Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Judiciary Committee

HB 1011

Title: An act relating to prohibiting the use of voluntary intoxication as a defense against a criminal charge.

Brief Description: Prohibiting the use of intoxication as a defense.

Sponsors: Representatives Bush, O'Brien, Armstrong, Chase, Mielke, Delvin, Hunt, Quall, Boldt, Pearson, Sump, Miloscia, Cox, Ruderman, Roach, Lovick, Schindler, Shabro, Woods, Buck, Benson, McMahan, Schoesler, Schual-Berke, Talcott, Anderson, Kagi, Rockefeller, Condotta, Conway, Alexander, Kenney, Campbell, Sullivan and Nixon.

Brief Summary of Bill

- Prevents a criminal defendant from using the fact of voluntary intoxication as evidence to demonstrate the lack of a mental state that is an element of a charged crime.
- Amends the definitions of "intent", "knowledge" and "recklessness" to include situations where the defendant is voluntarily intoxicated and acts in a manner that would be considered intentional, knowing, or reckless if not intoxicated.

Hearing Date: 1/21/03

Staff: Edie Adams (786-7180).

Background:

Statutory and case law provide that a person's voluntarily intoxication is not a defense to a criminal charge. "Voluntary intoxication" in this context means intoxication not caused by force or fraud, and therefore includes intoxication that results from addiction. *Seattle v. Hill*. Intoxication, however, may be taken into consideration when determining whether a defendant had a particular mental state that is a necessary element of the crime charged.

In a criminal case, the prosecution must prove every element of the crime charged beyond a reasonable doubt. Most crimes require some degree of culpability as an element of the crime. There are four kinds of culpability defined in the criminal code: intent, knowledge, recklessness, and criminal negligence. The first three kinds of culpability«intent, knowledge and recklessness«involve a "state of mind." Intoxication may be used as evidence to rebut

the existence of these states of mind. A defendant might argue that because of intoxication he or she was unable to form the intent or knowledge required to commit the crime. Intoxication may not be used in cases where the level of culpability involves criminal negligence, because criminal negligence does not require a particular state of mind.

Under the Sentencing Reform Act, the sentencing court may consider evidence of involuntary intoxication as a mitigating circumstance to support an exceptional sentence below the standard range sentence. Involuntary intoxication in this circumstance does not include intoxication that is the result of addiction or dependency. *State v. Hutsell*.

In 1996, the United States Supreme Court upheld a Montana statute that prohibited a defendant from introducing evidence of voluntary intoxication in a criminal trial. The court ruled that prohibiting the introduction of evidence of voluntary intoxication did not violate the due process clause of the federal constitution because the restriction does not "offend a principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental." *Montana v. Egelhoff*.

Summary of Bill:

A defendant may not introduce evidence of voluntary intoxication to demonstrate the lack of a mental state that is an element of a charged crime.

The definitions of the three mental states«intent, knowledge, and recklessness«are amended to include situations where the defendant is voluntarily intoxicated and acts in a manner that would be considered intentional, knowing, or reckless, respectively, if the defendant were not intoxicated.

Appropriation: None.

Fiscal Note: Not Requested.

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