

6274-S2

Sponsor(s): Senate Committee on Ways & Means (originally sponsored by Senators Regala, Stevens, Hargrove and Kline)

Brief Description: Changing provisions relating to serious offenses in the context of competency restoration. Revised for 1st

Substitute: Changing provisions relating to competency restoration.

SB 6274-S2.E - DIGEST

(DIGEST AS ENACTED)

Finds that recent state and federal case law requires clarification of state statutes with regard to competency evaluations and involuntary medication ordered in the context of competency restoration.

Declares that the legislature intends to clarify that it intended "nonfatal injuries" to be interpreted in a manner consistent with the purposes of the competency restoration statutes.

Finds that the decision in *Sell v. United States*, ___U.S. ___ (2003), requires a determination whether a particular criminal offense is "serious" in the context of competency restoration and the state's duty to protect the public.

Finds that, in order to adequately protect the public and in order to provide additional opportunities for mental health treatment for persons whose conduct threatens themselves or threatens public safety and has led to contact with the criminal justice system in the state, the determination of those criminal offenses that are "serious" offenses must be made consistently throughout the state.

Provides that, in order to facilitate this consistency, the legislature intends to determine those offenses that are serious in every case as well as the standards by which other offenses may be determined to be serious.

Declares an intent to clarify that a court may, to the extent permitted by federal law and required by the *Sell* decision, inquire into the civil commitment status of a defendant and may be told, if known.

Provides that, for purposes of determining whether a court may authorize involuntary medication for the purpose of competency restoration pursuant to RCW 10.77.090, a pending charge involving any one or more of the following crimes is a serious offense per se in the context of competency restoration: (1) Any violent offense, sex offense, serious traffic offense, and most serious offense, as those terms are defined in RCW 9.94A.030;

(2) Any offense, except nonfelony counterfeiting offenses, included in crimes against persons in RCW 9.94A.411;

(3) Any offense contained in chapter 9.41 RCW (firearms and dangerous weapons);

(4) Any offense listed as domestic violence in RCW 10.99.020;

(5) Any offense listed as a harassment offense in chapter 9A.46 RCW;

(6) Any violation of chapter 69.50 RCW that is a class B

felony; or

(7) Any city or county ordinance or statute that is equivalent to an offense referenced in this act.

Provides that, when the court must make a determination whether to order involuntary medications for the purpose of competency restoration, the court shall inquire, and shall be told, consistent with federal law and to the extent that the prosecutor or defense attorney is aware, whether the defendant is the subject of a pending civil commitment proceeding or has been ordered into involuntary treatment pursuant to a civil commitment proceeding.

VETO MESSAGE ON SB 6274-S2

March 26, 2004

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 6, Engrossed Second Substitute Senate Bill No. 6274 entitled:

"AN ACT Relating to competency restoration;"

This bill defines "nonfatal injuries" and "serious offense" for purposes of competency restoration for criminal defendants found incompetent to stand trial, including involuntary administration of medication.

Section 6 would have directed the Department of Social and Health Services to study and identify, in its budget request to the Office of Financial Management, "the need, options, and plans to address the increasing need for capacity in the forensic units of the state hospitals." Though intended to address an important issue, this language would have intruded on the budget development process of the executive branch. Ultimately, the Legislature will determine what is funded, but it should not attempt to direct development of the proposed budget within the executive branch. Further, Section 6 does not specify the fiscal period to which it applies. Although the section is not codified, it could be interpreted to require such an analysis every year into the future.

For these reasons, I have vetoed section 6 of Engrossed Second Substitute Senate Bill No. 6274.

With the exception of section 6, Engrossed Second Substitute Senate Bill No. 6274 is approved.

Respectfully submitted,
Gary Locke
Governor