
SENATE BILL 6335

State of Washington 57th Legislature

2002 Regular Session

By Senators Long and Hargrove; by request of Department of Social and Health Services

Read first time 01/15/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to forensic evaluations; and amending RCW
2 10.77.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 10.77.060 and 2000 c 74 s 1 are each amended to read
5 as follows:

6 (1)(a) Whenever there is reason to doubt the competency of a
7 defendant, the court on its own motion or on the motion of any party
8 shall either appoint or request the secretary to designate a qualified
9 expert or professional person to examine and report upon the mental
10 condition of the defendant. The expert or professional person
11 appointed must be a developmental disabilities professional if the
12 court is advised by any party that the defendant may be developmentally
13 disabled. The report of the results of the examination shall be
14 submitted to the court within fifteen days of the expert or
15 professional person receiving the order of the court, charging
16 documents, and the relevant discovery materials. Additional time may
17 be granted by the court upon the request of the examiner. If
18 clinically necessary and requested by the appointed or designated
19 expert or professional person, the court may order the defendant

1 committed to a hospital or other suitably secure public or private
2 mental health facility for a period of time necessary to complete the
3 examination, but not to exceed fifteen days from the time of admission
4 to the facility. "Clinically necessary" for purposes of this section
5 does not include the expert or professional person's convenience. At
6 the request of the expert or professional person, the court may appoint
7 or designate additional experts or professional persons to conduct the
8 examination.

9 (b) Whenever a defendant has (~~(pleaded)~~) entered into court a plea
10 of not guilty by reason of insanity, (~~(or there is reason to doubt his~~
11 ~~or her competency,~~) the court on its own motion or on the motion of
12 any party shall either appoint or request the secretary to designate
13 (~~(at least)~~) one or two qualified experts or professional persons, one
14 of whom shall be approved by the prosecuting attorney, to examine and
15 report upon the mental condition of the defendant. At least one of the
16 experts or professional persons appointed or designated shall be a
17 developmental disabilities professional if the court is advised by any
18 party that the defendant may be developmentally disabled. For purposes
19 of the examination, the court may order the defendant: (i) Upon
20 agreement of the parties, examined in the jail, detention facility, or
21 out of custody by one expert or professional person; or (ii) committed
22 to a hospital or other suitably secure public or private mental health
23 facility for a period of time necessary to complete the examination by
24 two experts or professional persons, but not to exceed fifteen days
25 from the time of admission to the facility. At the request of the
26 expert or professional person, the court may appoint or designate
27 additional experts or professional persons to conduct the examination.

28 (~~(b)~~) (c) Whenever a defendant has informed the court of the
29 possible intent to introduce evidence of a diminished capacity, the
30 court on its own motion or on the motion of any party shall either
31 appoint or request the secretary to designate one or two qualified
32 experts or professional persons, one of whom must be approved by the
33 prosecuting attorney, to examine and report upon the mental condition
34 of the defendant. At least one of the experts or professional persons
35 appointed or designated must be a developmental disabilities
36 professional if the court is advised by any party that the defendant
37 may be developmentally disabled. For purposes of the examination, the
38 court may order the defendant: (i) Upon agreement of the parties,
39 examined in the jail, detention facility, or out of custody by one

1 expert or professional person; or (ii) committed to a hospital or other
2 suitably secure public or private mental health facility for a period
3 of time necessary to complete the examination by two experts or
4 professional persons, but not to exceed fifteen days from the time of
5 admission to the facility. At the request of the expert or
6 professional person, the court may appoint or designate additional
7 experts or professional persons to conduct the examination.

8 (d) When a defendant is ordered to be examined or committed for
9 inpatient examination under this subsection (1), the court may delay
10 granting bail until the defendant has been ((evaluated)) examined for
11 competency or sanity and appears before the court. Following the
12 evaluation, in determining bail the court shall consider: (i)
13 Recommendations of the expert or professional persons regarding the
14 defendant's competency, sanity, or diminished capacity; (ii) whether
15 the defendant has a recent history of one or more violent acts; (iii)
16 whether the defendant has previously been acquitted by reason of
17 insanity or found incompetent; (iv) whether it is reasonably likely the
18 defendant will fail to appear for a future court hearing; and (v)
19 whether the defendant is a threat to public safety.

20 (2) The court may direct that a qualified expert or professional
21 person retained by or appointed for the defendant be permitted to
22 witness the examination authorized by subsection (1) of this section,
23 and that the defendant shall have access to all information obtained by
24 the court appointed experts or professional persons. The defendant's
25 expert or professional person shall have the right to file his or her
26 own report following the guidelines of subsection ((+3+)) (4) of this
27 section. If the defendant is indigent, the court shall upon the
28 request of the defendant assist him or her in obtaining an expert or
29 professional person.

30 (3) The report of the examination regarding competency must include
31 the following:

32 (a) A description of the nature of the examination;

33 (b) A diagnosis of the mental condition of the defendant;

34 (c) If the defendant suffers from a mental disease or defect or is
35 developmentally disabled, an opinion as to the defendant's capacity to
36 understand the nature of the proceedings and to assist in his or her
37 defense as a result of mental disease or defect; and

38 (d) An opinion, based on the examination, as to whether the
39 defendant should be evaluated by a county designated mental health

1 professional under chapter 71.05 RCW, and, if requested by the court,
2 an opinion as to whether the defendant is a substantial danger to other
3 persons, or presents a substantial likelihood of committing criminal
4 acts jeopardizing public safety or security, unless kept under further
5 control by the court or other persons or institutions.

6 (4) The report of the examination regarding sanity when the
7 defendant has entered into court a plea of not guilty by reason of
8 insanity pursuant to RCW 10.77.030 shall include the following:

9 (a) A description of the nature of the examination;

10 (b) A diagnosis of the mental condition of the defendant;

11 ~~(c) ((If the defendant suffers from a mental disease or defect, or~~
12 ~~is developmentally disabled, an opinion as to competency;~~

13 ~~(d) If the defendant has indicated his or her intention to rely on~~
14 ~~the defense of insanity pursuant to RCW 10.77.030,)) An opinion as to~~

15 the defendant's ((sanity)) ability at the time of ((the act))
16 commission of the offense, as a result of mental disease or defect, to
17 perceive the nature and quality of the act charged and ability to tell
18 right from wrong with reference to the act charged;

19 ~~((e) When directed by the court, an opinion as to the capacity of~~
20 ~~the defendant to have a particular state of mind which is an element of~~
21 ~~the offense charged;~~

22 ~~(f))~~ (d) An opinion as to whether the defendant should be
23 evaluated by a county designated mental health professional under
24 chapter 71.05 RCW, and, if requested by the court, an opinion as to
25 whether the defendant is a substantial danger to other persons, or
26 presents a substantial likelihood of committing criminal acts
27 jeopardizing public safety or security, unless kept under further
28 control by the court or other persons or institutions.

29 ~~((4))~~ (5) The report of the examination regarding diminished
30 capacity when a defendant has informed the court of the possible intent
31 to introduce evidence of a diminished capacity must include the
32 following:

33 (a) A description of the nature of the examination;

34 (b) A diagnosis of the mental condition of the defendant;

35 (c) An opinion as to the capacity of the defendant to have a
36 particular state of mind which is an element of the offense charged;

37 (d) An opinion as to whether the defendant should be evaluated by
38 a county designated mental health professional under chapter 71.05 RCW,
39 and, if requested by the court, an opinion as to whether the defendant

1 is a substantial danger to other persons, or presents a substantial
2 likelihood of committing criminal acts jeopardizing public safety or
3 security, unless kept under further control by the court or other
4 persons or institutions.

5 (6) The secretary may execute such agreements as appropriate and
6 necessary to implement this section.

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