
SUBSTITUTE SENATE BILL 6311

State of Washington

63rd Legislature

2014 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators O'Ban and Conway)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to involuntary medication for maintaining the level
2 of restoration in jail; amending RCW 10.77.092 and 10.77.065; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there is
6 currently no clear language authorizing courts to order involuntary
7 medications in order to maintain the level of competency restoration in
8 the jail following a competency restoration period and subsequent
9 discharge from a state hospital. This act identifies maintenance of
10 competency as a purpose for which a court may order the involuntary
11 administration of psychiatric medication, and specifies that
12 maintenance of competency in jail is a purpose for which the court may
13 order a criminal defendant facing serious charges to be involuntarily
14 medicated.

15 **Sec. 2.** RCW 10.77.092 and 2008 c 213 s 2 are each amended to read
16 as follows:

17 (1) For purposes of determining whether a court may authorize
18 involuntary medication for the purpose of competency restoration

1 pursuant to RCW 10.77.084 and for maintaining the level of restoration
2 in the jail following the restoration period, a pending charge
3 involving any one or more of the following crimes is a serious offense
4 per se in the context of competency restoration:

5 (a) Any violent offense, sex offense, serious traffic offense, and
6 most serious offense, as those terms are defined in RCW 9.94A.030;

7 (b) Any offense, except nonfelony counterfeiting offenses, included
8 in crimes against persons in RCW 9.94A.411;

9 (c) Any offense contained in chapter 9.41 RCW (firearms and
10 dangerous weapons);

11 (d) Any offense listed as domestic violence in RCW 10.99.020;

12 (e) Any offense listed as a harassment offense in chapter 9A.46
13 RCW;

14 (f) Any violation of chapter 69.50 RCW that is a class B felony; or

15 (g) Any city or county ordinance or statute that is equivalent to
16 an offense referenced in this subsection.

17 (2)(a) In a particular case, a court may determine that a pending
18 charge not otherwise defined as serious by state or federal law or by
19 a city or county ordinance is, nevertheless, a serious offense within
20 the context of competency restoration treatment when the conduct in the
21 charged offense falls within the standards established in (b) of this
22 subsection.

23 (b) To determine that the particular case is a serious offense
24 within the context of competency restoration, the court must consider
25 the following factors and determine that one or more of the following
26 factors creates a situation in which the offense is serious:

27 (i) The charge includes an allegation that the defendant actually
28 inflicted bodily or emotional harm on another person or that the
29 defendant created a reasonable apprehension of bodily or emotional harm
30 to another;

31 (ii) The extent of the impact of the alleged offense on the basic
32 human need for security of the citizens within the jurisdiction;

33 (iii) The number and nature of related charges pending against the
34 defendant;

35 (iv) The length of potential confinement if the defendant is
36 convicted; and

37 (v) The number of potential and actual victims or persons impacted
38 by the defendant's alleged acts.

1 **Sec. 3.** RCW 10.77.065 and 2013 c 214 s 1 are each amended to read
2 as follows:

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

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

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

30 (iv) If there is no professional person at the local correctional
31 facility, the local correctional facility shall designate a
32 professional person as defined in RCW 71.05.020 or, in cooperation with
33 the regional support network, a professional person at the regional
34 support network to receive the report and recommendation.

35 (v) Upon commencement of a defendant's evaluation in the local
36 correctional facility, the local correctional facility must notify the
37 evaluator of the name of the professional person, or person designated

1 under (a)(iv) of this subsection, to receive the report and
2 recommendation.

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

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

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

18 (4) A facility conducting a civil commitment evaluation under RCW
19 10.77.086(4) or 10.77.088(1)(b)(ii) that makes a determination to
20 release the person instead of filing a civil commitment petition must
21 provide written notice to the prosecutor and defense attorney at least
22 twenty-four hours prior to release. The notice may be given by
23 electronic mail, facsimile, or other means reasonably likely to
24 communicate the information immediately.

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

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