

SENATE BILL REPORT

SB 6628

As Passed Senate, March 11, 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:

Committee Activity: Human Services & Corrections: 2/1/08, 2/5/08 [DP].

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

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Kevin Black (786-7747)

Background: The Department of Social and Health Services (DSHS) provides competency restoration treatment services for criminal defendants with mental illnesses at the two state hospitals. If treatment is not successful, the criminal case must be dismissed. Until a recent court decision, DSHS has sought reimbursement for the cost of competency restoration treatment from all defendants who are able to pay. The federal government requires the state to seek reimbursement from patients for medical services that are provided with federal financial participation. DSHS has claimed federal matching funds for competency restoration treatment.

A recent decision from the Washington Court of Appeals (*Utter v. DSHS*) determined that DSHS does not have the statutory authority to collect reimbursement for competency restoration treatment from defendants who have not been convicted of their crimes. As a result, DSHS has been prevented from attempting to collect reimbursement for this treatment in a large number of cases. DSHS has determined that it is not able to claim federal matching funds in these cases.

Summary of Bill: In order to reverse the findings of the Washington Court of Appeals, the Legislature declares that costs of mental health treatment while the defendant is in the custody

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.

of DSHS for competency restoration treatment are not costs of prosecution, but are intended to be subject to full reimbursement from the defendant or the defendant's insurers.

Appropriation: None.

Fiscal Note: Available on companion bill (HB 3003).

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Federal law prohibits billing the federal government if state law prohibits billing. This is medical treatment the defendants are receiving.

Persons Testifying: PRO: Richard Kellogg, DSHS Mental Health Division.