

SENATE BILL REPORT

SHB 1767

As Reported By Senate Committee On:
Children & Family Services & Corrections, April 4, 2003

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: House Committee on Judiciary (originally sponsored by Representatives Lovick, Campbell, Mielke, Lantz and O'Brien; by request of Department of Social and Health Services).

Brief History:

Committee Activity: Children & Family Services & Corrections: 4/2/03, 4/4/03 [DPA].

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Stevens, Chair; Parlette, Vice Chair; Carlson, Deccio, Hargrove, McAuliffe and Regala.

Staff: Fara Daun (786-7459)

Background: The Joint Legislative Audit and Review Committee was required by the Legislature to conduct a study of the impact of SB 6214, the mentally ill offender act (Chapter 297, Laws 1998). The committee presented its proposed final report on December 13, 2000. The report found that increases in misdemeanor competency evaluations indirectly attributable to SB 6214 were handled differently at Eastern Washington State Hospital and that following SB 6214, the existing waiting list for competency evaluations got longer. Court and jail officials concurred that the wait was "weeks" long, sometimes 30-60 days.

Unlike Western State Hospital, which conducts most competency evaluations on an outpatient basis in the county jails, Eastern State Hospital conducts them on an inpatient basis resulting in an average 13 to 15 day stay. Eastern State Hospital cited staffing requirements and court rulings when asked why it did not conduct more outpatient evaluations. Due to the distances they must cover, providing two staff to perform the evaluation was not a possibility. In Western Washington, the two person evaluation is typically waived with the agreement of both prosecutors and defense for outpatient evaluations in the jails. Eastern State Hospital officials reported that this requirement is not usually waived in Eastern Washington jurisdictions. This was confirmed by Spokane court officials.

According to state hospital professionals, when an evaluation is conducted by two professionals, there is almost always concurrence in their findings.

Summary of Amended Bill: When there is reason to doubt the competency of a defendant, other than a defendant charged with a "most serious offense," the court must request the secretary of the Department of Social and Health Services to appoint one professional person to evaluate the defendant in a local correctional facility or an appropriate community setting and report on the mental condition of the defendant. The professional person must submit his or her report of the examination results within 15 days after receiving the court order, charging documents, and other relevant material.

If clinically appropriate and requested by the examining professional, the court may order the defendant committed to a state hospital or other appropriate mental health facility for up to 15 days from the time of admission to the facility to complete the examination.

Upon agreement of the parties, the court may designate one expert or professional person to conduct an examination and report on the condition of a defendant who has pleaded not guilty by reason of insanity or a defendant charged with a "most serious offense" whose competency is in doubt. These evaluations may be conducted on an outpatient basis.

The reporting requirements are divided between competency reports and sanity reports. A competency report is not required to include an opinion as to sanity at the time of the offense or an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the charged offense. A sanity report is not required to include an opinion as to the defendant's competency to stand trial, but on direction of the court, includes an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the charged offense.

Amended Bill Compared to Substitute Bill: The substitute bill was not considered.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Passage of this bill as amended is essential for doing court ordered examinations. Last year in Western Washington there were 422 examinations made in jail by single evaluators by agreement of the parties; to have these done on an inpatient basis at Western State Hospital would have meant an extra 17 forensic beds. In Eastern Washington, where this doesn't happen, there is an 8-10 week waiting period to be evaluated at Eastern State Hospital. This bill will save 35 forensic beds at Eastern.

Testimony Against: None.

Testified: Karl Brimner, Director, Mental Health Division, DSHS (pro amendment).