
Judiciary Committee

ESSB 5551

Title: An act relating to competency to stand trial evaluations.

Brief Description: Concerning competency to stand trial evaluations.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Conway, Carrell and Shin).

Brief Summary of Engrossed Substitute Bill

- Establishes standards for a court to appoint an evaluator to conduct competency evaluations for defendants in jail when performance targets for the completion of jail evaluations are not being met in a county.
- Requires the state to reimburse the county for the costs of the evaluation in an amount that is at least equivalent to the amount for evaluations conducted by the Department of Social and Health Services.
- Requires the Office of the State Human Resources Director to gather and report on market salary data for psychologists and psychiatrists employed by the state.

Hearing Date: 3/21/13

Staff: Edie Adams (786-7180).

Background:

In a criminal case, a court may require an evaluation of a defendant who may be incompetent to stand trial. A person who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues. A person is incompetent if the person, as a result of a mental disease or defect, lacks the capacity to understand the nature of the criminal proceedings or to assist in his or her own defense.

Competency Evaluations.

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.

When a criminal defendant's competency is in question, the court must appoint, or ask the Department of Social and Health Services (Department) to designate, a qualified expert or professional person to evaluate and report on the defendant's mental condition. The evaluator must be approved by the prosecuting attorney. The evaluator must assess the defendant in a jail, detention facility, the community, or the court, to determine whether an inpatient commitment is needed to complete an accurate evaluation. If an inpatient commitment is not necessary, the evaluator will complete the evaluation.

A court may commit a defendant for evaluation without an assessment if: (1) the defendant is charged with Murder in the first or second degree; (2) the court finds that a jail evaluation will be inadequate for an accurate evaluation; or (3) the court finds that an evaluation outside the jail is necessary for the health, safety, or welfare of the defendant.

Performance Targets.

In 2012 the Legislature established performance targets for the timely completion of competency evaluations. By November 1, 2012, competency evaluations for defendants in jail should be completed within seven days, and a defendant ordered to an inpatient evaluation should be admitted to a state hospital within seven days. By May 1, 2013, competency evaluations in the community for defendants released from custody should be completed within 21 days.

The Legislature recognized that these targets may not be achievable in all cases, but directed the Department to manage and allocate resources in order to meet these targets whenever possible without compromising the quality of competency evaluations. Beginning December 2013, the Department must annually report on the timeliness of competency services. The Department must also report quarterly any instances where performance targets are not met and the corrective action taken to improve performance.

Summary of Bill:

Until June 30, 2016, the state must reimburse a county for the cost of appointing a qualified expert or professional person to conduct a competency evaluation for a defendant in jail if the Department has not met performance targets for competency evaluations for in-custody defendants in 50 percent of the cases submitted by the county during the most recent quarter. Whether the Department is meeting the performance targets is determined from the Department's most recent quarterly report or Department records.

The qualified expert or professional person must be appointed from a list assembled with participation by representatives of the prosecuting attorney and the county defense bar. The prosecutor or defense attorney may object to the appointment of the evaluator on the basis that an inpatient evaluation is appropriate under current statutory standards.

A qualified expert or professional person appointed for an indigent person should be compensated in an amount that will encourage in-depth evaluation reports. The Department must reimburse the county for the costs of the qualified expert or professional person in an amount determined to be fair and reasonable by the Department, and that is at least equivalent to the amount for evaluations conducted by the Department. The county is responsible for the costs of the evaluation that exceed the amount reimbursed by the Department.

The Office of the State Human Resources Director, within current resources, must gather market salary data for psychologists and psychiatrists employed by the Department and the Department of Corrections and report to the Governor and relevant legislative committees by June 30, 2013.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.