

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2328

Chapter 109, Laws of 2006

59th Legislature
2006 Regular Session

INSANITY DEFENSE

EFFECTIVE DATE: 6/7/06

Passed by the House February 8, 2006
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 1, 2006
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved March 17, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2328** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 17, 2006 - 11:33 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 2328

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Representatives Lantz and Priest

Read first time 04/18/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to the insanity defense; amending RCW 10.77.020;
2 and creating a new section.

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

4 **Sec. 1.** RCW 10.77.020 and 1998 c 297 s 30 are each amended to read
5 as follows:

6 (1) At any and all stages of the proceedings pursuant to this
7 chapter, any person subject to the provisions of this chapter shall be
8 entitled to the assistance of counsel, and if the person is indigent
9 the court shall appoint counsel to assist him or her. A person may
10 waive his or her right to counsel; but such waiver shall only be
11 effective if a court makes a specific finding that he or she is or was
12 competent to so waive. In making such findings, the court shall be
13 guided but not limited by the following standards: Whether the person
14 attempting to waive the assistance of counsel, does so understanding:

- 15 (a) The nature of the charges;
16 (b) The statutory offense included within them;
17 (c) The range of allowable punishments thereunder;
18 (d) Possible defenses to the charges and circumstances in
19 mitigation thereof; and

1 (e) All other facts essential to a broad understanding of the whole
2 matter.

3 (2) Whenever any person is subjected to an examination pursuant to
4 any provision of this chapter, he or she may retain an expert or
5 professional person to perform an examination in his or her behalf. In
6 the case of a person who is indigent, the court shall upon his or her
7 request assist the person in obtaining an expert or professional person
8 to perform an examination or participate in the hearing on his or her
9 behalf. An expert or professional person obtained by an indigent
10 person pursuant to the provisions of this chapter shall be compensated
11 for his or her services out of funds of the department, in an amount
12 determined by the secretary to be fair and reasonable.

13 (3) Any time the defendant is being examined by court appointed
14 experts or professional persons pursuant to the provisions of this
15 chapter, the defendant shall be entitled to have his or her attorney
16 present.

17 (4) In a competency evaluation conducted under this chapter, the
18 defendant may refuse to answer any question if he or she believes his
19 or her answers may tend to incriminate him or her or form links leading
20 to evidence of an incriminating nature.

21 (5) In a sanity evaluation conducted under this chapter, if a
22 defendant refuses to answer questions or to participate in an
23 examination conducted in response to the defendant's assertion of an
24 insanity defense, the court shall exclude from evidence at trial any
25 testimony or evidence from any expert or professional person obtained
26 or retained by the defendant.

27 NEW SECTION. Sec. 2. This act applies to all examinations
28 performed on or after the effective date of this act.

29 NEW SECTION. Sec. 3. If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

Passed by the House February 8, 2006.

Passed by the Senate March 1, 2006.

Approved by the Governor March 17, 2006.

Filed in Office of Secretary of State March 17, 2006.