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HOUSE BILL 2496

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State of Washington                      63rd Legislature                      2014 Regular Session

By Representative Schmick

Read first time 01/20/14. Referred to Committee on Judiciary.

1            AN ACT Relating to finding a defendant guilty but with a mental  
2 disability; and adding a new chapter to Title 10 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** The legislature finds that public confidence  
5 in the criminal justice system is sometimes undermined by the current  
6 application of the insanity defense and that additional discretion is  
7 required by courts and juries to justly dispose of cases involving  
8 defendants with a mental disability.

9            NEW SECTION.    **Sec. 2.** (1) A person who at the time of the  
10 commission of a criminal offense was not insane but was suffering from  
11 a mental disability is not relieved of criminal responsibility for the  
12 person's conduct and may be found guilty but with a mental disability.

13            (2) As used in this section, "mental disability" means a  
14 substantial disorder of thought, mood, or behavior that afflicted a  
15 person at the time of the commission of the offense and that impaired  
16 that person's judgment, but not to the extent that the person did not  
17 know what the person was doing or understand the consequences of the

1 act or did not know that the act was wrong or could not prevent oneself  
2 from committing the act.

3 (3) A plea or finding of guilty but with a mental disability is not  
4 an affirmative defense but an alternative plea or finding that may be  
5 accepted or made pursuant to appropriate evidence when the affirmative  
6 defense of insanity is raised or the plea of guilty but with a mental  
7 disability is made.

8 (4) A plea of guilty but with a mental disability shall not be  
9 accepted until the defendant has undergone examination by a clinical  
10 psychologist or psychiatrist and the court has examined the  
11 psychological or psychiatric reports, held a hearing on the issue of  
12 the defendant's mental condition, and is satisfied that there is a  
13 factual basis that the defendant had a mental disability at the time of  
14 the offense to which the plea is entered.

15 (5) When a defendant has asserted a defense of insanity, the court  
16 may find the defendant guilty but with a mental disability if after  
17 hearing all of the evidence the court finds beyond a reasonable doubt  
18 that the defendant:

19 (a) Is guilty of the offense charged;

20 (b) Had a mental disability at the time of the commission of the  
21 offense; and

22 (c) Was not legally insane at the time of the commission of the  
23 offense.

24 (6) When a defendant has asserted a defense of insanity, the court,  
25 where warranted by the evidence, shall provide the jury with a special  
26 verdict form of guilty but with a mental disability and shall  
27 separately instruct the jury that a verdict of guilty but with a mental  
28 disability may be returned instead of a verdict of guilty or not  
29 guilty, and that such a verdict requires a finding by the jury beyond  
30 a reasonable doubt that the defendant committed the offense charged and  
31 that the defendant was not legally insane at the time of the commission  
32 of the offense but that the defendant had a mental disability at that  
33 time.

34 NEW SECTION. **Sec. 3.** (1) Whenever a defendant is found guilty but  
35 with a mental disability at the time of the offense or enters a plea to  
36 that effect that is accepted by the court, the court shall sentence the  
37 defendant as though the defendant had been found guilty of the offense.

1           (2) If such a defendant is committed to the department of  
2 corrections, the defendant shall be further observed and diagnosed and  
3 then treated in such a manner as may be indicated for the mental  
4 disability. Any observation, diagnosis, or treatment shall be provided  
5 in conformance with RCW 10.77.120.

6           NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute  
7 a new chapter in Title 10 RCW.

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