

Judiciary Committee

SB 5886

Title: An act relating to the number of experts or professional persons who must examine a person for the state under chapter 10.77 RCW.

Brief Description: Authorizing agreements to change the number of experts or professional persons who must make competency evaluations for the state under chapter 10.77 RCW.

Sponsors: By Senators Long and Hargrove.

Brief Summary of Bill

- *Allows a court to designate only one qualified expert or professional person (as opposed to two) to conduct a competency examination of a defendant if the parties agree.*

Hearing Date: 3/29/01

Staff: Trudes Hutcheson (786-7384).

Background:

Whenever a defendant has pleaded not guilty by reason of insanity, or the defendant's competency is in doubt, the court must require the Department of Social and Health Services (DSHS) to designate at least two qualified experts or professional persons to examine the defendant and report on the defendant's competency. At least one of the experts or professions must be approved by the prosecuting attorney. In addition, at least one of the experts or professionals must be a developmental disability professional if the court is advised that the defendant may be developmentally disabled.

For purposes of the evaluation, the court may order the defendant committed to a hospital or other mental health facility for a period of time necessary to complete the exam, but not to exceed 15 days.

When a defendant is deemed incompetent, the court may order the defendant into a facility

for treatment to restore competency. An incompetent defendant charged with a felony must be placed with the DSHS or some other appropriate facility until the defendant has regained competency. The period of confinement to restore competency may not exceed 90 days. This time period may be extended under certain circumstances.

An incompetent defendant charged with a nonfelony offense may be committed to a facility to restore competency under certain limited circumstances (generally if the defendant has a history of violent acts, has been previously acquitted by reason of insanity, or has been previously found incompetent for an offense involving physical harm). The nonfelony defendant may be committed up to 14 days plus any unused portion of the 15-day period allowed for the initial competency evaluation, or the defendant may be placed on conditional release for up to 90 days, or a combination of both.

The Legislature required the Joint Legislative Audit and Review Committee (JLARC) to conduct a study of the mentally ill offender act that was enacted in 1998. The JLARC presented its proposed final report in December 2000. Among its findings, the JLARC reported that: (a) Western State Hospital conducts most of its competency evaluations on an outpatient basis (typically in the local jails) and often waives the requirement, with the agreement of the parties, that there be two evaluators; and (b) Eastern State Hospital conducts most of its evaluations on an inpatient basis, and there is a backlog of people waiting to be admitted for evaluation.

Summary of Bill:

The Legislature finds that:

- when experts or professional persons examine a defendant for competency to stand trial, multiple evaluators rarely result in differing reports;*
- the requirement of at least two evaluators may place a barrier to conducting evaluations in local jails in some jurisdictions; and*
- when evaluations cannot be done in the local jail there is additional pressure placed on state hospital capacity and less time to restore competency.*

Upon agreement of the parties, the court may designate one expert or professional person to conduct the examination and report on the mental condition of the defendant when determining competency.

Appropriation: *None.*

Fiscal Note: *Available.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*