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ENGROSSED SENATE BILL 5221

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Kohl-Welles, Carrell, and Darneille

Read first time 01/23/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to notification of release of a person following  
2 dismissal of charges based on incompetence to stand trial; and amending  
3 RCW 10.77.065.

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

5 **Sec. 1.** RCW 10.77.065 and 2012 c 256 s 4 are each amended to read  
6 as follows:

7 (1)(a)(i) The expert conducting the evaluation shall provide his or  
8 her report and recommendation to the court in which the criminal  
9 proceeding is pending. For a competency evaluation of a defendant who  
10 is released from custody, if the evaluation cannot be completed within  
11 twenty-one days due to a lack of cooperation by the defendant, the  
12 evaluator shall notify the court that he or she is unable to complete  
13 the evaluation because of such lack of cooperation.

14 (ii) A copy of the report and recommendation shall be provided to  
15 the designated mental health professional, the prosecuting attorney,  
16 the defense attorney, and the professional person at the local  
17 correctional facility where the defendant is being held, or if there is  
18 no professional person, to the person designated under (a)(iv) of this

1 subsection. Upon request, the evaluator shall also provide copies of  
2 any source documents relevant to the evaluation to the designated  
3 mental health professional.

4 (iii) Any facility providing inpatient services related to  
5 competency shall discharge the defendant as soon as the facility  
6 determines that the defendant is competent to stand trial. Discharge  
7 shall not be postponed during the writing and distribution of the  
8 evaluation report. Distribution of an evaluation report by a facility  
9 providing inpatient services shall ordinarily be accomplished within  
10 two working days or less following the final evaluation of the  
11 defendant. If the defendant is discharged to the custody of a local  
12 correctional facility, the local correctional facility must continue  
13 the medication regimen prescribed by the facility, when clinically  
14 appropriate, unless the defendant refuses to cooperate with medication.

15 (iv) If there is no professional person at the local correctional  
16 facility, the local correctional facility shall designate a  
17 professional person as defined in RCW 71.05.020 or, in cooperation with  
18 the regional support network, a professional person at the regional  
19 support network to receive the report and recommendation.

20 (v) Upon commencement of a defendant's evaluation in the local  
21 correctional facility, the local correctional facility must notify the  
22 evaluator of the name of the professional person, or person designated  
23 under (a)(iv) of this subsection, to receive the report and  
24 recommendation.

25 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the  
26 person should be evaluated by a designated mental health professional  
27 under chapter 71.05 RCW, the court shall order such evaluation be  
28 conducted prior to release from confinement when the person is  
29 acquitted or convicted and sentenced to confinement for twenty-four  
30 months or less, or when charges are dismissed pursuant to a finding of  
31 incompetent to stand trial.

32 (2) The designated mental health professional shall provide written  
33 notification within twenty-four hours of the results of the  
34 determination whether to commence proceedings under chapter 71.05 RCW.  
35 The notification shall be provided to the persons identified in  
36 subsection (1)(a) of this section.

37 (3) The prosecuting attorney shall provide a copy of the results of

1 any proceedings commenced by the designated mental health professional  
2 under subsection (2) of this section to the secretary.

3 (4) A facility conducting a civil commitment evaluation under RCW  
4 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to  
5 release the person instead of filing a civil commitment petition must  
6 provide written notification to the prosecuting attorney and defense  
7 attorney within twenty-four hours of the determination.

8 (5) The fact of admission and all information and records compiled,  
9 obtained, or maintained in the course of providing services under this  
10 chapter may also be disclosed to the courts solely to prevent the entry  
11 of any evaluation or treatment order that is inconsistent with any  
12 order entered under chapter 71.05 RCW.

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