

FINAL BILL REPORT

SHB 2195

C 10 L 14
Synopsis as Enacted

Brief Description: Concerning involuntary medication for maintaining the level of restoration in jail.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Morrell, Kochmar, Hurst, Green and Jinkins).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background:

A person is incompetent to stand trial in a criminal case if, due to a mental disease or defect, he or she lacks the capacity to understand the nature of the proceedings or is unable to assist in his or her own defense. A court may require a competency evaluation of a defendant whenever the issue of competency is raised, and a person who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues.

If a person is deemed incompetent to stand trial, the court must stay the criminal proceedings and, if the case involves a felony charge or a nonfelony charge that is a serious offense, order the defendant to undergo a period of competency restoration. Restoration treatment typically takes place at a state hospital and involves administration of psychiatric medication and other treatment. If the defendant undergoes restoration, but cannot be restored to competency within the statutorily designated time period, the criminal case must be dismissed without prejudice. If the defendant's competency is restored, the criminal proceedings continue.

The United States Supreme Court has recognized that a person has a significant constitutionally protected liberty interest in avoiding the unwanted administration of psychiatric medication. However, in *Sell v. United States* the Court held that, under certain circumstances, a mentally ill defendant facing serious criminal charges may be involuntarily medicated in order to restore competency to stand trial. The *Sell* test requires a case-by-case inquiry that weighs the government's interest in prosecution against the individual's rights.

Certain offenses qualify as serious offenses for the purposes of ordering competency restoration, and, if the *Sell* test is satisfied, ordering involuntary medication during the restoration period. Serious offenses include violent and sex offenses, crimes against persons,

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firearms and dangerous weapons offenses, harassment and domestic violence offenses, class B felony drug offenses, and other offenses that meet certain statutory criteria.

Summary:

Maintenance of the level of a defendant's restored competency in jail after the statutory competency restoration period has terminated is identified as a purpose for which a court order for involuntary medication may be entered. Additionally, it is specified that the right of a restored defendant to refuse medication in jail only applies in cases in which there is no court order in place authorizing involuntary medication.

Votes on Final Passage:

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| House | 97 | 0 |
| Senate | 49 | 0 |

Effective: June 12, 2014