

ESB 5221 - H COMM AMD  
By Committee on Judiciary

ADOPTED 04/09/2013

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

3 "Sec. 1. RCW 10.77.065 and 2012 c 256 s 4 are each amended to read  
4 as follows:

5 (1)(a)(i) The expert conducting the evaluation shall provide his or  
6 her report and recommendation to the court in which the criminal  
7 proceeding is pending. For a competency evaluation of a defendant who  
8 is released from custody, if the evaluation cannot be completed within  
9 twenty-one days due to a lack of cooperation by the defendant, the  
10 evaluator shall notify the court that he or she is unable to complete  
11 the evaluation because of such lack of cooperation.

12 (ii) A copy of the report and recommendation shall be provided to  
13 the designated mental health professional, the prosecuting attorney,  
14 the defense attorney, and the professional person at the local  
15 correctional facility where the defendant is being held, or if there is  
16 no professional person, to the person designated under (a)(iv) of this  
17 subsection. Upon request, the evaluator shall also provide copies of  
18 any source documents relevant to the evaluation to the designated  
19 mental health professional.

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

1 (iv) If there is no professional person at the local correctional  
2 facility, the local correctional facility shall designate a  
3 professional person as defined in RCW 71.05.020 or, in cooperation with  
4 the regional support network, a professional person at the regional  
5 support network to receive the report and recommendation.

6 (v) Upon commencement of a defendant's evaluation in the local  
7 correctional facility, the local correctional facility must notify the  
8 evaluator of the name of the professional person, or person designated  
9 under (a)(iv) of this subsection, to receive the report and  
10 recommendation.

11 (b) If the evaluator concludes, under RCW 10.77.060(3)(f), the  
12 person should be evaluated by a designated mental health professional  
13 under chapter 71.05 RCW, the court shall order such evaluation be  
14 conducted prior to release from confinement when the person is  
15 acquitted or convicted and sentenced to confinement for twenty-four  
16 months or less, or when charges are dismissed pursuant to a finding of  
17 incompetent to stand trial.

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

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

26 (4) A facility conducting a civil commitment evaluation under RCW  
27 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to  
28 release the person instead of filing a civil commitment petition must  
29 provide written notification to the prosecuting attorney and defense  
30 attorney. The notification must be provided on a business day and at  
31 least twenty-four hours prior to the person's release.

32 (5) The fact of admission and all information and records compiled,  
33 obtained, or maintained in the course of providing services under this  
34 chapter may also be disclosed to the courts solely to prevent the entry  
35 of any evaluation or treatment order that is inconsistent with any  
36 order entered under chapter 71.05 RCW."

37 Correct the title.

EFFECT: Provides that the notification to the prosecutor and defense attorney must be provided on a business day and at least 24 hours prior to the person's release.

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