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SENATE BILL 5458

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State of Washington                      56th Legislature                      1999 Regular Session

By Senators Costa, Benton, Hargrove, Zarelli, Heavey and Goings

Read first time 01/22/1999. Referred to Committee on Judiciary.

1            AN ACT Relating to criminal defendants who are guilty and mentally  
2 ill; adding a new section to chapter 9A.12 RCW; adding a new section to  
3 chapter 9.94A RCW; and creating a new section.

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

5            NEW SECTION.    **Sec. 1.** The legislature intends with this act to  
6 increase the accuracy of jury verdicts, to ensure just sentencing under  
7 the standards of the sentencing reform act for offenders who are  
8 mentally ill but not insane, to ensure that offenders who are mentally  
9 ill but not insane are kept securely confined and have access to  
10 treatment within available resources, and to reduce the incentive for  
11 the raising of meritless insanity pleas.

12            NEW SECTION.    **Sec. 2.** A new section is added to chapter 9A.12 RCW  
13 to read as follows:

14            (1) A person who timely offers a defense of insanity pursuant to  
15 RCW 10.77.030 may be found "guilty and mentally ill" at trial if the  
16 trier of fact finds that:

17            (a) The state has proven beyond a reasonable doubt that the  
18 defendant is guilty of the crime charged;

1 (b) The defendant has failed to prove by a preponderance of the  
2 evidence the asserted insanity defense; and

3 (c) The defendant has proven by a preponderance of the evidence  
4 that he or she was mentally ill.

5 (2) A person who waives the right to trial may plead guilty and  
6 mentally ill. No plea of guilty and mentally ill may be accepted by  
7 the trial judge until the defendant has undergone examination by a  
8 psychologist or psychiatrist and the judge has examined the  
9 psychological or psychiatric report or reports, has held a hearing on  
10 the issue of the defendant's mental condition, and is satisfied that  
11 there is a factual basis that the defendant was mentally ill at the  
12 time of the offense to which the plea is entered. If the trial judge  
13 refuses to accept a plea of guilty and mentally ill, the defendant  
14 shall be permitted to withdraw the plea.

15 (3) For purposes of this section, "mental illness" and "mentally  
16 ill" means a substantial disorder of thought, mood, or behavior that  
17 afflicted a person at the time of the commission of the offense and  
18 that impaired that person's judgment, but not rising to the level of  
19 insanity pursuant to RCW 9A.12.010.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW  
21 to read as follows:

22 (1) A defendant found guilty and mentally ill or whose plea of  
23 guilty and mentally ill is accepted pursuant to section 2 of this act  
24 may have any sentence imposed that may lawfully be imposed on a  
25 defendant convicted of the same offense. Before imposing sentence, the  
26 court shall hear testimony and make findings as to the degree of the  
27 defendant's mental illness at the time of sentencing and the resulting  
28 need for treatment. A defendant found guilty and mentally ill or whose  
29 plea of guilty and mentally ill is accepted pursuant to section 2 of  
30 this act shall be considered guilty for all other purposes of law.

31 (2) For an offender who is mentally ill and in need of treatment at  
32 the time of sentencing, the department of corrections or the county  
33 having custody of the offender shall make available, within available  
34 resources, such treatment as is psychiatrically or psychologically  
35 indicated for the mental illness.

1       (3) For the purposes of this section, "mental illness" and  
2 "mentally ill" have the same meaning as in section 2 of this act.

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