
SENATE BILL 5889

State of Washington

64th Legislature

2015 Regular Session

By Senators O'Ban and Miloscia

Read first time 02/09/15. Referred to Committee on Human Services,
Mental Health & Housing.

1 AN ACT Relating to timeliness of competency evaluation and
2 restoration services; and amending RCW 10.77.068.

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

4 **Sec. 1.** RCW 10.77.068 and 2012 c 256 s 2 are each amended to
5 read as follows:

6 (1)(a) The legislature establishes the following performance
7 targets and maximum time limits for the timeliness of the completion
8 of accurate and reliable evaluations of competency to stand trial and
9 admissions for inpatient restoration services related to competency
10 to proceed or stand trial for adult criminal defendants. The
11 legislature recognizes that these targets may not be achievable in
12 all cases without compromise to the quality of competency evaluation
13 and restoration services, but intends for the department to manage,
14 allocate, and request appropriations for resources in order to meet
15 these targets whenever possible without sacrificing the accuracy and
16 quality of competency evaluations and restorations, and to otherwise
17 make sustainable improvements and track performance related to the
18 timeliness of competency services:

19 (i) For a state hospital to extend an offer of admission to a
20 defendant in pretrial custody for legally authorized restoration
21 treatment or evaluation services related to competency, or to extend

1 an offer of admission for legally authorized services following
2 dismissal of charges based on ~~((incompetent))~~ incompetence to proceed
3 or stand trial~~((τ))~~:

4 (A) A performance target of seven days or less; and

5 (B) A maximum time limit of fourteen days, plus an additional
6 seven-day extension if needed for clinical reasons to complete the
7 evaluation at the determination of the department;

8 (ii) For completion of a competency evaluation in jail and
9 distribution of the evaluation report for a defendant in pretrial
10 custody~~((τ))~~:

11 (A) A performance target of seven days or less; and

12 (B) A maximum time limit of fourteen days, plus an additional
13 seven-day extension if needed for clinical reasons to complete the
14 evaluation at the determination of the department;

15 (iii) For completion of a competency evaluation in the community
16 and distribution of the evaluation report for a defendant who is
17 released from custody and makes a reasonable effort to cooperate with
18 the evaluation, a performance target of twenty-one days or less.

19 (b) The time periods measured in these performance targets and
20 maximum time limits shall run from the date on which the state
21 hospital receives the court referral and charging documents,
22 discovery, mental health and medical records, police reports, the
23 names and addresses of the attorneys for the defendant and state or
24 county, the name of the judge ordering the evaluation, information
25 about the alleged crime, a summary of the reasons for the evaluation
26 request, and criminal history information related to the defendant.
27 The ~~((targets))~~ maximum time limits in (a)(i) and (ii) of this
28 subsection shall be phased in over a ~~((six-month))~~ one-year period
29 ~~((from May 1, 2012. The target in (a)(iii) of this subsection shall~~
30 ~~be phased in over a twelve-month period from May 1, 2012.~~

31 ~~((c) The legislature recognizes the following nonexclusive list of~~
32 ~~circumstances that may place achievement of targets for completion of~~
33 ~~competency services described in (a) of this subsection out of the~~
34 ~~department's reach in an individual case without aspersion to the~~
35 ~~efforts of the department))~~ beginning July 1, 2015, in a manner that
36 results in measurable incremental progress toward meeting the time
37 limits over the course of the year.

38 (c) It shall be a defense to an allegation that the department
39 has exceeded the maximum time limits for completion of competency
40 services described in (a) of this subsection if the department can

1 demonstrate by a preponderance of the evidence that the reason for
2 exceeding the maximum time limits was outside of the department's
3 control including, but not limited to, the following circumstances:

4 (i) Despite a timely request, the department has not received
5 necessary medical clearance information regarding the current medical
6 status of a defendant in pretrial custody for the purposes of
7 admission to a state hospital;

8 (ii) The individual circumstances of the defendant make accurate
9 completion of an evaluation of competency to proceed or stand trial
10 dependent upon review of medical history information which is in the
11 custody of a third party and cannot be immediately obtained by the
12 department. Completion of a competency evaluation shall not be
13 postponed for procurement of medical history information which is
14 merely supplementary to the competency determination;

15 (iii) Completion of the referral is frustrated by lack of
16 availability or participation by counsel, jail or court personnel,
17 interpreters, or the defendant;

18 (iv) The department does not have access to appropriate private
19 space to conduct a competency evaluation for a defendant in pretrial
20 custody;

21 (v) The defendant asserts legal rights that result in a delay in
22 the provision of competency services; or

23 ~~((iv))~~ (vi) An unusual spike in the receipt of evaluation
24 referrals or in the number of defendants requiring restoration
25 services has occurred, causing temporary delays until the unexpected
26 excess demand for competency services can be resolved.

27 (2) The department shall:

28 (a) Develop, document, and implement procedures to monitor the
29 clinical status of defendants admitted to a state hospital for
30 competency services that allow the state hospital to accomplish early
31 discharge for defendants for whom clinical objectives have been
32 achieved or may be achieved before expiration of the commitment
33 period;

34 (b) Investigate the extent to which patients admitted to a state
35 hospital under this chapter overstay time periods authorized by law
36 and take reasonable steps to limit the time of commitment to
37 authorized periods; and

38 (c) Establish written standards for the productivity of forensic
39 evaluators and utilize these standards to internally review the
40 performance of forensic evaluators.

1 (3) Following any quarter in which a state hospital has failed to
2 meet one or more of the performance targets or maximum time limits in
3 subsection (1) of this section after full implementation of the
4 performance target or maximum time limit, the department shall report
5 to the executive and the legislature the extent of this deviation and
6 describe any corrective action being taken to improve performance.
7 This report must be made publicly available. An average may be used
8 to determine timeliness under this subsection.

9 (4) Beginning December 1, 2013, the department shall report
10 annually to the legislature and the executive on the timeliness of
11 services related to competency to proceed or stand trial and the
12 timeliness with which court referrals accompanied by charging
13 documents, discovery, and criminal history information are provided
14 to the department relative to the signature date of the court order.
15 The report must be in a form that is accessible to the public and
16 that breaks down performance by county.

17 (5) This section does not create any new entitlement or cause of
18 action related to the timeliness of competency evaluations or
19 admission for inpatient restoration services related to competency to
20 proceed or stand trial, nor can it form the basis for contempt
21 sanctions under chapter 7.21 RCW or a motion to dismiss criminal
22 charges.

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