

**2SSB 5216 - S AMD 712**  
By Senator Stevens

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

3 "Sec. 1. RCW 10.77.060 and 2000 c 74 s 1 are each amended to read  
4 as follows:

5 (1)(a) Whenever a defendant has pleaded not guilty by reason of  
6 insanity, or there is reason to doubt his or her competency, the court  
7 on its own motion or on the motion of any party shall either appoint or  
8 request the secretary to designate at least two qualified experts or  
9 professional persons, one of whom shall be approved by the prosecuting  
10 attorney, to examine and report upon the mental condition of the  
11 defendant. The signed order of the court shall serve as authority for  
12 the experts to be given access to all records held by any mental  
13 health, medical, educational, or correctional facility that relate to  
14 the present or past mental, emotional, or physical condition of the  
15 defendant. At least one of the experts or professional persons  
16 appointed shall be a developmental disabilities professional if the  
17 court is advised by any party that the defendant may be developmentally  
18 disabled. Upon agreement of the parties, the court may designate one  
19 expert or professional person to conduct the examination and report on  
20 the mental condition of the defendant. For purposes of the  
21 examination, the court may order the defendant committed to a hospital  
22 or other suitably secure public or private mental health facility for  
23 a period of time necessary to complete the examination, but not to  
24 exceed fifteen days from the time of admission to the facility. If the  
25 defendant is being held in jail or other detention facility, upon  
26 agreement of the parties, the court may direct that the examination be  
27 conducted at the jail or other detention facility.

28 (b) When a defendant is ordered to be committed for inpatient  
29 examination under this subsection (1), the court may delay granting  
30 bail until the defendant has been evaluated for competency or sanity

1 and appears before the court. Following the evaluation, in determining  
2 bail the court shall consider: (i) Recommendations of the expert or  
3 professional persons regarding the defendant's competency, sanity, or  
4 diminished capacity; (ii) whether the defendant has a recent history of  
5 one or more violent acts; (iii) whether the defendant has previously  
6 been acquitted by reason of insanity or found incompetent; (iv) whether  
7 it is reasonably likely the defendant will fail to appear for a future  
8 court hearing; and (v) whether the defendant is a threat to public  
9 safety.

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

20 (3) The report of the examination shall include the following:

21 (a) A description of the nature of the examination;

22 (b) A diagnosis of the mental condition of the defendant;

23 (c) If the defendant suffers from a mental disease or defect, or is  
24 developmentally disabled, an opinion as to competency;

25 (d) If the defendant has indicated his or her intention to rely on  
26 the defense of insanity pursuant to RCW 10.77.030, an opinion as to the  
27 defendant's sanity at the time of the act;

28 (e) When directed by the court, an opinion as to the capacity of  
29 the defendant to have a particular state of mind which is an element of  
30 the offense charged;

31 (f) An opinion as to whether the defendant should be evaluated by  
32 a county designated mental health professional under chapter 71.05 RCW,  
33 and an opinion as to whether the defendant is a substantial danger to  
34 other persons, or presents a substantial likelihood of committing  
35 criminal acts jeopardizing public safety or security, unless kept under  
36 further control by the court or other persons or institutions.

1           (4) The secretary may execute such agreements as appropriate and  
2 necessary to implement this section."

**2SSB 5216** - S AMD 712  
By Senator Stevens

3           On page 1, line 1 of the title, after "examinations;" strike the  
4 remainder of the title and insert "and amending RCW 10.77.060."

--- END ---