
SENATE BILL 5222

State of Washington

59th Legislature

2005 Regular Session

By Senators Esser and Doumit

Read first time 01/18/2005. Referred to Committee on Judiciary.

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

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. (~~The defendant may refuse to answer any question if he or
17 she believes his or her answers may tend to incriminate him or her or
18 form links leading to evidence of an incriminating nature.~~)

19 (4) If a defendant refuses to answer questions or to participate in
20 good faith in an examination conducted in response to the defendant's
21 assertion of an insanity defense, the court shall exclude from evidence
22 at trial any testimony or evidence from any expert or professional
23 person obtained or retained by the defendant.

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

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

30 NEW SECTION. Sec. 4. This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately.

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