

SENATE BILL REPORT

SB 6311

As Reported by Senate Committee On:
Human Services & Corrections, February 5, 2014

Title: An act relating to involuntary medication for maintaining the level of restoration in jail.

Brief Description: Concerning involuntary medication for maintaining the level of restoration in jail.

Sponsors: Senators O'Ban and Conway.

Brief History:

Committee Activity: Human Services & Corrections: 1/28/14, 2/05/14 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6311 be substituted therefor, and the substitute bill do pass.

Signed by Senators O'Ban, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove and Padden.

Staff: Kevin Black (786-7747)

Background: Competency restoration treatment may be authorized by the court for a defendant who is found to be incompetent to stand trial. Competency restoration treatment is administered on an inpatient basis in state hospitals. Washington statutes limit the duration of competency restoration treatment to defined periods. Defendants frequently return to jail between competency restoration periods for the purpose of further judicial hearings, either to authorize additional periods of competency restoration treatment, or, in the event the defendant is found to be restored to competency or is found to be ineligible for further treatment, to resolve the criminal case.

Involuntary medication for the purpose of restoring the competency of a criminal defendant was considered and found to be constitutional by the U.S. Supreme Court in the case of *Sell v. United States*, 539 U.S. 166 (2003), provided that involuntary medication may only be employed if the charges are serious, the proposed medication is medically appropriate, the proposed medication is likely to restore competency, and there are no alternative, less-intrusive treatments likely to achieve substantially the same results. The Legislature

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

authorized state courts to order involuntary medication for the purpose of competency restoration treatment in 2004.

Summary of Bill (Recommended Substitute): A court may authorize involuntary medication of a criminal defendant for the purpose of maintaining the level of competency restoration in the jail following a competency restoration period. A jail must continue a prescribed medication regimen for a defendant who has completed a period of competency restoration treatment if there is a court order for involuntary treatment.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): A jail must continue a prescribed medication regimen for a defendant who has completed a period of competency restoration treatment if there is a court order for involuntary treatment.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: It seems logical that when a person has been returned to competency by medication that the jail should be authorized to maintain that level of competency. This reduces the need for further hospitalization. This bill harmonizes RCW 10.77.092 with RCW 10.77.093 and is consistent with the original legislative intent. We suggest an amendment that would add an intent section and amend an additional statute. There is a human cost when defendants cycle frequently on and off of medication; the person may never go back to baseline. There are so many process failures built into the competency system. This bill will prevent the process from being prolonged and will have positive impacts around the state.

Persons Testifying: PRO: Senator O'Ban, prime sponsor; Al Rose, Pierce County; Judy Snow, Pierce County Jail; Brian Enslow, WA State Assn. of Counties.