
Judiciary Committee

HB 1767

Title: An act relating to forensic competency examinations.

Brief Description: Permitting a forensic competency examination to be conducted in a jail, detention or correctional facility, or appropriate community setting by one examiner.

Sponsors: Representatives Lovick, Campbell, Mielke, Lantz and O'Brien; by request of Department of Social and Health Services.

Brief Summary of Bill

- Allows the court to designate one expert or professional (instead of two) to examine a defendant whose competency to stand trial is in question.
- Allows a court, upon agreement of the parties, to designate one expert or professional (instead of two) to examine a defendant who has pleaded not guilty by reason of insanity.

Hearing Date: 2/20/03

Staff: Trudes Tango Hutcheson (786-7384).

Background:

Competency to stand trial focuses on the defendant's ability, at trial, to understand the nature of the proceedings against him and assist in his own defense. A determination of insanity, on the other hand, focuses on whether the defendant's mental condition at the time of the crime was so defective that he could not perceive the nature of his act. Insanity is a defense to the crime, which the defendant generally must plead either at arraignment or within 10 days of arraignment.

Whenever a defendant pleads not guilty by reason of insanity, or the defendant's competency to stand trial is in doubt, the court must require the Department of Social and Health Services (DSHS) to designate at least two qualified experts or professional persons to examine the defendant and report on the defendant's mental condition. At least one of the experts or professionals must be approved by the prosecuting attorney.

For the purposes of the examination, the court may order the defendant committed to a hospital or other secure public or private mental health facility for a period of time necessary to complete the examination, but not to exceed 15 days from the time of admission to the facility.

The report of the examination must include: (a) a description of the nature of the exam; (b) a diagnosis of the mental condition of the defendant; (c) an opinion as to competency if the defendant suffers from a mental disease or defect, or is developmentally disabled; (d) whether the defendant intends to rely on the insanity defense; (e) when directed by the court, an opinion as to the defendant's capacity to have a particular state of mind that is an element of the offense; and (f) an opinion as to whether the defendant should be evaluated for commitment under the involuntary commitment laws and whether the defendant is a substantial danger to other persons or presents a substantial likelihood of committing criminal acts jeopardizing public safety unless kept under further control.

The Legislature required the Joint Legislative Audit and Review Committee (JLARC) to conduct a study of the Mentally Ill Offender Act that was enacted in 1998. The act made numerous changes to the state's civil commitment and criminal insanity laws. The JLARC presented a report in December 2000. Among other things, the JLARC found that: (a) Western State Hospital conducts most of its competency evaluations on an outpatient basis (typically in the local jails) and often waives the requirement, with the agreement of the parties, that there be two evaluators; and (b) Eastern State Hospital conducts most of its evaluations on an inpatient basis, and there is a backlog of people waiting to be admitted for evaluation.

Summary of Bill:

Whenever there is reason to doubt the competency of a defendant, the court on its own motion or on the motion of any party shall request the DSHS to designate an expert or professional to examine the defendant in a local jail, detention, correctional facility, or appropriate community setting and report on the defendant's mental condition. The report must be submitted to the court within 15 days of the expert or professional receiving the court's order, charging documents, and relevant discovery materials. If clinically necessary and requested by the expert or professional, the court may order the defendant committed to a hospital or other secure public or private mental health facility, for up to 15 days, to complete the exam.

For a defendant who has pleaded not guilty by reason of insanity, the court may designate one expert or professional to conduct the exam (instead of two) upon agreement of the parties.

The competency examination report is not required to include an opinion as to the defendant's sanity at the time of the act or an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged. The sanity report is not required to include an opinion as to competency.

Appropriation: None.

Fiscal Note: Requested on February 13, 2003.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.