Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Judiciary Committee

HB 1471

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

Brief Description: Prohibiting the use of voluntary intoxication as a defense against a criminal charge.

Sponsors: Representatives Kristiansen, O'Brien, Pettigrew, Haler, Pearson, Kretz, Lovick, Ericks, Sells, Rodne, Campbell, Moeller, Morrell, Goodman and Ross.

Brief Summary of Bill

- Prohibits 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 criminal charge.
- 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 the defendant were not intoxicated.

Hearing Date: 1/30/07

Staff: Anne Woodward (786-7119).

Background:

Voluntary intoxication does not excuse a person from his or her criminal behavior. However, Washington courts may consider evidence of voluntary intoxication in cases where the intoxication may have prevented the criminal defendant from forming a particular mental state that is an element of the charged crime. "Voluntary intoxication" has been interpreted as intoxication not caused by force or fraud, and includes intoxication resulting from alcohol or drug dependence. *Seattle v. Hill.*

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,

---

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

and criminal negligence. The first three kinds of culpability - intent, knowledge, and recklessness - involve a "state of mind." Voluntary intoxication may be used by a criminal defendant as evidence to rebut the existence of these states of mind. 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. Hutshell.*

In 1996, the United States Supreme Court held that a Montana statute which prohibited voluntary intoxication from being taken into consideration to determine the mental state of a criminal defendant did not violate the federal due process clause. *Montana v. Egelhoff.*

Summary of Bill:

A defendant may not introduce evidence of his or her voluntary intoxication as evidence to demonstrate the lack of a mental state that is an element of a charged crime. The prohibition on the use of evidence of voluntary intoxication includes, but is not limited to, alcohol or any drug. The prosecution may continue to introduce evidence of the defendant's intoxication.

The definitions of intent, knowledge, and recklessness are amended to specify that a person acts intentionally, knowingly, or recklessly if the person acts in a manner that would be considered intentional, knowing, or reckless if the person were not intoxicated.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.