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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5216

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State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Children & Family Services & Corrections  
(originally sponsored by Senators Stevens and Hargrove)

READ FIRST TIME 02/02/04.

1 AN ACT Relating to forensic competency and sanity examinations; and  
2 amending RCW 10.77.060.

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

4 **Sec. 1.** RCW 10.77.060 and 2000 c 74 s 1 are each amended to read  
5 as follows:

6 (1)(a) Whenever a defendant has pleaded not guilty by reason of  
7 insanity, or there is reason to doubt his or her competency, the court  
8 on its own motion or on the motion of any party shall either appoint or  
9 request the secretary to designate at least two qualified experts or  
10 professional persons, one of whom shall be approved by the prosecuting  
11 attorney, to examine and report upon the mental condition of the  
12 defendant. The signed order of the court shall serve as authority for  
13 the experts to be given access to all records held by any mental  
14 health, medical, educational, or correctional facility that relate to  
15 the present or past mental, emotional, or physical condition of the  
16 defendant. At least one of the experts or professional persons  
17 appointed shall be a developmental disabilities professional if the  
18 court is advised by any party that the defendant may be developmentally  
19 disabled. Upon agreement of the parties, the court may designate one

1 expert or professional person to conduct the examination and report on  
2 the mental condition of the defendant. For purposes of the  
3 examination, the court may order the defendant committed to a hospital  
4 or other suitably secure public or private mental health facility for  
5 a period of time necessary to complete the examination, but not to  
6 exceed fifteen days from the time of admission to the facility. If the  
7 defendant is being held in jail or other detention facility, upon  
8 agreement of the parties, the court may direct that the examination be  
9 conducted at the jail or other detention facility.

10 (b) When a defendant is ordered to be committed for inpatient  
11 examination under this subsection (1), the court may delay granting  
12 bail until the defendant has been evaluated for competency or sanity  
13 and appears before the court. Following the evaluation, in determining  
14 bail the court shall consider: (i) Recommendations of the expert or  
15 professional persons regarding the defendant's competency, sanity, or  
16 diminished capacity; (ii) whether the defendant has a recent history of  
17 one or more violent acts; (iii) whether the defendant has previously  
18 been acquitted by reason of insanity or found incompetent; (iv) whether  
19 it is reasonably likely the defendant will fail to appear for a future  
20 court hearing; and (v) whether the defendant is a threat to public  
21 safety.

22 (2) The court may direct that a qualified expert or professional  
23 person retained by or appointed for the defendant be permitted to  
24 witness the examination authorized by subsection (1) of this section,  
25 and that the defendant shall have access to all information obtained by  
26 the court appointed experts or professional persons. The defendant's  
27 expert or professional person shall have the right to file his or her  
28 own report following the guidelines of subsection (3) of this section.  
29 If the defendant is indigent, the court shall upon the request of the  
30 defendant assist him or her in obtaining an expert or professional  
31 person.

32 (3) The report of the examination shall include the following:

33 (a) A description of the nature of the examination;

34 (b) A diagnosis of the mental condition of the defendant;

35 (c) If the defendant suffers from a mental disease or defect, or is  
36 developmentally disabled, an opinion as to competency;

37 (d) If the defendant has indicated his or her intention to rely on

1 the defense of insanity pursuant to RCW 10.77.030, an opinion as to the  
2 defendant's sanity at the time of the act;

3 (e) When directed by the court, an opinion as to the capacity of  
4 the defendant to have a particular state of mind which is an element of  
5 the offense charged;

6 (f) An opinion as to whether the defendant should be evaluated by  
7 a county designated mental health professional under chapter 71.05 RCW,  
8 and an opinion as to whether the defendant is a substantial danger to  
9 other persons, or presents a substantial likelihood of committing  
10 criminal acts jeopardizing public safety or security, unless kept under  
11 further control by the court or other persons or institutions.

12 (4) The secretary may execute such agreements as appropriate and  
13 necessary to implement this section.

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