

SSB 6492 - H AMD 1400

By Representative Pedersen

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The purpose of this act is to sustainably
4 improve the timeliness of services related to competency to stand trial
5 by setting performance expectations, establishing new mechanisms for
6 accountability, and enacting reforms to ensure that forensic resources
7 are expended in an efficient and clinically appropriate manner without
8 diminishing the quality of competency services, and to reduce the time
9 defendants with mental illness spend in jail awaiting evaluation and
10 restoration of competency.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.77 RCW
12 to read as follows:

13 (1)(a) The legislature establishes the following performance
14 targets for the timeliness of the completion of accurate and reliable
15 evaluations of competency to stand trial and admissions for inpatient
16 services related to competency to proceed or stand trial for adult
17 criminal defendants. The legislature recognizes that these targets may
18 not be achievable in all cases without compromise to quality of
19 evaluation services, but intends for the department to manage,
20 allocate, and request appropriations for resources in order to meet
21 these targets whenever possible without sacrificing the accuracy of
22 competency evaluations, and to otherwise make sustainable improvements
23 and track performance related to the timeliness of competency services:

24 (i) For a state hospital to extend an offer of admission to a
25 defendant in pretrial custody for legally authorized treatment or
26 evaluation services related to competency, or to extend an offer of
27 admission for legally authorized services following dismissal of
28 charges based on incompetent to proceed or stand trial, seven days or
29 less;

1 (ii) For completion of a competency evaluation in jail and
2 distribution of the evaluation report for a defendant in pretrial
3 custody, seven days or less;

4 (iii) For completion of a competency evaluation in the community
5 and distribution of the evaluation report for a defendant who is
6 released from custody and makes a reasonable effort to cooperate with
7 the evaluation, twenty-one days or less.

8 (b) The time periods measured in these performance targets shall
9 run from the date on which the state hospital receives the court
10 referral and charging documents, discovery, and criminal history
11 information related to the defendant. The targets in (a)(i) and (ii)
12 of this subsection shall be phased in over a six-month period from the
13 effective date of this section. The target in (a)(iii) of this
14 subsection shall be phased in over a twelve-month period from the
15 effective date of this section.

16 (c) The legislature recognizes the following nonexclusive list of
17 circumstances that may place achievement of targets for completion of
18 competency services described in (a) of this subsection out of the
19 department's reach in an individual case without aspersion to the
20 efforts of the department:

21 (i) Despite a timely request, the department has not received
22 necessary medical clearance information regarding the current medical
23 status of a defendant in pretrial custody for the purposes of admission
24 to a state hospital;

25 (ii) The individual circumstances of the defendant make accurate
26 completion of an evaluation of competency to proceed or stand trial
27 dependent upon review of medical history information which is in the
28 custody of a third party and cannot be immediately obtained by the
29 department. Completion of a competency evaluation shall not be
30 postponed for procurement of medical history information which is
31 merely supplementary to the competency determination;

32 (iii) Completion of the referral is frustrated by lack of
33 availability or participation by counsel, jail or court personnel,
34 interpreters, or the defendant; or

35 (iv) An unusual spike in the receipt of evaluation referrals or in
36 the number of defendants requiring restoration services has occurred,
37 causing temporary delays until the unexpected excess demand for
38 competency services can be resolved.

1 (2) The department shall:

2 (a) Develop, document, and implement procedures to monitor the
3 clinical status of defendants admitted to a state hospital for
4 competency services that allow the state hospital to accomplish early
5 discharge for defendants for whom clinical objectives have been
6 achieved or may be achieved before expiration of the commitment period;

7 (b) Investigate the extent to which patients admitted to a state
8 hospital under this chapter overstay time periods authorized by law and
9 take reasonable steps to limit the time of commitment to authorized
10 periods; and

11 (c) Establish written standards for the productivity of forensic
12 evaluators and utilize these standards to internally review the
13 performance of forensic evaluators.

14 (3) Following any quarter in which a state hospital has failed to
15 meet one or more of the performance targets in subsection (1) of this
16 section after full implementation of the performance target, the
17 department shall report to the executive and the legislature the extent
18 of this deviation and describe any corrective action being taken to
19 improve performance. This report must be made publicly available. An
20 average may be used to determine timeliness under this subsection.

21 (4) Beginning December 1, 2013, the department shall report
22 annually to the legislature and the executive on the timeliness of
23 services related to competency to proceed or stand trial and the
24 timeliness with which court referrals accompanied by charging
25 documents, discovery, and criminal history information are provided to
26 the department relative to the signature date of the court order. The
27 report must be in a form that is accessible to the public and that
28 breaks down performance by county.

29 (5) This section does not create any new entitlement or cause of
30 action related to the timeliness of competency evaluations or admission
31 for inpatient services related to competency to proceed or stand trial,
32 nor can it form the basis for contempt sanctions under chapter 7.21 RCW
33 or a motion to dismiss criminal charges.

34 **Sec. 3.** RCW 10.77.060 and 2004 c 9 s 1 are each amended to read as
35 follows:

36 (1)(a) Whenever a defendant has pleaded not guilty by reason of
37 insanity, or there is reason to doubt his or her competency, the court

1 on its own motion or on the motion of any party shall either appoint or
2 request the secretary to designate ~~((at least two))~~ a qualified
3 expert~~((s))~~ or professional person~~((s))~~, ~~((one of whom))~~ who shall be
4 approved by the prosecuting attorney, to ~~((examine))~~ evaluate and
5 report upon the mental condition of the defendant.

6 (b) The signed order of the court shall serve as authority for the
7 ~~((experts))~~ evaluator to be given access to all records held by any
8 mental health, medical, educational, or correctional facility that
9 relate to the present or past mental, emotional, or physical condition
10 of the defendant. ~~((At least one of the experts or professional
11 persons appointed shall be a developmental disabilities professional))~~
12 If the court is advised by any party that the defendant may ((be
13 developmentally disabled)) have a developmental disability, the
14 evaluation must be performed by a developmental disabilities
15 professional. ((Upon agreement of the parties, the court may designate
16 one expert or professional person to conduct the examination and report
17 on the mental condition of the defendant. For purposes of the
18 examination, the court may order))

19 (c) The evaluator shall assess the defendant in a jail, detention
20 facility, in the community, or in court to determine whether a period
21 of inpatient commitment will be necessary to complete an accurate
22 evaluation. If inpatient commitment is needed, the signed order of the
23 court shall serve as authority for the evaluator to request the jail or
24 detention facility to transport the defendant ((committed)) to a
25 hospital or ((other suitably)) secure ((public or private)) mental
26 health facility for a period of ((time necessary to complete the
27 examination, but)) commitment not to exceed fifteen days from the time
28 of admission to the facility. Otherwise, the evaluator shall complete
29 the evaluation.

30 (d) The court may commit the defendant for evaluation to a hospital
31 or secure mental health facility without an assessment if: (i) The
32 defendant is charged with murder in the first or second degree; (ii)
33 the court finds that it is more likely than not that an evaluation in
34 the jail will be inadequate to complete an accurate evaluation; or
35 (iii) the court finds that an evaluation outside the jail setting is
36 necessary for the health, safety, or welfare of the defendant. The
37 court shall not order an initial inpatient evaluation for any purpose
38 other than a competency evaluation. ((If the defendant is being held

1 ~~in jail or other detention facility, upon agreement of the parties, the~~
2 ~~court may direct that the examination be conducted at the jail or other~~
3 ~~detention facility.~~

4 ~~(b))~~ (e) The order shall indicate whether, in the event the
5 defendant is committed to a hospital or secure mental health facility
6 for evaluation, all parties agree to waive the presence of the
7 defendant or to the defendant's remote participation at a subsequent
8 competency hearing or presentation of an agreed order if the
9 recommendation of the evaluator is for continuation of the stay of
10 criminal proceedings, or if the opinion of the evaluator is that the
11 defendant remains incompetent and there is no remaining restoration
12 period, and the hearing is held prior to the expiration of the
13 authorized commitment period.

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

26 (2) The court may direct that a qualified expert or professional
27 person retained by or appointed for the defendant be permitted to
28 witness the ~~((examination))~~ evaluation authorized by subsection (1) of
29 this section, and that the defendant shall have access to all
30 information obtained by the court appointed experts or professional
31 persons. The defendant's expert or professional person shall have the
32 right to file his or her own report following the guidelines of
33 subsection (3) of this section. If the defendant is indigent, the
34 court shall upon the request of the defendant assist him or her in
35 obtaining an expert or professional person.

36 (3) The report of the ~~((examination))~~ evaluation shall include the
37 following:

38 (a) A description of the nature of the ~~((examination))~~ evaluation;

1 (b) A diagnosis or description of the current mental ~~((condition))~~
2 status of the defendant;

3 (c) If the defendant suffers from a mental disease or defect, or
4 ~~((is developmentally disabled))~~ has a developmental disability, an
5 opinion as to competency;

6 (d) If the defendant has indicated his or her intention to rely on
7 the defense of insanity pursuant to RCW 10.77.030, and an evaluation
8 and report by an expert or professional person has been provided
9 concluding that the defendant was criminally insane at the time of the
10 alleged offense, an opinion as to the defendant's sanity at the time of
11 the act, and an opinion as to whether the defendant presents a
12 substantial danger to other persons, or presents a substantial
13 likelihood of committing criminal acts jeopardizing public safety or
14 security, unless kept under further control by the court or other
15 persons or institutions, provided that no opinion shall be rendered
16 under this subsection (3)(d) unless the evaluator or court determines
17 that the defendant is competent to stand trial;

18 (e) When directed by the court, if an evaluation and report by an
19 expert or professional person has been provided concluding that the
20 defendant lacked the capacity at the time of the offense to form the
21 mental state necessary to commit the charged offense, an opinion as to
22 the capacity of the defendant to have a particular state of mind which
23 is an element of the offense charged;

24 (f) An opinion as to whether the defendant should be evaluated by
25 a ~~((county))~~ designated mental health professional under chapter 71.05
26 RCW~~((, and an opinion as to whether the defendant is a substantial~~
27 ~~danger to other persons, or presents a substantial likelihood of~~
28 ~~committing criminal acts jeopardizing public safety or security, unless~~
29 ~~kept under further control by the court or other persons or~~
30 ~~institutions))~~.

31 (4) The secretary may execute such agreements as appropriate and
32 necessary to implement this section and may choose to designate more
33 than one evaluator.

34 **Sec. 4.** RCW 10.77.065 and 2008 c 213 s 1 are each amended to read
35 as follows:

36 (1)(a)(i) The ~~((facility))~~ expert conducting the evaluation shall
37 provide ~~((its))~~ his or her report and recommendation to the court in

1 which the criminal proceeding is pending. For a competency evaluation
2 of a defendant who is released from custody, if the evaluation cannot
3 be completed within twenty-one days due to a lack of cooperation by the
4 defendant, the evaluator shall notify the court that he or she is
5 unable to complete the evaluation because of such lack of cooperation.

6 (ii) A copy of the report and recommendation shall be provided to
7 the designated mental health professional, the prosecuting attorney,
8 the defense attorney, and the professional person at the local
9 correctional facility where the defendant is being held, or if there is
10 no professional person, to the person designated under (a)~~((+ii+))~~ (iv)
11 of this subsection. Upon request, the ~~((facility))~~ evaluator shall
12 also provide copies of any source documents relevant to the evaluation
13 to the designated mental health professional. ~~((The report and~~
14 ~~recommendation shall be provided not less than twenty-four hours~~
15 ~~preceding the transfer of the defendant to the correctional facility in~~
16 ~~the county in which the criminal proceeding is pending.~~

17 ~~(+ii+))~~ (iii) Any facility providing inpatient services related to
18 competency shall discharge the defendant as soon as the facility
19 determines that the defendant is competent to stand trial. Discharge
20 shall not be postponed during the writing and distribution of the
21 evaluation report. Distribution of an evaluation report by a facility
22 providing inpatient services shall ordinarily be accomplished within
23 two working days or less following the final evaluation of the
24 defendant. If the defendant is discharged to the custody of a local
25 correctional facility, the local correctional facility must continue
26 the medication regimen prescribed by the facility, when clinically
27 appropriate, unless the defendant refuses to cooperate with medication.

28 (iv) If there is no professional person at the local correctional
29 facility, the local correctional facility shall designate a
30 professional person as defined in RCW 71.05.020 or, in cooperation with
31 the regional support network, a professional person at the regional
32 support network to receive the report and recommendation.

33 ~~((+iii) When a defendant is transferred to the facility conducting~~
34 ~~the evaluation, or))~~ (v) Upon commencement of a defendant's evaluation
35 in the local correctional facility, the local correctional facility
36 must notify the evaluator ~~((or the facility conducting the evaluation))~~
37 of the name of the professional person, or person designated under

1 (a)(~~(ii)~~) (iv) of this subsection, to receive the report and
2 recommendation.

3 (b) If the (~~facility~~) evaluator concludes, under RCW
4 10.77.060(3)(f), the person should be (~~kept under further control, an~~
5 ~~evaluation shall be conducted of such person~~) evaluated by a
6 designated mental health professional under chapter 71.05 RCW(~~(-)~~), the
7 court shall order (~~an~~) such evaluation be conducted (~~by the~~
8 ~~appropriate designated mental health professional: (i)~~) prior to
9 release from confinement (~~for such person who is convicted, if~~
10 ~~sentenced to confinement for twenty-four months or less; (ii) for any~~
11 ~~person who is acquitted; or (iii) for any person: (A) Whose charges~~
12 ~~are dismissed pursuant to RCW 10.77.086(4); or (B) whose nonfelony~~
13 ~~charges are dismissed~~) when the person is acquitted or convicted and
14 sentenced to confinement for twenty-four months or less, or when
15 charges are dismissed pursuant to a finding of incompetent to stand
16 trial.

17 (2) The designated mental health professional shall provide written
18 notification within twenty-four hours of the results of the
19 determination whether to commence proceedings under chapter 71.05 RCW.
20 The notification shall be provided to the persons identified in
21 subsection (1)(a) of this section.

22 (3) The prosecuting attorney shall provide a copy of the results of
23 any proceedings commenced by the designated mental health professional
24 under subsection (2) of this section to the (~~facility conducting the~~
25 ~~evaluation under this chapter~~) secretary.

26 (4) The fact of admission and all information and records compiled,
27 obtained, or maintained in the course of providing services under this
28 chapter may also be disclosed to the courts solely to prevent the entry
29 of any evaluation or treatment order that is inconsistent with any
30 order entered under chapter 71.05 RCW.

31 **Sec. 5.** RCW 10.77.084 and 2007 c 375 s 3 are each amended to read
32 as follows:

33 (1)(a) If at any time during the pendency of an action and prior to
34 judgment the court finds, following a report as provided in RCW
35 10.77.060, a defendant is incompetent, the court shall order the
36 proceedings against the defendant be stayed except as provided in
37 subsection (4) of this section.

1 (b) (~~A defendant found incompetent shall be evaluated at the~~
2 ~~direction of the secretary and a determination made whether the~~
3 ~~defendant is an individual with a developmental disability. Such~~
4 ~~evaluation and determination shall be accomplished as soon as possible~~
5 ~~following the court's placement of the defendant in the custody of the~~
6 ~~secretary.~~

7 (i) ~~When appropriate, and subject to available funds, if the~~
8 ~~defendant is determined to be an individual with a developmental~~
9 ~~disability, he or she may be placed in a program specifically reserved~~
10 ~~for the treatment and training of persons with developmental~~
11 ~~disabilities where the defendant shall have the right to habilitation~~
12 ~~according to an individualized service plan specifically developed for~~
13 ~~the particular needs of the defendant. A copy of the evaluation shall~~
14 ~~be sent to the program.~~

15 (A) ~~The program shall be separate from programs serving persons~~
16 ~~involved in any other treatment or habilitation program.~~

17 (B) ~~The program shall be appropriately secure under the~~
18 ~~circumstances and shall be administered by developmental disabilities~~
19 ~~professionals who shall direct the habilitation efforts.~~

20 (C) ~~The program shall provide an environment affording security~~
21 ~~appropriate with the charged criminal behavior and necessary to protect~~
22 ~~the public safety.~~

23 (ii) ~~The department may limit admissions of such persons to this~~
24 ~~specialized program in order to ensure that expenditures for services~~
25 ~~do not exceed amounts appropriated by the legislature and allocated by~~
26 ~~the department for such services.~~

27 (iii) ~~The department may establish admission priorities in the~~
28 ~~event that the number of eligible persons exceeds the limits set by the~~
29 ~~department.~~

30 (e)) ~~At the end of the mental health treatment and restoration~~
31 ~~period, if any, or at any time a professional person determines~~
32 ~~competency has been, or is unlikely to be, restored, the defendant~~
33 ~~shall be returned to court for a hearing. The parties may agree to~~
34 ~~waive the defendant's presence or to remote participation by the~~
35 ~~defendant at a hearing or presentation of an agreed order if the~~
36 ~~recommendation of the evaluator is for the continuation of the stay of~~
37 ~~criminal proceedings, or if the opinion of the evaluator is that the~~
38 ~~defendant remains incompetent and there is no remaining restoration~~

1 period, and the hearing is held prior to expiration of the defendant's
2 authorized period of commitment, in which case the department shall
3 promptly notify the court and parties of the date of the defendant's
4 admission and expiration of commitment so that a timely hearing date
5 may be scheduled. If, after notice and hearing, competency has been
6 restored, the stay entered under (a) of this subsection shall be
7 lifted. If competency has not been restored, the proceedings shall be
8 dismissed without prejudice. If the court concludes that competency
9 has not been restored, but that further treatment within the time
10 limits established by RCW 10.77.086 or 10.77.088 is likely to restore
11 competency, the court may order that treatment for purposes of
12 competency restoration be continued. Such treatment may not extend
13 beyond the combination of time provided for in RCW 10.77.086 or
14 10.77.088.

15 ~~((d))~~ (c) If at any time during the proceeding the court finds,
16 following notice and hearing, a defendant is not likely to regain
17 competency, the proceedings shall be dismissed without prejudice and
18 the defendant shall be evaluated for civil commitment proceedings.

19 (2) If the defendant is referred ~~((to the))~~ for evaluation by a
20 designated mental health professional ~~((for consideration of initial~~
21 ~~detention proceedings under chapter 71.05 RCW pursuant to))~~ under this
22 chapter, the designated mental health professional shall provide prompt
23 written notification of the results of the ~~((determination whether to~~
24 ~~commence initial detention proceedings under chapter 71.05 RCW))~~
25 evaluation and whether the person was detained. The notification shall
26 be provided to the court in which the criminal action was pending, the
27 prosecutor, the defense attorney in the criminal action, and the
28 facility that evaluated the defendant for competency.

29 (3) The fact that the defendant is unfit to proceed does not
30 preclude any pretrial proceedings which do not require the personal
31 participation of the defendant.

32 (4) A defendant receiving medication for either physical or mental
33 problems shall not be prohibited from standing trial, if the medication
34 either enables the defendant to understand the proceedings against him
35 or her and to assist in his or her own defense, or does not disable him
36 or her from so understanding and assisting in his or her own defense.

37 (5) At or before the conclusion of any commitment period provided
38 for by this section, the facility providing evaluation and treatment

1 shall provide to the court a written report of (~~examination~~)
2 evaluation which meets the requirements of RCW 10.77.060(3). For
3 defendants charged with a felony, the report following the second
4 competency restoration period or first competency restoration period if
5 the defendant's incompetence is determined to be solely due to a
6 developmental disability or the evaluator concludes that the defendant
7 is not likely to regain competency must include an assessment of the
8 defendant's future dangerousness which is evidence-based regarding
9 predictive validity.

10 **Sec. 6.** RCW 10.77.086 and 2007 c 375 s 4 are each amended to read
11 as follows:

12 (1)(a) If the defendant is charged with a felony and determined to
13 be incompetent, until he or she has regained the competency necessary
14 to understand the proceedings against him or her and assist in his or
15 her own defense, or has been determined unlikely to regain competency
16 pursuant to RCW 10.77.084(1)(~~(e)~~) (b), but in any event for a period
17 of no longer than ninety days, the court:

18 (~~(a)~~) (i) Shall commit the defendant to the custody of the
19 secretary who shall place such defendant in an appropriate facility of
20 the department for evaluation and treatment; or

21 (~~(b)~~) (ii) May alternatively order the defendant to undergo
22 evaluation and treatment at some other facility as determined by the
23 department, or under the guidance and control of a professional person.

24 (b) For a defendant whose highest charge is a class C felony, or a
25 class B felony that is not classified as violent under RCW 9.94A.030,
26 the maximum time allowed for the initial period of commitment for
27 competency restoration is forty-five days.

28 (2) On or before expiration of the initial (~~ninety-day~~) period of
29 commitment under subsection (1) of this section the court shall conduct
30 a hearing, at which it shall determine whether or not the defendant is
31 incompetent.

32 (3) If the court finds by a preponderance of the evidence that a
33 defendant charged with a felony is incompetent, the court shall have
34 the option of extending the order of commitment or alternative
35 treatment for an additional (~~ninety-day~~) period of ninety days, but
36 the court must at the time of extension set a date for a prompt hearing
37 to determine the defendant's competency before the expiration of the

1 second ((~~ninety-day~~)) restoration period. The defendant, the
2 defendant's attorney, or the prosecutor has the right to demand that
3 the hearing be before a jury. No extension shall be ordered for a
4 second ((~~ninety-day~~)) or third restoration period(~~(, nor for any~~
5 ~~subsequent period)~~) as provided in subsection (4) of this section(~~(7)~~)
6 if the defendant's incompetence has been determined by the secretary to
7 be solely the result of a developmental disability which is such that
8 competence is not reasonably likely to be regained during an extension.

9 (4) For persons charged with a felony, at the hearing upon the
10 expiration of the second ((~~ninety-day~~)) restoration period or at the
11 end of the first ((~~ninety-day~~)) restoration period, in the case of a
12 defendant with a developmental disability, if the jury or court finds
13 that the defendant is incompetent, the charges shall be dismissed
14 without prejudice, and (~~either civil commitment proceedings shall be~~
15 ~~instituted or~~) the court shall either order the release of the
16 defendant or order the defendant be committed to a hospital or secure
17 mental health facility for up to seventy-two hours starting from
18 admission to the facility, excluding Saturdays, Sundays, and holidays,
19 for evaluation for the purpose of filing a civil commitment petition.
20 The criminal charges shall not be dismissed if the court or jury finds
21 that: (a) The defendant (i) is a substantial danger to other persons;
22 or (ii) presents a substantial likelihood of committing criminal acts
23 jeopardizing public safety or security; and (b) there is a substantial
24 probability that the defendant will regain competency within a
25 reasonable period of time. In the event that the court or jury makes
26 such a finding, the court may extend the period of commitment for up to
27 an additional six months.

28 NEW SECTION. Sec. 7. A new section is added to chapter 10.77 RCW
29 to read as follows:

30 (1) A defendant found incompetent by the court under RCW 10.77.084
31 must be evaluated at the direction of the secretary and a determination
32 made whether the defendant is an individual with a developmental
33 disability. Such evaluation and determination must be accomplished as
34 soon as possible following the court's placement of the defendant in
35 the custody of the secretary.

36 (2) When appropriate, and subject to available funds, if the
37 defendant is determined to be an individual with a developmental

1 disability, he or she may be placed in a program specifically reserved
2 for the treatment and training of persons with developmental
3 disabilities where the defendant has the right to habilitation
4 according to an individualized service plan specifically developed for
5 the particular needs of the defendant. A copy of the evaluation must
6 be sent to the program.

7 (a) The program must be separate from programs serving persons
8 involved in any other treatment or habilitation program.

9 (b) The program must be appropriately secure under the
10 circumstances and must be administered by developmental disabilities
11 professionals who shall direct the habilitation efforts.

12 (c) The program must provide an environment affording security
13 appropriate with the charged criminal behavior and necessary to protect
14 the public safety.

15 (3) The department may limit admissions of such persons to this
16 specialized program in order to ensure that expenditures for services
17 do not exceed amounts appropriated by the legislature and allocated by
18 the department for such services.

19 (4) The department may establish admission priorities in the event
20 that the number of eligible persons exceeds the limits set by the
21 department.

22 **Sec. 8.** RCW 71.05.310 and 2005 c 504 s 709 are each amended to
23 read as follows:

24 The court shall conduct a hearing on the petition for ninety-day
25 treatment within five judicial days of the first court appearance after
26 the probable cause hearing, or within ten judicial days for a petition
27 filed under RCW 71.05.280(3). The court may continue the hearing for
28 good cause upon the written request of the person named in the petition
29 or the person's attorney((7)). The court may continue for good cause
30 ((shown, which continuance shall not exceed five additional judicial
31 days)) the hearing on a petition filed under RCW 71.05.280(3) upon
32 written request by the person named in the petition, the person's
33 attorney, or the petitioner. If the person named in the petition
34 requests a jury trial, the trial shall commence within ten judicial
35 days of the first court appearance after the probable cause hearing.
36 The burden of proof shall be by clear, cogent, and convincing evidence
37 and shall be upon the petitioner. The person shall be present at such

1 proceeding, which shall in all respects accord with the constitutional
2 guarantees of due process of law and the rules of evidence pursuant to
3 RCW 71.05.360 (8) and (9).

4 During the proceeding, the person named in the petition shall
5 continue to be treated until released by order of the superior court.
6 If no order has been made within thirty days after the filing of the
7 petition, not including extensions of time requested by the detained
8 person or his or her attorney, or the petitioner in the case of a
9 petition filed under RCW 71.05.280(3), the detained person shall be
10 released.

11 NEW SECTION. **Sec. 9.** The joint legislative audit and review
12 committee shall make an independent assessment of the performance of
13 the state hospitals with respect to provisions specified in section 2
14 of this act, but shall not be required to independently evaluate the
15 exercise of clinical judgment. A report shall be made to the
16 legislature reflecting the committee's findings and recommendations
17 both six and eighteen months following the effective date of this
18 section. The department of social and health services shall cooperate
19 in a timely manner with requests for data and assistance related to
20 this assessment.

21 NEW SECTION. **Sec. 10.** The Washington state institute for public
22 policy shall study and report to the legislature the benefit of
23 standardizing protocols used for treatment to restore competency to
24 stand trial in Washington and during what clinically appropriate time
25 period said treatment may be expected to be effective. The department
26 of social and health services shall cooperate in a timely manner with
27 data requests in service of this study.

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.48 RCW
29 to read as follows:

30 A jail may not refuse to book a patient of a state hospital solely
31 based on the patient's status as a state hospital patient, but may
32 consider other relevant factors that apply to the individual
33 circumstances in each case.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 10.77 RCW
2 to read as follows:

3 (1) A state hospital may administer antipsychotic medication
4 without consent to an individual who is committed under this chapter as
5 criminally insane by following the same procedures applicable to the
6 administration of antipsychotic medication without consent to a civilly
7 committed patient under RCW 71.05.217, except for the following:

8 (a) The maximum period during which the court may authorize the
9 administration of medication without consent under a single involuntary
10 medication petition shall be the time remaining on the individual's
11 current order of commitment or one hundred eighty days, whichever is
12 shorter; and

13 (b) A petition for involuntary medication may be filed in either
14 the superior court of the county that ordered the commitment or the
15 superior court of the county in which the individual is receiving
16 treatment, provided that a copy of any order that is entered must be
17 provided to the superior court of the county that ordered the
18 commitment following the hearing. The superior court of the county of
19 commitment shall retain exclusive jurisdiction over all hearings
20 concerning the release of the patient.

21 (2) The state has a compelling interest in providing antipsychotic
22 medication to a patient who has been committed as criminally insane
23 when refusal of antipsychotic medication would result in a likelihood
24 of serious harm or substantial deterioration or substantially prolong
25 the length of involuntary commitment and there is no less intrusive
26 course of treatment than medication that is in the best interest of the
27 patient.

28 NEW SECTION. **Sec. 13.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect
35 May 1, 2012."

1 Correct the title.

EFFECT: The amendment makes the following changes:

Expands the circumstances under which the court may order an inpatient competency evaluation to include where the court finds that an evaluation outside a jail is necessary for the health, safety, or welfare of the defendant.

Provides that the annual report by DSHS must be provided to the Legislature and the executive and makes a number of housekeeping amendments for consistency, style, and clarity.

Prohibits local jails from refusing to book a patient of a state hospital solely based on the patient's status as a state hospital patient.

Establishes standards and requirements for state hospitals relating to the administration of antipsychotic medication without consent to an individual who is committed as criminally insane.

Adds a severability clause.

--- END ---