

# FINAL BILL REPORT

## ESSB 5551

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Synopsis as Enacted

**Brief Description:** Concerning competency to stand trial evaluations.

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

**Senate Committee on Law & Justice**  
**Senate Committee on Human Services & Corrections**  
**Senate Committee on Ways & Means**  
**House Committee on Judiciary**  
**House Committee on Appropriations**

**Background:** A criminal defendant is incompetent to stand trial when, as a result of a mental disease or defect, the defendant does not have the capacity to understand the proceeding against the defendant or sufficient ability to assist in the defense. Whenever there is reason to doubt a defendant's competency, the court must either appoint or request the state hospital to designate a qualified expert, who must be approved by the prosecuting attorney, to evaluate the mental condition of the defendant. The court may direct the evaluation to be witnessed by an expert retained by or appointed for the defense, who must be allowed to submit an independent report. Regulations adopted by the Department of Social and Health Services (DSHS) limit the reimbursement of a defense expert in this situation to \$800.

In 2012, the Legislature passed SSB 6492, which established performance targets for the state hospitals related to the timely completion of competency evaluations. Performance targets of seven days for completion of an evaluation for defendants in jail and seven days for admission to the state hospital for defendants ordered to receive an inpatient competency evaluation phased in during November 2012. A 21-day performance target for completion of evaluation for defendants in the community phases in during May 2013. Other changes were made for the purpose of speeding up the completion of competency evaluations.

**Summary:** DSHS must reimburse a county for the cost of appointing an expert to complete a competency evaluation for a defendant in jail if DSHS does not meet its seven-day performance target for the timeliness of competency evaluations in jail for at least 50 percent of defendants in the county during the most recent quarter, as determined by DSHS's most recent quarterly report or confirmed by records maintained by DSHS. The expert must be appointed from a list of qualified persons assembled with the participation of prosecutors and the defense bar in the county.

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*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.*

The expert must be compensated in an amount that will encourage in-depth evaluation reports. Reimbursement must be provided in an amount determined by DSHS to be fair and reasonable within funding provided for this specific purpose. Reimbursement may not be less than DSHS's cost for state evaluations, with the county paying any excess costs. The county must provide a copy of the report to the applicable state hospital if the defendant is referred for admission. The county must maintain data on the timeliness of competency evaluations completed under this act.

Within current resources, the Office of the State Human Resources Director must gather market salary data related to psychologists and psychiatrists employed by DSHS and the Department of Corrections and report to the Governor and relevant committees of the Legislature by June 30, 2013.

**Votes on Final Passage:**

Senate	48	1	
House	96	0	(House amended)
Senate	46	1	(Senate concurred)

**Effective:** July 28, 2013  
May 16, 2013 (Section 2)