

SENATE BILL REPORT

SB 5216

As Reported By Senate Committee On:
Children & Family Services & Corrections, January 30, 2004

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 examine a person for the state under chapter 10.77 RCW.

Sponsors: Senators Stevens and Hargrove.

Brief History:

Committee Activity: Children & Family Services & Corrections: 2/4/03, 2/11/03 [DPS]; 1/30/04 [DP2S].

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Majority Report: That Second Substitute Senate Bill No. 5216 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Stevens, Chair; Parlette, Vice Chair; Carlson, Deccio, Hargrove, McAuliffe and Regala.

Staff: Fara Daun (786-7459)

Background: The Joint Legislative Audit and Review Committee was required by the Legislature to conduct a study of the impact of SB 6214, the mentally ill offender act (Ch. 297, Laws 1998). The report found that increases in misdemeanor competency evaluations indirectly attributable to SB 6214 were handled differently at Eastern Washington State Hospital and that following SB 6214, the existing waiting list for competency evaluations got longer. Court and jail officials concurred that the wait was "weeks" long, sometimes 30-60 days.

Unlike Western State Hospital, which conducts most competency evaluations on an outpatient basis in the county jails, Eastern State Hospital conducts them on an inpatient basis resulting in an average 13 to 15 day stay. Eastern State Hospital cited staffing requirements and court rulings when asked why they did not conduct more outpatient evaluations. Due to the distances they must cover, providing two staff to perform the evaluation was not a possibility. In Western Washington, the two person evaluation is typically waived with the agreement of both prosecutors and defense for outpatient evaluations in the jails. Eastern State Hospital and Spokane court officials reported that this requirement is not usually waived in Eastern Washington jurisdictions.

According to state hospital professionals, when an evaluation is conducted by two professionals, there is almost always concurrence in their findings.

Summary of Second Substitute Bill: When there is reason to doubt the competency of a defendant, the court may, upon agreement of the parties, designate one professional person to evaluate the defendant. The evaluation may be done in a local correctional facility or an appropriate community setting.

The signed court order for the evaluation serves as authority for the experts to access the defendant's mental health, medical, educational and correctional records that relate to the defendant's condition.

Second Substitute Bill Compared to Substitute Bill: The second substitute simplifies the provisions and permits a single evaluator to evaluate a defendant upon agreement of the parties. It does not include the provisions related to the timing of the report. It separates the provision requiring an opinion whether the defendant should be evaluated by a county designated mental health professional from the opinion related to whether the defendant presents a danger to the community.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested on January 30, 2003.

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

Testimony For: This bill will allow more competency evaluations to be done in the jails or in appropriate community settings and will reduce the burden on the state hospitals.

Testimony Against: Concerns were raised about the application of the single evaluator competency evaluation for certain violent offenses without opportunity for a party to object.

Testified: Karl Brimner, Director, Mental Health Division, DSHS (pro); Tom McBride, WAPA (pro original bill).