
HOUSE BILL 1444

State of Washington

54th Legislature

1995 Regular Session

By Representatives Carrell, Ballasiotes, Koster, Elliot, Smith, Johnson, Mitchell, Backlund, Sherstad, Mulliken, Skinner, Padden, Casada, Costa, Hargrove, Boldt, Schoesler, Stevens, McMahan, Honeyford and Blanton

Read first time 01/25/95. Referred to Committee on Corrections.

1 AN ACT Relating to criminal defendants; amending RCW 10.77.060 and
2 10.77.220; adding new sections to chapter 10.77 RCW; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that evaluations of
6 criminal defendants to determine whether they are criminally insane or
7 are competent to stand trial are conducted at state hospitals that are
8 insufficiently secure. The vast majority of criminal defendants
9 referred for evaluations of their sanity are not criminally insane, are
10 returned to court for trial, and are ultimately convicted. Most
11 defendants evaluated for competency to stand trial are found competent
12 to stand trial and are returned to court. Many of these defendants are
13 dangerous and present a risk of escape. The facilities at state
14 hospitals were never intended for nor are they suitable for the
15 security needs of this population. Conducting evaluations of these
16 defendants in insecure hospital settings jeopardizes the safety of the
17 surrounding community, staff, and other patients.

1 The legislature intends to increase the safety of all concerned by
2 locating evaluation programs for criminal defendants at secure mental
3 health facilities.

4 **Sec. 2.** RCW 10.77.060 and 1989 c 420 s 4 are each amended to read
5 as follows:

6 (1) Whenever a defendant has pleaded not guilty by reason of
7 insanity, or there is reason to doubt his or her competency, the court
8 on its own motion or on the motion of any party shall either appoint or
9 request the secretary to designate at least two qualified experts or
10 professional persons, one of whom shall be approved by the prosecuting
11 attorney, to examine and report upon the mental condition of the
12 defendant. At least one of the experts or professional persons
13 appointed shall be a developmental disabilities professional if the
14 court is advised by any party that the defendant may be developmentally
15 disabled. For purposes of the examination, the court may order the
16 defendant committed to a hospital or other suitable facility for a
17 period of time necessary to complete the examination, but not to exceed
18 fifteen days. If the court commits the defendant to the custody of the
19 department of social and health services to conduct the examination,
20 the examination shall be conducted at a secure mental health facility
21 operated by the department wholly contained within a secure facility.

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

32 (3) The report of the examination shall include the following:

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

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

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

1 (d) If the defendant has indicated his or her intention to rely on
2 the defense of insanity pursuant to RCW 10.77.030, an opinion as to the
3 defendant's sanity at the time of the act;

4 (e) When directed by the court, an opinion as to the capacity of
5 the defendant to have a particular state of mind which is an element of
6 the offense charged;

7 (f) An opinion as to whether the defendant is a substantial danger
8 to other persons, or presents a substantial likelihood of committing
9 felonious acts jeopardizing public safety or security, unless kept
10 under further control by the court or other persons or institutions.

11 **Sec. 3.** RCW 10.77.220 and 1982 c 112 s 3 are each amended to read
12 as follows:

13 No person confined pursuant to this chapter shall be incarcerated
14 in a state correctional institution or facility(~~(:—PROVIDED, That))~~.
15 Nothing ((herein shall)) in this chapter prohibits confinement in a
16 secure mental health facility located wholly within a correctional
17 institution. Confinement in a county jail or other local facility
18 while awaiting either placement in a treatment program or a court
19 hearing pursuant to this chapter is permitted for no more than seven
20 days.

21 NEW SECTION. **Sec. 4.** Evaluations of criminal defendants' criminal
22 insanity and competency to stand trial ordered pursuant to RCW
23 10.77.060 that would have been conducted at Western State Hospital
24 prior to the effective date of this act shall, on and after the
25 effective date of this act, be conducted at a secure mental health
26 facility wholly contained within McNeil Island Correctional Facility.
27 The department of corrections shall cooperate with the department of
28 social and health services in providing space to house offenders being
29 evaluated pursuant to RCW 10.77.060. The department of social and
30 health services shall operate the mental health facility.

31 NEW SECTION. **Sec. 5.** Evaluations of criminal defendants' criminal
32 insanity and competency to stand trial ordered pursuant to RCW
33 10.77.060 that would have been conducted at Eastern State Hospital
34 prior to the effective date of this act shall, on and after the
35 effective date of this act, be conducted at a secure mental health
36 facility wholly contained within Airway Heights Correctional Facility.

1 The department of corrections shall cooperate with the department of
2 social and health services in providing space to house offenders being
3 evaluated pursuant to RCW 10.77.060. The department of social and
4 health services shall operate the mental health facility.

5 NEW SECTION. **Sec. 6.** This act shall apply to evaluations of
6 criminal defendants for competency to stand trial or insanity conducted
7 on or after the effective date of this act.

8 NEW SECTION. **Sec. 7.** Sections 4 and 5 of this act are each added
9 to chapter 10.77 RCW.

10 NEW SECTION. **Sec. 8.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

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