

# SENATE BILL REPORT

## SB 5925

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As of February 18, 2015

**Title:** An act relating to diversion of nonfelony charges when a party has raised the issue of competency to stand trial.

**Brief Description:** Concerning diversion of nonfelony charges when a party has raised the issue of competency to stand trial.

**Sponsors:** Senator Hargrove.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 2/17/15.

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

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

**Background:** A nonfelony criminal offense is a misdemeanor or gross misdemeanor. Competency to stand trial (CST) means that a party to a criminal proceeding or the court has raised an issue as to whether a criminal defendant has the present capacity to understand the nature of the charges against the defendant or to assist in their own defense. Whenever CST is raised in a criminal case, the legal proceedings must be stayed until a mental health expert can evaluate the defendant and report on the defendant's mental state. In a nonfelony case, if the court finds after this evaluation that the defendant is incompetent to stand trial (IST), the court may order up to 14 days of competency restoration treatment, plus any unused time from the evaluation period if the nonfelony is a serious offense. If the defendant remains IST after all allowable periods of competency restoration treatment have been exhausted, the court must dismiss the charges without prejudice and may detain the defendant to an evaluation and treatment facility for evaluation for civil commitment or refer the defendant for evaluation by a designated mental health professional.

**Summary of Bill:** If a defendant is charged with a nonfelony offense, and the issue of CST is raised by the court or a party, the prosecutor may dismiss the charges without prejudice and refer the defendant to outpatient intensive treatment, residential treatment, or a supportive housing program. If the prosecutor dismisses the charges, the prosecutor may not refile charges unless and until (1) the defendant is charged with a new crime; (2) the defendant fails to appear for intake at the referred program within 30 days of the dismissal; or (3) at least 30 days have elapsed and there is a reasonable basis to believe that the defendant's symptoms

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have cleared to the extent that there is reason to believe that the defendant is competent to stand trial.

Defendants who have a current charge or prior conviction for a serious violent offense or sex offense are excluded from this law.

**Appropriation:** None.

**Fiscal Note:** Requested on February 13, 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 idea came from an earlier committee hearing. We have misdemeanor defendants who were probably going to get three to five days in jail who are sitting and waiting for months in jail for competency evaluations. This seems to be churning up a lot of resources when it would be way more appropriate to just get them into treatment. Misdemeanor cases may account for 15 percent of our competency backup. It would take the cooperation of prosecutors to dismiss the charges. Resources used for competency could be devoted to rehabilitative programs to help the defendant and the community at large. This will slow down the revolving door. Rural counties have many defendants waiting for long periods in jail who might be able to access services. We support diverting persons from deeper involvement in the criminal justice system while engaging them in mental health services. We suggest amending the bill to not specify particular services, but to require an evaluation by a mental health professional to determine the appropriate service needs for the individual. We think this assessment should include mental health, chemical dependency, and developmental disability needs. An expectation for residential services or housing to be provided would drive fiscal impacts.

**Persons Testifying:** PRO: Senator Hargrove, prime sponsor; Kari Reardon, WA Defender Assn., WA Assn. of Criminal Defense Lawyers; Tim Hunter, Dept. of Social and Health Services.