

SB 5210: Updates to Competency Restoration Order Requirements

WDA and WACDL support the proposed amendments to change the periods of time listed for length of evaluation and treatment to numbers. The bill's use of plain language in using numbers is helpful.

We oppose changing the length of evaluation for civil commitment following dismissal of felony charges and qualifying misdemeanor offenses from 72 hours to 120 hours. There are no studies indicating that an individual found to be incompetent should be evaluated for a longer period of time. In order for a defendant to be found not competent to proceed, he or she must receive an evaluation from a qualified expert pursuant to RCW 10.77.060. That expert must have training and experience in the field of forensic psychology. The court must find the defendant, due to a diagnosed mental disease or defect, is not competent to proceed. The expert must review collateral resources and spend time with a defendant to make a determination that the person is unable to rationally assist in his or her own defense. DSHS has failed to comply with the Federal Court's ruling in *A.B. by Trueblood v. DSHS* regarding time for admission to a facility for evaluation and restoration since that court's ruling. Currently, it takes in excess of three months and is often longer for a defendant to be admitted to a DSHS facility for evaluation and treatment. Extending the period of time for evaluation to 120 hours equals two additional days before the patient appears before the court and can be mandated into treatment. There is simply no reason to lengthen the amount of time for evaluation for civil commitment for a person who had charges dismissed due to a finding of incompetency.

As a state, Washington continues to fail those with mental health issues that have been found incompetent to proceed. Those ordered to undergo inpatient restoration are not timely admitted to hospitals for treatment. If person is in a jail when a felony charge is dismissed due to incompetency, he or she can be detained in a jail for up to 14 days before the individual is transported to a DSHS facility. If the person is at a DSHS facility at the time of dismissal, the mental health issues are well established. To have those individuals wait two additional days before an evaluation is completed to determine if he or she meets the standard for involuntary commitment under RCW 71.05.280(3) is unconscionable.

Misdemeanor defendants face similar issues to the felony defendants as cases are rarely addressed in a timely manner. To authorize further delay to these individuals is unnecessary, counterproductive, and should not be sanctioned by the legislature. The fact that the person is incompetent due to a mental disease or defect is part and parcel to the finding of incompetency. Fortunately for misdemeanor defendants there is a timely admission to an evaluation and treatment center once an order of dismissal is entered.

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WDA is a non-profit organization created in 1983 to promote, assist, and encourage public defense systems which ensure that all accused persons in every court receive effective assistance of counsel

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WACDL is a non-profit organization working to improve the quality & administration of justice by protecting & insuring by rule of law those individual rights guaranteed by the Washington and Federal Constitutions