

SENATE BILL REPORT

SB 5046

As Reported By Senate Committee On:
Human Services & Corrections, January 28, 1999

Title: An act relating to creating an additional hearing procedure when the court disagrees with the mental health evaluation conducted by a professional person.

Brief Description: Revising hearing procedures for defendants receiving mental health evaluations.

Sponsors: Senators Long, Hargrove and Costa.

Brief History:

Committee Activity: Human Services & Corrections: 1/14/99, 1/28/99 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5046 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, McCaslin, Patterson, Stevens and Zarelli.

Staff: Fara Daun (786-7459)

Background: Under 1998 legislation that becomes effective March 1, 1999, a defendant whose misdemeanor charges have been dismissed due to his or her incompetency, but who remains in custody, is required to have an additional mental health evaluation under the civil commitment statute. If the professional person recommends that the defendant be released, the superior court must review the recommendation not later than the next judicial day. The 1998 legislation does not specify court procedures or provide guidance for the required hearing.

Summary of Substitute Bill: Incompetent misdemeanor offenders who could not be made competent to stand trial, who have a prior history of violent acts or findings of either incompetence or not guilty by reason of insanity, who are still in custody at the time charges are dismissed, and regarding whom a judge disagrees with a mental health professional's recommendation of unconditional release are subject to a review.

At the review the court may order the person held at an evaluation and treatment center for 72 hours prior to a hearing or may order the person conditionally released subject to a hearing within eleven days.

If the court releases the individual subject to a hearing and the person fails to appear, the court must order the person taken into custody at an evaluation and treatment facility and brought to court the next judicial day.

If the court releases the person subject to a hearing, the prosecutor may file a direct petition for 90-day inpatient or outpatient treatment. If the prosecutor files a petition, the court may order the person detained at the evaluation and treatment facility that performed the evaluation or order the person to participate in outpatient treatment.

Substitute Bill Compared to Original Bill: The substitute bill provides the court has discretion over whether to conditionally release the person or order the person held pending the hearing. The original bill did not allow the court to order the person held pending the hearing. If the person fails to appear at the hearing, the court must order the person taken into custody.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect on the later of March 1, 1999, or on approval by the Governor.

Testimony For: The bill addresses a procedural oversight to the requirement laid out in SB 6214. It affects very few offenders and only occurs in those cases where the judge and mental health evaluator disagree. Disagreement between the judge and the mental health professional is anticipated only in those cases where reasonable mental health professionals could disagree on the significance of some past history. There is not a problem with including the county designated mental health professional in the process.

NAMI supports this bill because it makes SB 6214 more effective and is a step in the right direction.

Testimony Against: NAMI opposes the underlying legislation because it does not provide full funding to the community mental health treatment programs. Focus on offenders may distract the Legislature from ensuring support for mental health treatment before mentally ill persons become offenders.

Testified: Paul Trause, King County Prosecuting Attorney's Office (pro); Brad Boswell, NAMI, Washington; Eleanor Owen, WAMI, Mental Health Advocates of Washington; Anthony O'Leary, Sound Mental Health, CDMHP.