

HOUSE BILL REPORT

HB 1426

As Reported by House Committee On:
Judiciary

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

Brief Description: Concerning competency to stand trial evaluations.

Sponsors: Representatives Jinkins, Nealey, Sawyer, Kochmar, Muri, Fey, Zeiger and Kilduff.

Brief History:

Committee Activity:

Judiciary: 1/29/15, 2/12/15 [DPS].

Brief Summary of Substitute Bill

- Extends the expiration date of a statute that provides for state reimbursement to counties for the costs of appointing independent competency evaluators for in-custody defendants, and expands the grounds under which a county may request the reimbursement.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

Staff: Edie Adams (786-7180).

Background:

A criminal defendant is incompetent to stand trial if, due to a mental disease or defect, he or she lacks the capacity to understand the nature of the proceedings or is unable to assist in his or her own defense. A defendant who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues.

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 defendant's competency is in question, the court must either appoint, or ask the Department of Social and Health Services (Department) to designate, a qualified expert to evaluate and report on the defendant's mental condition. 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.

In 2012 the Legislature established performance targets for the timely completion of competency evaluations. 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. Competency evaluations in the community for defendants released from custody should be completed within 21 days. The Department must report annually on the timeliness of competency services, and report quarterly any instances where performance targets are not met and the corrective action taken to improve performance.

Legislation enacted in 2013 (Chapter 284, Laws of 2013) requires the Department to reimburse a county for the cost of appointing a qualified expert 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. The Department must reimburse the county for the costs of the competency evaluator in an amount that is at least equivalent to the amount for evaluations conducted by the Department. The reimbursement requirement is subject to funds appropriated for this purpose, and it is set to expire June 30, 2016.

Summary of Substitute Bill:

The statute that requires the Department to reimburse counties for the cost of appointing competency evaluators for in-custody defendants is extended from 2016 to 2018, and an additional ground under which a county may seek reimbursement is established. The county may request reimbursement if the Department in the most recent quarter did not perform at least one-third of the number of jail-based competency evaluations for in-custody defendants as were performed by qualified experts appointed by the court. Reimbursement is subject to funds appropriated for this purpose.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the requirement that the Department reimburse counties for appointing competency evaluators is subject to funds appropriated for that purpose, and changes the expiration date of the reimbursement requirement from 2019 to 2018.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The legislation lets counties work in partnership with the state to timely complete competency evaluations so that these individuals are more quickly moved into a therapeutic environment. Pierce County has basically served as a pilot and their success has resulted in other counties being interested in implementing this practice. Since 2000 there has been an 80 percent increase nationwide in referrals for competency evaluations. The state is not keeping up with this increase, and we see people languishing in jail, which is not an appropriate environment for them. This is a temporary stop gap measure until we can get the evaluation backlog under control. Allowing counties to continue to use outside experts will improve timeliness. The Governor's budget includes funds for three new evaluators. A technical amendment is needed to make clear that reimbursement is subject to available funds.

(With concerns) The state should not be moving public employee work into the private sector. The Legislature would not be considering this legislation if the state had not shut down wards at the hospital or had invested more in recruitment pay to hire and keep evaluators. There are some short-term dollars in the Governor's budget and some additional resources given to the state hospital that will help in the short-term. The bill should make clear that reimbursement is within appropriated funds, and it should sunset in two years since by that time we will have made good progress and will be able to see whether the program should be extended further.

(Opposed) None.

Persons Testifying: (In support) Representative Jinkins, prime sponsor; Al Rose, Pierce County Executive's Office; Judy Snow, Pierce County Detention Correction Center; and Tim Hunter, Department of Social and Health Services.

(With concerns) Matt Zuvich, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying: None.