

SENATE BILL REPORT

SB 6010

As of January 27, 2012

Title: An act relating to worker safety at state hospitals.

Brief Description: Concerning worker safety at state hospitals.

Sponsors: Senators Carrell, Roach, Becker, Conway, Schoesler, Regala, Delvin, Stevens and Shin.

Brief History:

Committee Activity: Human Services & Corrections: 1/19/12.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Kevin Black (786-7747)

Background: Western State Hospital and Eastern State Hospital are state institutions which provide inpatient mental health treatment to persons committed under the Involuntary Treatment Act, persons committed as criminally insane, and persons committed for evaluation or treatment related to competency to stand trial. A news report in June 2011 reported that workers at psychiatric hospitals are assaulted on the job more than any other work place in Washington, 60 times more than the average worker in the state.

A criminal defendant is incompetent to stand trial if the defendant does not have the capacity to understand the proceedings against him or her or sufficient ability to assist in his or her own defense. Competency evaluations are performed by experts employed by a state hospital pursuant to court order when the issue of competency to stand trial is raised in the context of a criminal hearing. A defendant who is found to be incompetent to stand trial by the court cannot be placed on trial unless and until competency is restored. If competency cannot be restored within time limits provided by statute, the criminal charges must be dismissed without prejudice. State hospitals provide competency restoration treatment to criminal defendants, and also perform civil commitment evaluations for patients following dismissal of criminal charges based on incompetence to stand trial.

A person is guilty of the crime of custodial assault if the person assaults a full or part-time staff member or volunteer, educational personnel, personal service provider, vendor or agent working at a juvenile detention facility, adult corrections institution or adult detention facility, or community corrections office. Custodial assault is a class C felony.

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.

A person who assaults a nurse, physician, or certified health care provider who is performing nursing or health care duties at the time of the assault is guilty of assault in the third degree, a class C felony.

Summary of Bill: At the request of a state hospital employee who has been assaulted by a state hospital patient, the Department of Social and Health Services must designate an expert to evaluate the patient for competency to stand trial, provided that the assault occurred within the last 180 days and is documented in a police report. The expert must provide an opinion in writing to the police agency which investigated the assault within 15 days of the employee's request. The investigating police agency may forward this opinion to a prosecutor's office to assist the prosecutor in making a charging decision in the case.

The crime of custodial assault is expanded to include an assault on a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent of a state hospital who was performing official duties at the time of the assault.

When a patient of a state hospital is arrested and booked into jail based on a new charge allegedly committed while the patient was being involuntarily committed at a state hospital, the state hospital must certify to the jail the patient's county of origin, defined as the county which ordered the original commitment of the patient. If the patient is detained in jail solely on charges originating while the patient was being involuntarily treated at the state hospital, the county of origin must be financially responsible for the cost of incarceration while the defendant is awaiting trial.

A jail may not refuse to book a patient of a state hospital based solely on the patient's status as a state hospital patient, but may consider other relevant factors which apply to the individual circumstances of the case.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: To deal effectively with assaults, the capacity of jails and costs for counties in which state hospitals are located must be considered. When charges are not filed for assault, there is no justice for state hospital employees. Police are reluctant to file reports when the jail refuses to book patients. Assault rates are abysmal at Western State Hospital. Having an expert report on competency is important because it speaks to reasons why charges do not go forward. The expansion of custodial assault gives the state hospital the same protections that apply to other institutions that deal with a similar population.

OTHER: We are supportive of most of this bill. Competency can change over time. We object to the language allowing billing between counties; this should be handled using the existing statutory scheme, which already has provisions regarding impacts of institutions on local counties.

Persons Testifying: PRO: Senator Carrell, prime sponsor; Matt Zuvich, WA Federation of State Employees.

OTHER: Tom McBride, WA Assn. of Prosecuting Attorneys.