
Civil Rights & Judiciary Committee

HB 2301

Brief Description: Concerning competency to stand trial evaluations.

Sponsors: Representative Kilduff.

Brief Summary of Bill

- Reinstates the requirement for the Department of Social and Health Services to reimburse a county for the costs of performing competency evaluations.

Hearing Date: 1/15/20

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 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.

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.

County Reimbursement for Competency Evaluations.

Legislation enacted in 2013 required the DSHS 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 had 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 was required to reimburse the county for the costs of the competency evaluator in an amount that was at least equivalent to the amount for evaluations conducted by the DSHS.

This reimbursement requirement expired June 30, 2019.

Summary of Bill:

The reimbursement requirement is reinstated. For the purposes of calculation, county is defined as the political entity of the county. The Department of Social and Health Services (DSHS) is required to notify counties of eligibility two weeks after the end of the current quarter to assist with county decisions regarding assignments to qualified experts or professional persons. A county remains eligible for reimbursement for any evaluations assigned to a qualified expert or professional person prior to a notification. The DSHS is required to provide notice to a county using a mutually agreed upon delivery method.

The reimbursement requirement expires June 30, 2023.

Appropriation: None.

Fiscal Note: Requested on January 8, 2020.

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