

SENATE BILL REPORT

SB 6261

As of January 20, 2012

Title: An act relating to notification of release of a person following dismissal of charges based on incompetence to stand trial.

Brief Description: Requiring notification of release of a person following dismissal of charges based on incompetence to stand trial.

Sponsors: Senators Kohl-Welles, Hargrove, Stevens and Regala.

Brief History:

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

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Kevin Black (786-7747)

Background: 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. When a court finds that a defendant is incompetent to stand trial, the defendant may not be placed on trial unless and until competency is restored. If the defendant remains incompetent after the conclusion of any competency restoration treatment for which the defendant is eligible, the court must dismiss the charges without prejudice and may order the defendant to be transferred to a state hospital or an evaluation and treatment facility for a civil commitment evaluation.

A person is eligible for civil commitment when, as the result of a mental disorder, the person presents a likelihood of serious harm or is gravely disabled. When a person is evaluated for civil commitment following dismissal of a felony based on incompetent to stand trial, the person may also be eligible for civil commitment if it is proven that the person has committed acts constituting a felony and, as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. Because the standards for incompetent to stand trial and civil commitment are different, the evaluation for civil commitment following dismissal of charges based on incompetent to stand trial sometimes results in a determination that the person does not meet criteria for civil commitment. In that case, the person is released without the filing of a civil commitment petition. If the person was previously charged with a misdemeanor, the evaluator must forward the recommendation for release to the superior court of the county in which the criminal charge was dismissed for review.

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.

Summary of Bill: A facility conducting a civil commitment evaluation following dismissal of a criminal charge based on incompetent to stand trial that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecuting attorney within 24 hours of the determination.

Appropriation: None.

Fiscal Note: Requested on January 16, 2012.

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: This bill was brought to me by a constituent who could not attend the hearing due to the ice storm. This constituent was incredulous that there was no official way for her to be notified about the release of a man who had harassed her 60 days after his initial arrest. This will speed up the notification from the institution to the prosecutor so that the victim advocates can follow up appropriately.

Persons Testifying: PRO: Sen. Kohl-Welles, prime sponsor; Tom McBride, WA Assn. of Prosecuting Attorneys.