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HOUSE BILL 2865

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State of Washington

61st Legislature

2010 Regular Session

By Representatives Roberts, Dickerson, Walsh, O'Brien, White, Seaquist, Green, Williams, Moeller, Appleton, and Orwall

Read first time 01/15/10. Referred to Committee on Human Services.

1 AN ACT Relating to offenders with developmental disabilities or  
2 traumatic brain injuries; amending RCW 2.28.180 and 74.09.555; and  
3 adding a new section to chapter 70.48 RCW.

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

5 **Sec. 1.** RCW 2.28.180 and 2005 c 504 s 501 are each amended to read  
6 as follows:

7 (1) Counties may establish and operate mental health courts.

8 (2) For the purposes of this section, "mental health court" means  
9 a court that has special calendars or dockets designed to achieve a  
10 reduction in recidivism and symptoms of mental illness among  
11 nonviolent, (~~mentally ill~~) felony and nonfelony offenders with mental  
12 illnesses and recidivism among nonviolent felony and nonfelony  
13 offenders who have intellectual or developmental disabilities or who  
14 have suffered a traumatic brain injury by increasing their likelihood  
15 for successful rehabilitation through early, continuous, and intense  
16 judicially supervised treatment including drug treatment for persons  
17 with co-occurring disorders; mandatory periodic reviews, including drug  
18 testing if indicated; and the use of appropriate sanctions and other  
19 rehabilitation services.

1 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
2 mental health court program must first:

3 (i) Exhaust all federal funding that is available to support the  
4 operations of its mental health court and associated services; and

5 (ii) Match, on a dollar-for-dollar basis, state moneys allocated  
6 for mental health court programs with local cash or in-kind resources.  
7 Moneys allocated by the state must be used to supplement, not supplant,  
8 other federal, state, and local funds for mental health court  
9 operations and associated services.

10 (b) Any county that establishes a mental health court pursuant to  
11 this section shall establish minimum requirements for the participation  
12 of offenders in the program. The mental health court may adopt local  
13 requirements that are more stringent than the minimum. The minimum  
14 requirements are:

15 (i) The offender would benefit from psychiatric treatment or  
16 treatment related to his or her intellectual or developmental  
17 disability or traumatic brain injury;

18 (ii) The offender has not previously been convicted of a serious  
19 violent offense or sex offense as defined in RCW 9.94A.030; and

20 (iii) Without regard to whether proof of any of these elements is  
21 required to convict, the offender is not currently charged with or  
22 convicted of an offense:

23 (A) That is a sex offense;

24 (B) That is a serious violent offense;

25 (C) During which the defendant used a firearm; or

26 (D) During which the defendant caused substantial or great bodily  
27 harm or death to another person.

28 NEW SECTION. Sec. 2. A new section is added to chapter 70.48 RCW  
29 to read as follows:

30 Jails shall adopt rules and policies providing that if jail staff,  
31 through screening procedures, have determined that a person in custody  
32 has or may have an intellectual or developmental disability or a  
33 traumatic brain injury:

34 (1) Jail staff shall make every effort to inform the local  
35 prosecutor's office and, if known by the jail staff, the local public  
36 defense office of the determination; and

1           (2) Upon transfer of the person to a department of corrections  
2 facility or other jail facility, every effort shall be made by the  
3 transferring jail staff to communicate to the receiving staff any  
4 necessary accommodation for the person as identified by the  
5 transferring jail staff.

6           **Sec. 3.** RCW 74.09.555 and 2005 c 503 s 12 are each amended to read  
7 as follows:

8           (1) The department shall adopt rules and policies providing that  
9 when persons with a mental disorder, an intellectual or developmental  
10 disability, or a traumatic brain injury, who were enrolled in medical  
11 assistance immediately prior to confinement, are released from  
12 confinement, their medical assistance coverage will be fully reinstated  
13 on the day of their release, subject to any expedited review of their  
14 continued eligibility for medical assistance coverage that is required  
15 under federal or state law.

16           (2) The department, in collaboration with the Washington  
17 association of sheriffs and police chiefs, the department of  
18 corrections, and the regional support networks, shall establish  
19 procedures for coordination between department field offices,  
20 institutions for mental disease, and correctional institutions, as  
21 defined in RCW 9.94.049, that result in prompt reinstatement of  
22 eligibility and speedy eligibility determinations for persons who are  
23 likely to be eligible for medical assistance services upon release from  
24 confinement. Procedures developed under this subsection must address:

25           (a) Mechanisms for receiving medical assistance services  
26 applications on behalf of confined persons in anticipation of their  
27 release from confinement;

28           (b) Expeditious review of applications filed by or on behalf of  
29 confined persons and, to the extent practicable, completion of the  
30 review before the person is released;

31           (c) Mechanisms for providing medical assistance services identity  
32 cards to persons eligible for medical assistance services immediately  
33 upon their release from confinement; and

34           (d) Coordination with the federal social security administration,  
35 through interagency agreements or otherwise, to expedite processing of  
36 applications for federal supplemental security income or social

1 security disability benefits, including federal acceptance of  
2 applications on behalf of confined persons.

3 (3) Where medical or psychiatric examinations during a person's  
4 confinement indicate that the person is disabled, the correctional  
5 institution or institution for mental diseases shall provide the  
6 department with that information for purposes of making medical  
7 assistance eligibility and enrollment determinations prior to the  
8 person's release from confinement. The department shall, to the  
9 maximum extent permitted by federal law, use the examination in making  
10 its determination whether the person is disabled and eligible for  
11 medical assistance.

12 (4) For purposes of this section, "confined" or "confinement" means  
13 incarcerated in a correctional institution, as defined in RCW 9.94.049,  
14 or admitted to an institute for mental disease, as defined in 42 C.F.R.  
15 part 435, Sec. 1009 on July 24, 2005.

16 (5) For purposes of this section, "likely to be eligible" means  
17 that a person:

18 (a) Was enrolled in medicaid or supplemental security income or  
19 general assistance immediately before he or she was confined and his or  
20 her enrollment was terminated during his or her confinement; or

21 (b) Was enrolled in medicaid or supplemental security income or  
22 general assistance at any time during the five years before his or her  
23 confinement, and medical or psychiatric examinations during the  
24 person's confinement indicate that the person continues to be disabled  
25 and the disability is likely to last at least twelve months following  
26 release.

27 (6) The economic services administration shall adopt standardized  
28 statewide screening and application practices and forms designed to  
29 facilitate the application of a confined person who is likely to be  
30 eligible for medicaid.

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