

# HOUSE BILL REPORT

## SB 6628

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### As of Second Reading:

March 12, 2008

**Title:** An act relating to clarifying the state's ability to recover from defendants the cost of mental health treatment provided at state hospitals.

**Brief Description:** Clarifying the state's ability to recover from defendants the cost of mental health treatment provided at state hospitals.

**Sponsors:** Senators Prentice, Fairley and Rasmussen; by request of Department of Social and Health Services.

### Brief History:

#### House Committee Activity:

None.

#### Senate Floor Activity:

Passed Senate: 3/11/08, 48-0.

### Brief Summary of Bill

- Allows medical and mental health care costs to be recoverable for defendants who are not yet convicted but are committed to the state psychiatric hospitals for a forensic evaluation.

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**Staff:** Carma Matti (786-7140).

### Background:

When a person is charged with a crime and has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court will appoint or request the Department of Social and Health Services (DSHS) to provide one or more experts to evaluate and report on the mental condition of the defendant. The court may stay the criminal proceedings and order the defendant be committed for an inpatient evaluation at one of the state's psychiatric hospitals or, if the defendant is being held in a jail, the court may direct the evaluation be conducted at the jail.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Washington has two adult psychiatric hospitals, Eastern State Hospital (ESH) and Western State Hospital (WSH). Both hospitals have secure forensic units that house defendants for the purposes of inpatient evaluations and competency restoration treatment. Currently, there are 95 forensic beds at ESH and 270 forensic beds at WSH. Over 2,000 forensic evaluations, the vast majority related to competency to stand trial, are performed at the state psychiatric hospitals each year.

A defendant charged with a misdemeanor may be committed for inpatient evaluation and treatment for up to 14 days. A defendant charged with a felony may be committed for up to 90 days or until he or she has regained the competency necessary to understand the proceedings against him or her. In addition to the evaluation and reports provided to the courts, mental health and medical services are provided to the defendant while they are committed at ESH and WSH. These services include room, board, prescription medications, psycho-social therapy, and medical treatment.

By statute, the DSHS is authorized to seek reimbursement from persons receiving these services. Another statute provides that in most instances costs relating to a defendant's prosecution may be imposed only on a convicted defendant. A decision of Division II of the Court of Appeals, *Utter v. DSHS*, has created ambiguity about whether the DSHS may collect the costs of medical and mental health treatment from a defendant who has not been convicted.

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**Summary:**

Medical and mental health treatment and services provided by state hospitals or other facilities are not a cost of prosecution. Except for costs that are directly related to evaluating and reporting to the court, prosecutor, or defense counsel regarding a defendant's competency to stand trial, the prohibition on imposing costs of prosecution on a defendant who has not been convicted does not prevent the state or a local government from collecting the costs of the defendant's medical or mental health treatment. The DSHS and local governments may seek reimbursement for such costs that are incurred while criminal proceedings are stayed pending restoration of competency or while the defendant is in state or local government custody.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying: None.**