

# HOUSE BILL ANALYSIS

## SSB 5048

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**Title:** An act relating to technical corrections to chapters 10.77 and 71.05 RCW.

**Brief Description:** Making technical corrections to chapters 10.77 and 71.05 RCW.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Long and Hargrove).

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**Staff:** Yvonne Walker (786-7841).

**Background:**

In 1998, the Legislature passed legislation (Second Substitute Senate Bill 6214) relating to mentally ill persons who commit misdemeanor crimes. The bill required the courts to focus on whether these mentally ill persons pose a danger to public safety or security rather than whether their actions constitute a felony offense.

The courts were required, when making a determination of whether a person poses a likelihood of serious harm, to give great weight— to such evidence as the defendant’s recent history of violence or any recent history relating to whether one or more prior civil commitments were ordered due to the person posing a likelihood of serious harm in the past.

Non-felony defendants who are determined to be incompetent and who:

- (1) have a history of one or more violent acts or a pending charge involving one or more violent acts;
- (2) have been acquitted by reason of insanity; or
- (3) have been previously found incompetent regarding an offense which caused harm to another, must be placed in a facility designated by the Department of Social and Human Services for up to 14 days or up to 90 days on conditional release for mental health treatment and competency restoration. If competency is restored, the defendant is returned to the original court for trial. If competency is not restored, the criminal charges are dismissed and the person is referred for an evaluation of civil commitment. The professional person or facility conducting the evaluation must report the results to the court.

An "expert or professional person" is defined to include: (a) a psychiatrist licensed as a physician and surgeon in Washington who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association and is certified or eligible to be certified by the American Board of Psychiatry and Neurology; (b) a licensed psychologist; or (c) a social worker with a master's or further advanced degree from an accredited school of social work.

**Summary:**

This bill makes a number of technical corrections to the 1998 legislation relating to mentally ill persons who commit misdemeanor crimes.

Several cross-references are corrected, grammatical corrections are made, past effective date and chapter law references are clarified by amending the sections to the actual calendar date that the provisions took effect. The procedural issue that for a court to give "great weight" to evidence in determining whether a defendant poses a likelihood of serious harm is clarified to allow courts to review any and all evidence which is admissible as evidence in a court.

The term professional person– is clarified to include professional persons who are certified by either the American Board of Psychiatry and Neurology– or the American Osteopathic Board of Neurology and Psychiatry.–

The amendments listed above are intended be technical and clarifying to last year's mentally ill offender bill.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

Office of Program Research