

SHB 1767 - S COMM AMD

By Committee on Children & Family Services & Corrections

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to authorize the
4 performance of forensic competency examinations conducted by the
5 department of social and health services by a single examiner in a
6 local jail or detention or correctional facility or out of custody. A
7 forensic competency examination performed either in a jail or detention
8 or correctional facility or in an appropriate community setting by one
9 examiner is more cost-effective and can lead to a shorter total period
10 of detention. Public health, safety, and welfare are promoted when
11 defendants are detained in the jail or can be released to an
12 appropriate community setting rather than placed in a mental health
13 facility where vulnerable persons are being treated.

14 **Sec. 2.** RCW 10.77.060 and 2000 c 74 s 1 are each amended to read
15 as follows:

16 (1)(a) Whenever there is reason to doubt the competency of a
17 defendant who is not charged with a most serious offense, as defined in
18 RCW 9.94A.030, the court on its own motion or on the motion of any
19 party shall request the secretary to designate a qualified expert or
20 professional person to examine, in a local jail or detention or
21 correctional facility or in an appropriate community setting, and
22 report upon the mental condition of the defendant. The designated
23 expert or professional person shall be a developmental disabilities
24 professional if the court is provided evidence by any party that the
25 defendant may be developmentally disabled. The report of the results
26 of the examination, in a local jail or detention or correctional
27 facility or in an appropriate community setting, shall be submitted to
28 the court within fifteen days of the expert or professional person
29 receiving the order of the court, charging documents, and the relevant

1 discovery materials. If clinically necessary and requested by the
2 designated expert or professional person, the court may order the
3 defendant committed to a hospital or other suitably secure public or
4 private mental health facility for a period of time necessary to
5 complete the examination, but not to exceed fifteen days from the time
6 of admission to the facility.

7 (b) Whenever a defendant has pleaded not guilty by reason of
8 insanity pursuant to RCW 10.77.030, or a defendant has been charged
9 with a most serious offense, as defined by RCW 9.94A.030, and there is
10 reason to doubt his or her competency, the court on its own motion or
11 on the motion of any party shall either appoint or request the
12 secretary to designate at least two qualified experts or professional
13 persons, one of whom shall be approved by the prosecuting attorney, to
14 examine and report upon the mental condition of the defendant. Upon
15 agreement of the parties, the court may designate one expert or
16 professional person to conduct the examination in a jail or detention
17 or correctional facility or in an appropriate community setting and
18 report on the mental condition of the defendant. At least one of the
19 experts or professional persons appointed shall be a developmental
20 disabilities professional if the court is ((advised)) provided evidence
21 by any party that the defendant may be developmentally disabled. For
22 purposes of the examination, the court may order the defendant
23 committed to a hospital or other suitably secure public or private
24 mental health facility for a period of time necessary to complete the
25 examination, but not to exceed fifteen days from the time of admission
26 to the facility.

27 ((+b+)) (c) When a defendant is ordered to be examined or committed
28 for inpatient examination under this subsection (1), the court may
29 delay granting bail until the defendant has been ((evaluated)) examined
30 for competency or sanity and appears before the court. Following the
31 ((evaluation)) examination, in determining bail the court shall
32 consider: (i) Recommendations of the expert or professional persons
33 regarding the defendant's competency, sanity, or diminished capacity;
34 (ii) whether the defendant has a recent history of one or more violent
35 acts; (iii) whether the defendant has previously been acquitted by
36 reason of insanity or found incompetent; (iv) whether it is reasonably

1 likely the defendant will fail to appear for a future court hearing;
2 and (v) whether the defendant is a threat to public safety.

3 (2) The court may direct that a qualified expert or professional
4 person retained by or appointed for the defendant be permitted to
5 witness the examination authorized by subsection (1) of this section,
6 and that the defendant shall have access to all information obtained by
7 the court appointed experts or professional persons. The defendant's
8 expert or professional person shall have the right to file his or her
9 own report following the guidelines of subsection (3) or (4) of this
10 section. If the defendant is indigent, the court shall upon the
11 request of the defendant assist him or her in obtaining an expert or
12 professional person.

13 (3) The report of the examination regarding competency must include
14 the following:

- 15 (a) A description of the nature of the examination;
- 16 (b) A diagnosis of the mental condition of the defendant;
- 17 (c) An opinion as to competency; and
- 18 (d) An opinion as to whether the defendant should be evaluated by
19 a county designated mental health professional under chapter 71.05 RCW,
20 and an opinion as to whether the defendant is a substantial danger to
21 other persons, or presents a substantial likelihood of committing
22 criminal acts jeopardizing public safety or security, unless kept under
23 further control by the court or other persons or institutions.

24 (4) The report of the examination regarding sanity shall include
25 the following:

- 26 (a) A description of the nature of the examination;
- 27 (b) A diagnosis of the mental condition of the defendant;
- 28 (c) ~~((If the defendant suffers from a mental disease or defect, or~~
29 ~~is developmentally disabled, an opinion as to competency;~~
- 30 ~~(d) If the defendant has indicated his or her intention to rely on~~
31 ~~the defense of insanity pursuant to RCW 10.77.030,))~~ An opinion as to
32 the defendant's sanity at the time of the act;

33 ~~((+e))~~ (d) When directed by the court, an opinion as to the
34 capacity of the defendant to have a particular state of mind which is
35 an element of the offense charged;

36 ~~((+f))~~ (e) An opinion as to whether the defendant should be
37 evaluated by a county designated mental health professional under

1 chapter 71.05 RCW, and an opinion as to whether the defendant is a
2 substantial danger to other persons, or presents a substantial
3 likelihood of committing criminal acts jeopardizing public safety or
4 security, unless kept under further control by the court or other
5 persons or institutions.

6 ((+4)) (5) The secretary may execute such agreements as
7 appropriate and necessary to implement this section."

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8 On page 1, line 1 of the title, after "competency" strike the
9 remainder of the title and insert "and sanity examinations; amending
10 RCW 10.77.060; and creating a new section."

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