Assistance for a person with a DD or TBI who is released from confinement.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alexa Silver (786-7190).

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Staff: Alex MacBain (786-7288).

Background:

Mental Health Courts: Counties may operate mental health courts, which have a special docket designed to reduce recidivism and symptoms of mental illness for nonviolent, mentally ill offenders. Mental health courts aim to increase the likelihood of a mentally ill offender's successful rehabilitation through treatment, periodic reviews, and other rehabilitation services. Minimum requirements for establishment of a mental health court are that the offender: (1) would benefit from psychiatric treatment; (2) does not have a prior conviction for a serious violent or sex offense; and (3) is not currently charged with a sex offense, a serious violent offense, an offense during which the offender used a firearm, or an offense during which the offender caused substantial or great bodily harm or death.

Medical Assistance Benefits: Medical Assistance benefits such as Medicaid allow for medical care under the federal Social Security Act. When an eligible person is booked into a correctional facility, the person stops receiving state-funded services while in custody and is no longer eligible for Medical Assistance.

In 2005 the Department of Social and Health Services (DSHS) began adopting policies and rules providing that Medical Assistance coverage be fully reinstated on the date of release from confinement of a person with a mental disorder who was enrolled in Medical Assistance immediately prior to confinement. In January 2009 the DSHS published a report proposing a five-phase model for promptly reinstating eligibility for a previous Medical Assistance recipient who is released from incarceration.

House Bill 2078 Work Group: During the 2009 interim, a work group made up of representatives from the Department of Corrections (DOC), jails, advocates for persons with intellectual and developmental disabilities and traumatic brain injuries (TBI), and others met to address the special needs of persons with intellectual and developmental disabilities and TBI when they come into contact with local and state correctional facilities. The work group published a report in August 2010 that provided a sample screening tool, a model policy, and training materials.

Developmental disability is defined by statute to mean a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another condition that requires similar

treatment, that began before the person turned age 18, that will continue indefinitely, and that constitutes a substantial limitation.

Summary of Substitute Bill:

Mental Health Courts: Counties may establish and operate mental health courts to reduce recidivism and symptoms of mental illness for nonviolent offenders who have a developmental disability (DD) or TBI. Among the requirements for participation is that the offender would benefit from psychiatric treatment or treatment related to DD or TBI.

Transfer to a Correctional Facility: When a jail determines that a person in custody may have a DD or TBI and the person is transferred to a DOC facility or another jail, jail staff must make every reasonable effort to communicate the nature of the disability and any necessary accommodations to the receiving facility's staff.

Re-enrollment in Medical Assistance: The DSHS must adopt policies and rules providing that Medical Assistance coverage be fully reinstated on the date of release from confinement of a person with DD or TBI who was enrolled in Medical Assistance immediately prior to confinement.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment deletes the requirement that the DSHS expedite the reinstatement of Medical Assistance coverage for a person with DD or TBI who is released from confinement.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Public Safety & Emergency Preparedness):

(In support) This bill contains recommendations from a report issued by a work group, which included sheriffs, people with DD, and service organizations. Communication between jail staff and correctional staff is critical, because inmates are vulnerable and staff are at risk when this communication does not occur. Mental health courts' jurisdiction over cases of people with DD and TBI should be clarified, because mental health courts give serious thought to how to appropriately serve these populations.

(Opposed) None.

Staff Summary of Public Testimony (Ways & Means):

(In support) This bill has broad support in the disability community and it contains recommendations from a report issued by a work group made up of representatives from law enforcement, service organizations, and people with DD. The three recommendations from

the work group included in the bill are important and were included because they were expected to have limited fiscal impacts. The provisions related to mental health courts and better coordination between jails and prisons when inmates are being transferred do not have a fiscal impact. The provision related to restoring medical benefits upon release from incarceration is very important and provides the same process as is currently in place for individuals with a mental illness. This portion does have indeterminate costs. If the costs are a concern to the committee, it would still be important to have the other two recommendations move forward in the process.

(Opposed) None.

Persons Testifying (Public Safety & Emergency Preparedness): Representative Roberts, prime sponsor; David Maltman, Washington State Developmental Disabilities Council; and David Lord and Bette Fleishman, Disability Rights of Washington.

Persons Testifying (Ways & Means): David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying (Public Safety & Emergency Preparedness): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.