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## Civil Rights & Judiciary Committee

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### HB 1100

**Brief Description:** Evaluating competency to stand trial.

**Sponsors:** Representative Jenkins.

#### Brief Summary of Bill

- Removes the grounds under which counties may seek reimbursement for performing competency evaluations.
- Extends the reimbursement requirement expiration date to June 30, 2022.

**Hearing Date:** 1/16/19

**Staff:** Ingrid Lewis (786-7289).

#### **Background:**

##### Competency Evaluations.

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

Competency evaluations may occur in a variety of locations, but generally occur in a jail or detention facility, the community, or one of the state hospitals. A defendant who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues.

In *Trueblood v. the Department of Social and Health Services*, 822 F.3d 1037 (2015), a federal district court found that the State of Washington was violating the constitutional rights of in-jail defendants awaiting competency evaluation and restoration services. As a result, the DSHS was

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ordered to provide in-jail competency evaluations within 14 days of a court order and inpatient competency evaluation and restoration services within seven days of a court order.

County Reimbursement for Competency Evaluations.

The DSHS is required to reimburse a county for the cost of appointing a qualified expert to conduct a competency evaluation for a defendant in jail if:

- the DSHS 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; or
- the DSHS 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.

The DSHS 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 DSHS.

The reimbursement requirement is subject to funds appropriated for this purpose, and it is set to expire June 30, 2019.

**Summary of Bill:**

The grounds for which counties can seek reimbursement are removed, allowing counties to request reimbursement regardless of the Department of Social and Health Services' performance metrics.

The expiration date is extended from June 30, 2019, to June 30, 2022. Reimbursement is subject to funds appropriated for this purpose.

**Appropriation:** None.

**Fiscal Note:** Requested on January 14, 2019.

**Effective Date:** The bill contains an emergency clause and takes effect on June 30, 2019.