
SUBSTITUTE SENATE BILL 5797

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long and Franklin)

Read first time 03/01/95.

1 AN ACT Relating to examinations of mental conditions; amending RCW
2 10.77.060; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 10.77.060 and 1989 c 420 s 4 are each amended to read
5 as follows:

6 (1) Whenever a defendant has pleaded not guilty by reason of
7 insanity, or there is reason to doubt his or her competency, the court
8 on its own motion or on the motion of any party shall either appoint or
9 request the secretary to designate at least two qualified experts or
10 professional persons, one of whom shall be approved by the prosecuting
11 attorney, to examine and report upon the mental condition of the
12 defendant. At least one of the experts or professional persons
13 appointed shall be a developmental disabilities professional if the
14 court is advised by any party that the defendant may be developmentally
15 disabled. ((For purposes of the examination,))

16 (2) Whenever the court orders an examination of a defendant's
17 mental condition because there is reason to doubt his or her
18 competency, the court shall order a preliminary examination by at least
19 one qualified forensic expert designated by the secretary to be

1 conducted within the county jail or other correctional facility in
2 which the defendant is being confined, or in a nonconfinement setting
3 if the defendant is not in total confinement. The preliminary
4 examination shall be conducted to determine: (a) If the competency of
5 the defendant is an issue; (b) if further examination is necessary to
6 complete the examination report under this section; or (c) if there is
7 probable cause to believe that twenty-four-hour observation of the
8 defendant is necessary to complete the examination report under this
9 section. The court shall order the defendant committed to a hospital
10 or other suitable facility if the court determines there is probable
11 cause to believe that twenty-four-hour observation is necessary to
12 properly complete the examination report under this section. The
13 commitment shall be for a period of time necessary to complete the
14 examination, but not to exceed fifteen days.

15 (3) Whenever the court orders an examination of a defendant's
16 mental condition because the defendant has pleaded not guilty by reason
17 of insanity, the court may order the defendant committed to a hospital
18 or other suitable facility for a period of time necessary to complete
19 the examination, but not to exceed fifteen days.

20 ~~((+2))~~ (4) The court may direct that a qualified expert or
21 professional person retained by or appointed for the defendant be
22 permitted to witness the examination authorized by subsection (1) of
23 this section, and that the defendant shall have access to all
24 information obtained by the court appointed experts or professional
25 persons. The defendant's expert or professional person shall have the
26 right to file his or her own report following the guidelines of
27 subsection ~~((+3))~~ (5) of this section. If the defendant is indigent,
28 the court shall upon the request of the defendant assist him or her in
29 obtaining an expert or professional person.

30 ~~((+3))~~ (5) The report of the examination shall include the
31 following:

- 32 (a) A description of the nature of the examination;
33 (b) A diagnosis of the mental condition of the defendant;
34 (c) If the defendant suffers from a mental disease or defect, or is
35 developmentally disabled, an opinion as to competency;
36 (d) If the defendant has indicated his or her intention to rely on
37 the defense of insanity pursuant to RCW 10.77.030, an opinion as to the
38 defendant's sanity at the time of the act;

1 (e) When directed by the court, an opinion as to the capacity of
2 the defendant to have a particular state of mind which is an element of
3 the offense charged;

4 (f) An opinion as to whether the defendant is a substantial danger
5 to other persons, or presents a substantial likelihood of committing
6 felonious acts jeopardizing public safety or security, unless kept
7 under further control by the court or other persons or institutions.

8 NEW SECTION. **Sec. 2.** This act shall take effect January 1, 1996,
9 and shall apply to examinations ordered by a court on or after January
10 1, 1996.

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