

HOUSE BILL REPORT

SB 5886

As Reported by House Committee On:
Judiciary

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: Senators Long and Hargrove.

Brief History:

Committee Activity:

Judiciary: 2/21/02, 2/22/02 [DP].

Brief Summary of Bill

- Allows a court, upon agreement of the parties, to designate one expert or professional person (as opposed to two) to conduct a competency examination of a defendant.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Lantz, Chair; Hurst, Vice Chair; Dickerson, Esser, Jarrett, Lovick and Lysen.

Minority Report: Do not pass. Signed by 2 members: Representatives Carrell, Ranking Minority Member; and Boldt.

Staff: Trudes Hutcheson (786-7384).

Background:

Whenever a defendant pleads 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 professionals must be approved by the prosecuting attorney. In addition, if the

defendant is developmentally disabled, at least one of the experts or professionals must be a developmental disability professional. Generally, when a defendant is deemed incompetent, the court may order the defendant into a treatment facility for a certain amount of time to restore competency.

"Professional person" means a licensed psychiatrist, a licensed psychologist, or a social worker with a master's or other advanced degree.

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 (2SSB 6214). The act made numerous changes to the state's civil commitment and criminal insanity laws. The act also required that certain persons charged with non-felonies, who have been found incompetent to stand trial, be committed to treatment facilities for the purposes of restoring competency.

Among other things, the JLARC found 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 competency examination of the defendant.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill makes the process more efficient and does not take away a person's rights. If one party doesn't agree, then the defendant gets two evaluators. This

bill would be helpful to authorize the use of one evaluator statewide. It will create a savings and there will be less backlog at Eastern State Hospital.

Testimony Against: None.

Testified: Senator Long, prime sponsor; Karl Brimner, Department of Social and Health Services, Mental Health Division; and Tom McBride, Washington Association of Prosecuting Attorneys.