
Civil Rights & Judiciary Committee

SSB 5210

Brief Description: Concerning updates to competency restoration order requirements.

Sponsors: Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care (originally sponsored by Senators Dhingra, Darneille, Kuderer, Nguyen and Wilson, C.; by request of Department of Social and Health Services).

Brief Summary of Substitute Bill

- Adds compliance with urinalysis or breathalyzer monitoring, if needed, for a defendant to qualify for outpatient competency restoration.
- Allows a court to order a defendant to receive outpatient competency restoration without committing the defendant to the custody of the Department of Social and Health Services.

Hearing Date: 3/24/21

Staff: Ingrid Lewis (786-7289).

Background:

Competency to Stand Trial.

A person is incompetent to stand trial in a criminal case if he or she lacks the capacity to understand the nature of the proceedings or is unable to assist in their own defense. A court may require a competency evaluation of a defendant whenever the issue of competency is raised. A person who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues.

If a person is found incompetent to stand trial, the court must stay the proceedings and,

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depending on the charged offense, either order a period of treatment for restoration of competency or dismiss the charges without prejudice.

Competency Restoration.

A defendant determined to be incompetent to stand trial who is charged with a serious nonfelony or felony crime may be committed for competency restoration treatment. Competency restoration treatment generally occurs on an inpatient basis at either Western State Hospital or Eastern State Hospital, or two contracted inpatient competency- restoration providers. Outpatient competency restoration may be available to a defendant if he or she qualifies. A court ordering competency restoration is required to commit the defendant to the custody of the Department of Social and Health Services (DSHS) for competency restoration before deciding whether to order the defendant to receive inpatient or outpatient competency restoration treatment.

To be eligible for outpatient competency restoration, a defendant must be:

- charged in a county that deploys forensic navigators;
- recommended by the forensic navigator with input from the parties;
- ordered to receive outpatient competency restoration by the judge;
- clinically appropriate;
- willing to adhere to medications or receive prescribed intramuscular injection; and
- willing to abstain from alcohol and unprescribed drugs.

Summary of Substitute Bill:

Language requiring a court to commit the defendant to a DSHS or a DSHS-approved facility or provider for outpatient restoration is amended to allow a court to order a defendant to receive outpatient competency restoration without committing the defendant to the custody of the DSHS.

A defendant must be willing to comply with urinalysis or breathalyzer monitoring, if needed, to be eligible for outpatient competency restoration.

Appropriation: None.

Fiscal Note: Available.

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