
Judiciary Committee

HB 1597

Title: An act relating to improving timeliness of competency evaluation and restoration services, by clarifying alternative locations for the provision of competency restoration services and defining time periods of commitment.

Brief Description: Improving timeliness of competency evaluation and restoration services.

Sponsors: Representatives Jinkins, Rodne and Wylie; by request of Department of Social and Health Services.

Brief Summary of Bill

- Encourages the Department of Social and Health Services to develop alternative locations for competency restoration services for individuals who do not need inpatient psychiatric hospitalization.
- Provides that competency restoration time limits include only the time the defendant is at the treatment facility and do not include reasonable time for transport.
- Provides that a statute limiting the correctional confinement of a person under laws governing competency and criminal insanity applies only to persons who are criminally insane.

Hearing Date: 2/3/15

Staff: Edie Adams (786-7180).

Background:

Incompetent to Stand Trial.

A criminal defendant is incompetent to stand trial if, due to a mental disease or defect, he or she lacks the capacity to understand the nature of the proceedings or is unable to assist in his or her own defense.

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.

A defendant who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues. When a defendant's competency is in question, the court must either appoint, or ask the Department of Social and Health Services (Department) to designate, a qualified expert to evaluate and report on the defendant's mental condition.

Competency Restoration.

If a person is found incompetent to stand trial, the court must stay the criminal proceedings and, depending on the charged offense, either order a period of treatment for restoration of competency, or dismiss the charges without prejudice.

If a defendant charged with a felony is found incompetent, the court may order restoration treatment for up to 90 days, except if the defendant's highest charge is a class C felony or a non-violent class B felony, the maximum time for the first restoration period is 45 days. A second period of restoration treatment for up to 90 days may be ordered if necessary and reasonably likely to restore competency, and under some limited circumstances the court may order a third period of restoration treatment for up to six months. If a defendant has not regained competency at the end of the authorized periods of restoration treatment, the court must dismiss the criminal charges without prejudice and order the defendant to be committed to the state hospital for evaluation for civil commitment.

A defendant charged with a serious non-felony offense is eligible for one period of inpatient competency restoration for up to 14 days plus any unused evaluation time. This restoration treatment period includes only the time the defendant is at the treatment facility and does not include time for transport to or from the facility. If the defendant has not been restored to competency at the end of the treatment period, the court must dismiss the charges without prejudice and order that the person be evaluated for civil commitment.

Although the Department has statutory authority to provide restoration treatment in either a state psychiatric hospital or in an alternative facility determined by the Department, the Department has historically provided competency restoration services at the state psychiatric hospitals.

Correctional Confinement Under Chapter 10.77 RCW.

Chapter 10.77 RCW governs the criminally insane and competency to stand trial procedures. A person is criminally insane if the person is found not guilty by reason of insanity and subsequently committed to a state hospital due to substantial dangerousness or substantial likelihood of committing criminal acts jeopardizing public safety.

A statute in chapter 10.77 RCW provides that a person confined under the chapter must not be confined in a correctional institution and that any confinement in a county jail while awaiting either placement in a treatment program or a court hearing may not exceed seven days. The original statute and all subsequent amendments to the statute were part of legislation relating to the criminally insane. However, the statute does not specifically limit its application to persons who are criminally insane.

Summary of Bill:

The Legislature encourages the Department to develop, on a phased-in basis, alternative locations and increased access to competency restoration services for individuals who do not need the level of services provided in inpatient psychiatric hospitalizations. Alternative locations for restoration services may include community mental health providers, county jails, or other local facilities.

Competency restoration time limits for the initial restoration period for felony defendants whose highest charge is a class C felony or non-violent class B felony, and for second and third restoration periods for felony defendants, include only the time the defendant is at the facility and do not include reasonable time for transport to or from the facility.

The statute imposing limitations on the correctional confinement of a person under laws governing competency and criminal insanity applies only to persons who are criminally insane.

Appropriation: None.

Fiscal Note: Requested on January 26, 2015.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.