
SENATE BILL 5216

State of Washington

58th Legislature

2003 Regular Session

By Senators Stevens and Hargrove

Read first time 01/20/2003. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to the number of experts or professional persons
2 who must examine a person for the state under chapter 10.77 RCW;
3 amending RCW 10.77.060; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that when experts or
6 professional persons for the state examine a defendant under chapter
7 10.77 RCW, the use of multiple evaluators rarely results in differing
8 reports. The legislature also finds that the requirement of at least
9 two experts or professional persons may place a barrier to conducting
10 evaluations in local jails in some jurisdictions because of the strain
11 it places on staffing resources at the state hospital. The legislature
12 further finds that when evaluations cannot be done in the local jail
13 there is additional pressure placed on state hospital capacity and less
14 time to restore competency. Consequently, the legislature intends to
15 remove the double staffing barrier in those cases where the parties
16 agree that the state needs only one evaluator.

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

3 (1)(a) Whenever a defendant has pleaded not guilty by reason of
4 insanity, or there is reason to doubt his or her competency, the court
5 on its own motion or on the motion of any party shall either appoint or
6 request the secretary to designate at least two qualified experts or
7 professional persons, one of whom shall be approved by the prosecuting
8 attorney, to examine and report upon the mental condition of the
9 defendant. Upon agreement of the parties, the court may designate one
10 expert or professional person to conduct the examination and report on
11 the mental condition of the defendant. At least one of the experts or
12 professional persons appointed shall be a developmental disabilities
13 professional if the court is advised by any party that the defendant
14 may be developmentally disabled. For purposes of the examination, the
15 court may order the defendant committed to a hospital or other suitably
16 secure public or private mental health facility for a period of time
17 necessary to complete the examination, but not to exceed fifteen days
18 from the time of admission to the facility.

19 (b) When a defendant is ordered to be committed for inpatient
20 examination under this subsection (1), the court may delay granting
21 bail until the defendant has been evaluated for competency or sanity
22 and appears before the court. Following the evaluation, in determining
23 bail the court shall consider: (i) Recommendations of the expert or
24 professional persons regarding the defendant's competency, sanity, or
25 diminished capacity; (ii) whether the defendant has a recent history of
26 one or more violent acts; (iii) whether the defendant has previously
27 been acquitted by reason of insanity or found incompetent; (iv) whether
28 it is reasonably likely the defendant will fail to appear for a future
29 court hearing; and (v) whether the defendant is a threat to public
30 safety.

31 (2) The court may direct that a qualified expert or professional
32 person retained by or appointed for the defendant be permitted to
33 witness the examination authorized by subsection (1) of this section,
34 and that the defendant shall have access to all information obtained by
35 the court appointed experts or professional persons. The defendant's
36 expert or professional person shall have the right to file his or her
37 own report following the guidelines of subsection (3) of this section.

1 If the defendant is indigent, the court shall upon the request of the
2 defendant assist him or her in obtaining an expert or professional
3 person.

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

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

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

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

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

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

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

21 (4) The secretary may execute such agreements as appropriate and
22 necessary to implement this section.

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