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HOUSE BILL 2328

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Lantz and Priest

Read first time 04/18/2005. Referred to Committee on Judiciary.

1            AN ACT Relating to the insanity defense; amending RCW 10.77.020;  
2 and creating a new section.

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

4            **Sec. 1.** RCW 10.77.020 and 1998 c 297 s 30 are each amended to read  
5 as follows:

6            (1) At any and all stages of the proceedings pursuant to this  
7 chapter, any person subject to the provisions of this chapter shall be  
8 entitled to the assistance of counsel, and if the person is indigent  
9 the court shall appoint counsel to assist him or her. A person may  
10 waive his or her right to counsel; but such waiver shall only be  
11 effective if a court makes a specific finding that he or she is or was  
12 competent to so waive. In making such findings, the court shall be  
13 guided but not limited by the following standards: Whether the person  
14 attempting to waive the assistance of counsel, does so understanding:

- 15            (a) The nature of the charges;  
16            (b) The statutory offense included within them;  
17            (c) The range of allowable punishments thereunder;  
18            (d) Possible defenses to the charges and circumstances in  
19 mitigation thereof; and

1 (e) All other facts essential to a broad understanding of the whole  
2 matter.

3 (2) Whenever any person is subjected to an examination pursuant to  
4 any provision of this chapter, he or she may retain an expert or  
5 professional person to perform an examination in his or her behalf. In  
6 the case of a person who is indigent, the court shall upon his or her  
7 request assist the person in obtaining an expert or professional person  
8 to perform an examination or participate in the hearing on his or her  
9 behalf. An expert or professional person obtained by an indigent  
10 person pursuant to the provisions of this chapter shall be compensated  
11 for his or her services out of funds of the department, in an amount  
12 determined by the secretary to be fair and reasonable.

13 (3) Any time the defendant is being examined by court appointed  
14 experts or professional persons pursuant to the provisions of this  
15 chapter, the defendant shall be entitled to have his or her attorney  
16 present.

17 (4) In a competency evaluation conducted under this chapter, the  
18 defendant may refuse to answer any question if he or she believes his  
19 or her answers may tend to incriminate him or her or form links leading  
20 to evidence of an incriminating nature.

21 (5) In a sanity evaluation conducted under this chapter, if a  
22 defendant refuses to answer questions or to participate in an  
23 examination conducted in response to the defendant's assertion of an  
24 insanity defense, the court shall exclude from evidence at trial any  
25 testimony or evidence from any expert or professional person obtained  
26 or retained by the defendant.

27 NEW SECTION. Sec. 2. This act applies to all examinations  
28 performed on or after the effective date of this act.

29 NEW SECTION. Sec. 3. If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected.

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