

# SENATE BILL REPORT

## SB 5403

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As of March 20, 2015

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

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

**Sponsors:** Senators Conway, O'Ban, Darneille, Cleveland, Rivers and Benton.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 1/29/15.

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### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Staff:** Kevin Black (786-7747)

**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 the competency of a defendant, the court must stay the criminal proceedings and either appoint a qualified expert or request the Department of Social and Health Services (DSHS) to designate an expert to evaluate the mental condition of the defendant. State law provides for a seven-day performance target to complete competency evaluation in jail for a defendant who is in custody.

In 2013 the Legislature passed Engrossed Substitute Senate Bill 5551, which provides that until June 30, 2016, DSHS must reimburse a county for the cost of appointing an expert to complete a competency evaluation for a defendant in jail if DSHS has not meet its seven-day performance target for the timeliness of in-jail competency evaluations for at least 50 percent of defendants in the county during the most recent quarter, as determined by DSHS' 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. Reimbursements must be provided within appropriated funding, and must not be less than state's cost for providing the evaluation.

According to records provided by DSHS, it performed 2978 initial competency evaluations for defendants in 2013, of which 2102 were performed in jail.

**Summary of Bill:** The bill as referred to committee not considered.

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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.*

**Summary of Bill (Proposed Substitute):** If during any quarter, DSHS does not perform one-third as many competency evaluations as evaluations performed by appointed experts in a particular county, DSHS must reimburse that county for its cost to appoint experts to perform the competency evaluations. Language is stricken requiring these reimbursements to be provided within funds appropriated for this specific purpose. The expiration date for this section of law is extended three years, until June 30, 2019.

**Appropriation:** None.

**Fiscal Note:** Requested on January 27, 2015.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This program has been successful at shortening the time for competency evaluations in Pierce County in 270 cases. Other counties are interested in implementing this practice. Defenders, prosecutors, and judges believe this has been helpful. Ninety-seven percent of evaluations have been completed within seven days; the exceptions were all special circumstances. By comparison, in 2014 it took the state hospital an average of over 18 days to complete evaluations in Pierce County, compared to under five days with this program. This should be a stopgap measure; we are doing it because we see people languishing in the jail. DSHS is not meeting the timeliness targets to complete competency evaluations. The Governor has requested funding for three new evaluators to correct this. This program has helped improve the timeliness of evaluations, which we welcome. Please retain language making expenditures subject to the availability of appropriated funds. All counties benefit from utilization of this program, even in one county, because it eases pressure on all state evaluations.

OTHER: We object to outsourcing this work, which is ours, to the private sector. We acknowledge there is a problem born out of a lack of resources and capacity in our system. We prefer an extension of the expiration date by two years, instead of three. Please retain the language making expenditures subject to the availability of appropriated funds.

**Persons Testifying:** PRO: Senator Conway, prime sponsor; Al Rose, Pierce County Executive's Office; Judy Snow, Pierce County Jail; Tim Hunter, DSHS; Brian Enslow, WA State Assn. of Counties; David Lord, Disability Rights WA.

OTHER: Matt Zuvich, WA Federation of State Employees.