

Multiple Agency Fiscal Note Summary

Bill Number: 5519 E SB	Title: Competency eval & restor
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Estimated Cash Receipts

Agency Name	2009-11		2011-13		2013-15	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Social and Health Services	Non-zero but indeterminate cost. Please see discussion."					
Total \$	0	0	0	0	0	0

Local Gov. Courts *						
Local Gov. Other **	Non-zero but indeterminate cost. Please see discussion.					
Local Gov. Total						

Estimated Expenditures

Agency Name	2009-11			2011-13			2013-15		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *									
Local Gov. Other **	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Total									

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Prepared by: Sandi Triggs, OFM	Phone: 360-902-3064	Date Published: Final
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Judicial Impact Fiscal Note

Bill Number: 5519 E SB	Title: Competency eval & restor	Agency: 055-Admin Office of the Courts
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Part I: Estimates

No Fiscal Impact

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact: Linda Merelle	Phone: 360-786-7092	Date: 03/18/2009
Agency Preparation: Julia Appel	Phone: (360) 705-5229	Date: 03/19/2009
Agency Approval: Dirk Marler	Phone: 360-705-5211	Date: 03/19/2009
OFM Review: Cherie Berthon	Phone: 360-902-0659	Date: 03/19/2009

Request # -1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

The engrossed substitute amends section 101 (1)(f) to remove the requirement that remedies for failure to meet time limitations under the section are limited to those specified in section 109 (2) of the act. This does not change the fiscal impact to the courts.

The changes in the proposed substitute, including the provision that the court or the prosecutor shall send a copy of the order and other documents to the secretary, are not expected to change the overall fiscal impact to the courts as follows.

This bill specifies some new procedures related to competency hearings in superior court under Chapter 10.77 RCW. Whereas some of the provisions could involve some additional court time, this should be offset by improvements to the process in general. Therefore, it is not expected that there will be any significant expenditure impact to the courts.

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 5519 E SB	Title: Competency eval & restor	Agency: 300-Dept of Social and Health Services
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Linda Merelle	Phone: 360-786-7092	Date: 03/18/2009
Agency Preparation: Debbie Schaub	Phone: 902-8177	Date: 03/23/2009
Agency Approval: Ken Brown	Phone: 360-902-7583	Date: 03/23/2009
OFM Review: Sandi Triggs	Phone: 360-902-3064	Date: 03/25/2009

Request # 095519ESB-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 109 (2) is a new section that states that if Department of Social and Health Services (DSHS) fails to conduct or complete a competency evaluation within the time limits prescribed by RCW 10.77.060 (1)(d), the court may conduct a show cause hearing upon the motion of any party. If the court finds that time limits were exceeded without good cause, it may set a fixed time for the completion of the evaluation and may order DSHS to reimburse expenses to the jail for any excess days at a rate of ninety dollars per day.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Section 109 (2) is a new section that states that if Department of Social and Health Services (DSHS) fails to conduct or complete a competency evaluation within the time limits prescribed by RCW 10.77.060 (1)(d), the court may conduct a show cause hearing upon the motion of any party. If the court finds that time limits were exceeded without good cause, it may set a fixed time for the completion of the evaluation and may order DSHS to reimburse expenses to the jail for any excess days at a rate of ninety dollars per day.

The state hospitals are currently meeting the 21 days on average, but there will be outliers where the evaluation is difficult and will take longer. While the excess number of days is unknown, the fiscal impact from this legislation is estimated to be under \$50,000.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

N/A

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

N/A

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 5519 E SB	Title: Competency eval & restor
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Part I: Jurisdiction

Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: Potentially changes some misdemeanor jail costs.
- Counties: Differences in number of outpatient competency evaluations, costs associated with mentally ill defendants in custody, and reduction in transportation costs.
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Future number of competency evaluations.

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 03/23/2009
Leg. Committee Contact: Linda Merelle	Phone: 360-786-7092	Date: 03/18/2009
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 03/23/2009
OFM Review: Sandi Triggs	Phone: 360-902-3064	Date: 03/25/2009

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

DIFFERENCES BETWEEN THIS VERSION AND PREVIOUS VERSION OF BILL:

The language that was in the previous version limiting the remedies for failure to meet timelines in Section 101 has been removed. In the previous version, the words “of the department” had been redacted in Section 104 (1), referring to the placement of a defendant charged with a felony and found to be incompetent in a facility “of the department” (the Department of Social and Health Services). A new clause has been added to Section 109 (4), which states, “Nothing in this section is intended to denigrate other rights retained by operators of jails or other parties.”

SUMMARY OF PREVIOUS VERSION OF THE BILL:

This bill would revise competency evaluation and restoration procedures. See attachment for section by section summary.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

See attachment.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

See attachment.

Bill Number: **ESSB 5519**

Short Title: **Reforming offender competency evaluation and restoration procedures**

PART IV / ANALYSIS

A – Summary of Bill

Describes the bill with an emphasis on how it impacts local government.

DIFFERENCES BETWEEN THIS VERSION AND PREVIOUS VERSION OF BILL:

- Language limiting the remedies for failure to meet timelines in Section 101 has been removed in this section.
- In the previous version, the words “of the department” had been redacted in Section 104 (1), referring to the placement of a defendant charged with a felony and found to be incompetent in a facility “of the department” (the Department of Social and Health Services).
- A new clause has been added to Section 109 (4), which states, “Nothing in this section is intended to denigrate other rights retained by operators of jails or other parties.”

SUMMARY:

This bill would revise criminal defendant competency evaluation and restoration procedures. The following sections have potential local fiscal impact:

Sec. 101 Requires a competency exam to be held in jail or other detention facility unless the evaluator provides a written request for the exam to take place in a hospital or other mental health facility. (Under current law, the exams are held in a hospital or mental health facility unless the parties agree to have it conducted in a jail or detention facility.) This section would also create a deadline for completion of the evaluation report based on where the exam is conducted. The evaluator must complete his or her evaluation and report within 21 days after the order for evaluation has been filed, unless the evaluator has requested that the defendant be transported. If the defendant has been transported to a state hospital for an evaluation, they can only be kept there for 15 days or the length of time it takes to complete the evaluation. A seven-day time limit is added in Section 101 (1d) for authorizing the transfer of a defendant to the state hospital when an evaluator determines that an accurate evaluation cannot be completed on an outpatient basis.

Sec. 103 Amends existing statute to set deadlines based on the defendant's charges for how long he or she could remain detained before transport after being found incompetent and not eligible for further competency restoration or competency restoration treatment. If the charge is a felony or serious offense as defined by 10.77.092, the defendant shall be transferred to a state hospital for an evaluation, and may only be kept in jail for up to three days prior to transfer. Section 103 (1c) sets the length of time a defendant can be held for an evaluation by a designated mental health professional at 12 hours, for a non-serious offense following a court finding of not competent.

Sec. 104 Amends existing statute to state that once a defendant has completed an initial competency restoration treatment period, they can only be sentenced to a second period by the court if that period would not exceed the maximum length of time they would serve had they been convicted of the crime they were accused of, or if there's a preponderance of evidence that a

second period would be in the public interest. The bill would amend this section so that a defendant would not necessarily be held in a state hospital but could be held in an Evaluation and Treatment Center or a community hospital, the costs of which are covered by the Regional Support Networks.

Sec. 106 Would allow the courts, when a defendant pleads not guilty by reason of insanity or intends to rely upon a defense of diminished capacity, to designate an expert or professional to examine and report upon the mental condition of the defendant. When a defendant pleads guilty by reason of insanity or will use a defense of diminished capacity, and has been transferred to a state hospital, they may be held for no longer than 15 days or the amount of time it takes to complete the evaluation.

Sec. 109 Section 109 (2) allows for the Department of Social and Health Services (DSHS) to reimburse jail expenses to the county, at a rate of \$90 per day, following a show cause hearing at which the court determines that DSHS was the cause of the delay. Section 109 (3) states that a jail is not civilly liable for delays by DSHS in providing competency evaluation services under RCW 10.77.060, or for the release of an individual from custody according to the requirements of RCW 10.77.084.

B – Expenditure Impacts

Describes and quantifies the potential expenditure impacts of the legislation on local government, distinguishing between city, county and special district impacts when appropriate.

SUMMARY

There are no difference between the previous version of the bill and the current version in terms of expenditure impact. The bill would have an indeterminate, positive impact on local government (county and city) criminal justice costs statewide. However, the savings are estimated to be largely in western Washington, and the impacts may vary significantly across counties. Annual expenditure impacts are anticipated to be most positive if the state is able to reduce the number of days an inmate is held in jail by three days due to revisions in competency evaluation procedures. Local governments located farther from state hospitals would experience different impacts than local governments located close to state hospitals due to inmate transportation costs, which are primarily county costs, and travel-time requirements for state evaluators coming to jails.

DISCUSSION

Overview – Below is a summary table comparing impacts on local government-related expenditure impacts in three different scenarios. The first scenario, no change in evaluation time, assumes that competency evaluation procedure revisions do not change the number of days that inmates spend in jail, with the exception that those who formally went to a state hospital for evaluation would stay in the jail. The second scenario assumes a one-day reduction in the total time defendants spend in local government jails as a result of procedural changes. The third scenario assumes a three-day reduction for all defendants subject to a competency evaluation. The number of defendants in each category is based on a 12-month statewide sample (see revenue assumptions and methodology). The impact after consideration of the identified factors varies depending on the jail bed cost used and the number of days required for competency evaluations.

Local Government Annual Jail Cost Impact Estimates

Cost or Revenue Factors	Impacted Defendants	No Change in Evaluation Time (Average Jail Bed Cost)	One-Day Reduction (Average Jail Bed Cost)	Three-Day Reduction (Average Jail Bed Cost)	No Change in Evaluation Time (Mental Health Bed Cost)	One-Day Reduction (Mental Health Bed Cost)	Three-Day Reduction (Mental Health Bed Cost)
Net change in Jail Days (1, 4) Add Current In-patient	567	(\$142,000)	(\$142,000)	(\$142,000)	(\$456,000)	(\$456,000)	(\$456,000)
Payments by State (2) Evaluation Days Over 21	349	\$137,880	\$106,470	\$43,650	\$360,020	\$278,005	\$149,975
Transportation Cost Offset (3)	567	\$567,000	\$567,000	\$567,000	\$567,000	\$567,000	\$567,000
Reduction in Jail Days (4) Evaluations take fewer days	1,958	\$0	\$142,934	\$428,802	\$0	\$460,130	\$1,380,390
Local Government Net Gain		\$562,880	\$674,404	\$897,452	\$471,020	\$849,135	\$1,641,365

1. Increase due all evaluations being done at the jail rather than state hospital. Eastern Washington counties will have 1,133 more days in jail, western in 808 more days in jail.
2. Assumes payments at \$90 per day as in bill or at \$235 mental health jail bed cost.
3. Assumes an average of \$1,000 per defendant in costs for three one way trips to State Hospitals. Actual costs vary significantly based on distance from State Hospital, method of transport and number of court appearances.
4. Cost per jail day is either average rate of \$73 statewide or mental health bed rate assumed at \$235 statewide.

Mentally ill jail inmate local government costs – Statewide, the average daily cost for jail inmates is \$73.91 per day. However, counties reported that the actual costs associated with mentally ill defendants are higher. Pierce County Mental Health staff reported that individuals who are in need of a competency hearing are usually receiving mental health services and psychotropic medications while in jail. Pierce County has a 30-bed Mental Health Unit where mentally ill individuals receive appropriate treatment. The added costs of medications and services bring the average cost of a mentally ill prisoner to \$235 per day for that county. King County reported that their daily cost for defendants needing acute psychiatric housing was \$281 per day in 2007, although not all inmates for whom competency evaluations were ordered were in acute psychiatric housing. Counties generally have increased costs due to additional monitoring, security, housing requirements and health services provided by non-jail staff.

Differences between eastern and western sides of the state – On the eastern side of the state, DSHS reported that defendants who are referred for inpatient evaluations at Eastern State Hospital remain there after the evaluation report is completed while waiting for the competency hearing (a period assumed to be no more than five days). On the western side of the state, inpatient defendants are more likely to be transported back to jail from Western State Hospital following the evaluation. If a defendant is found incompetent and referred to competency

restoration treatment, current statute allows for up to seven days before he or she is transferred to a state hospital. Therefore, the legislation will have different potential impacts to local governments in the eastern and western sides of the state, as illustrated by the chart below. Defendants on the eastern side who had previously received inpatient evaluations, and who now will be evaluated in jails, will be spending the period prior to and after the court hearing in the jail, whereas they previously would have been in Eastern State Hospital.

As a result, defendants in eastern Washington counties are estimated to spend an additional 1,133 days in jail, in aggregate, and defendants in western Washington would spend 808 more days. The resulting net costs to local governments on the eastern side of the state are estimated to be approximately \$82,709 at the daily jail rate of \$73 per day (LGFN 2008 jail cost survey), or \$266,255 at the mental health jail bed cost of \$235 per day. On the western side of the state the net costs will be \$58,984 at the jail bed rate, or \$189,880 at the mental health bed rate.

Example of Difference Between Eastern and Western Washington Impacts

	Days in Local Jail for Defendants going to State Hospital Evaluation	Days in Local Jail for Defendants Evaluated in Jail (1)	Potential Difference In Jail Days If State Hospital Evaluations Occur in Jail	Additional Holding Days for Court and Transport to Treatment for those Found Incompetent	Number of Defendants	Annual Potential Jail Day Impact -- More (Fewer)
Western Washington	16.1	17.9	1.8	0	449	808.2
Eastern Washington	12.5	18.5	6.0	12	118	1,132.8
Local Government Total					567	1,941.0

1) Wait time for assessor to meet defendant plus an average of 4 days for report production. DSHS reports that in most cases for inpatient evaluations, the evaluation report is completed at approximately the same time that the defendant is returned to jail.

Jail management software system changes – Jails currently record the number of days that a defendant is in custody, beginning with the date that the individual is booked. Western State Hospital (WSH) and Eastern State Hospital (ESH) track the days that a presumed mentally ill defendant is in the process of evaluation which is a subset of total days spent in jail. The hospitals' tracking system begins the day that the hospitals receive the competency evaluation order and related discovery materials from the court. The legislation directs that if the number of days between the hospitals' receipt of the order and the completion of the evaluation report exceeds 21 days, the court may conduct a show cause hearing and award the county compensation at a rate of \$90 per day. In instances in which a show cause hearing is held, a county will need to be able to track the days a defendant is under evaluation using the same method used by the state hospitals. Therefore, counties will need to update their inmate management system software or hand record systems to allow for this new capability. Some jails have older management systems that are basically manual, while others have software-based systems. In general, jails with more sophisticated software-based systems will be more expensive to change, because of the programming costs involved. One jail lieutenant reported that the change would cost approximately \$20,000, but a staff person at another jail reported that the change would be minimal because they were already tracking the date that the court order was faxed to the hospital. Because of the variation in jail management systems, the one-time expenditure impacts are indeterminate.

Reduction in jail related transportation costs – Currently, jails pay for all or most of the transportation of defendants between the jails, courts, and hospitals. The legislation will result in a reduction in costs associated with transportation of defendants who were previously evaluated in the hospitals. Some defendants will still need to receive an inpatient evaluation following an initial assessment by the DSHS evaluator, and in those cases the county will continue to cover the costs of transportation. Cost savings to individual counties vary based on distance from the state hospital, the number of court appearances per case and the method of transportation. Rural counties with lower volumes of cases located a distance from the state hospital with multiple hearings per case where the defendant is transported for each hearing will have the greatest cost savings per defendant.

Show cause hearings (Sec 109(b)) – In order to be reimbursed for jail days in excess of 21, the county must request a show cause hearing on each case. It is assumed that there would be no net court costs (see Administrative Office of the Courts fiscal note). However, each hearing would involve at least 1.5 hours of prosecutor time. Maximum total costs assuming 349 cases would be \$24,100 per year (349 cases x 1.5 hours per case x \$46 per hr). The cost per case would be \$69.

Other criminal justice system costs – It is unknown whether local governments will have additional costs as a result of the state eliminating risk analysis as part of the competency evaluation. If local governments are required to do the risk analysis at another point in the process then there could be additional impacts.

Background – Thirty-six counties and 19 cities operate jails with a total of 13,938 beds that hold defendants that are waiting for trial and offenders that have been sentenced. The cost of operating the jail is paid for by the local jurisdiction and is offset by city or contract reimbursements generally on a per jail bed day basis. The State of Washington is responsible for jail costs only related to beds that the state contracts for to substitute for prison beds for felony offenders sentenced to detention for greater than 12 months. All other costs are born by local government. Based on survey data, the average statewide jail bed day cost for local jails holding offenders sentenced to less than 12 months is \$73 per day (Local Government Fiscal Note Program 2008 jail cost survey). While local jails do hold higher risk offenders after sentencing, the aggregate average risk rating statewide for jail offenders tends to be lower than state prison-bound offenders in aggregate. Pre-sentence defendants in jails are both prison- and jail-bound. This bill addresses competency evaluation and restoration treatment of serious misdemeanor and felony defendants. Jail detention of mentally ill defendants generally costs more per day than the general population due to added costs of monitoring, medication, and in some cases security, transportation and/or housing.

Local government jail costs and demand have risen continuously since 1986. Sentencing reforms adopted since 2000 generally have not reduced local jail bed demand because jails handle defendants before sentencing and for shorter rather than longer felony sentences. The average length of stay for a pre-sentence felon in King County jail, for example, was 23.4 days in 1996 and 52 days post-sentence. In 2005 the average length of stay pre-sentence has increased to 27.6 days and post-sentence 78.7 days. Any change in the number of inmates or length of stay directly impacts locally financed jail costs. The top 20 misdemeanor classifications statewide, consisting of 79 percent of all 2008 convictions, had jail sentences averaging 9.5 days. With good time (limited to 33 percent of sentenced time) the average length of stay for misdemeanor statewide is likely closer to 7.5 days.

The average length of jail stay in 2007 related only to competency evaluation for misdemeanants was 12.4 days and for felons was 15.5 days.

ASSUMPTIONS AND METHODOLOGY

Jail costs – See revenue section.

Show cause hearing costs –

- Each show cause hearing would last an average of 20 minutes.
- Show cause hearings would be held in district, municipal and superior courts.
- There would be a maximum of 386 show cause hearings statewide per year based on the maximum number of evaluations completed in more than 21 days statewide (see revenue section).
- There would be no public defense costs (since the hearing involves the state and county) and prosecutor time would total 1.5 hours per case, including preparation and courtroom time. Average hourly rate statewide is \$46 per hour with benefits.

C – Revenue Impacts

Describes and quantifies the potential impacts of the legislation on local government revenue or revenue authority, distinguishing between city, county and special district impacts when appropriate.

SUMMARY

There are no difference between the previous version of the bill and the current version in terms of revenue impact. The bill could have a moderate (greater than \$50,000 per year) impact on county revenue from state reimbursements for jail costs beyond time limits set in the bill. Based on a recent one-year sample of competency evaluation turn-around times, the maximum local government reimbursement would be approximately \$138,000 based on a \$90-per-day reimbursement rate. Reimbursements would offset a portion of both county (all felons and some misdemeanor) jail costs and city (majority of misdemeanors) jail costs.

Section 109 (2) allows for DSHS to reimburse jail expenses to the county following a show cause hearing. The court may conduct a show cause hearing if DSHS fails to conduct or complete a competency evaluation within the time limits (21 days). If the court finds that time limits were exceeded by the DSHS without good cause, it may set a fixed time for the completion of the evaluation and may order the agency to reimburse expenses to the jail for any excess days at a rate of \$90 per day.

DISCUSSION

Based on a recent one-year sample of individual competency evaluation data from DSHS's Mental Health Division, the maximum number of local government reimbursable jail stays would be 349 per year. Fourteen percent of evaluations completed in the jails in the sample were found to exceed 21 days in length by a weighted average of 4.4 days per evaluation.

Twelve-Month Sample of Competency Evaluations

	Sample Total	Under Bill Estimate Beyond 21 Days (2)
Inpatient (State Hospital) (3)		
Misdemeanor	82	0
Felony	485	78
Outpatient (In Jail) (1)		
Misdemeanor	827	0
Felony	564	271
Total	1958	349

Source: Data provided by DSHS, Mental Health Division

1. 21 percent were in eastern Washington
2. Inpatient days are estimated based on 26 percent pattern in outpatient evaluations
3. 23 percent were in eastern Washington

At a reimbursement rate of \$90 per day, maximum reimbursement would be \$138,000 per year (349 x 4.4days x \$90). The maximum reimbursement may be reduced by any change in the historical pattern as a result of new procedures. It is assumed that the seven-day time period established for transportation to state facilities for an evaluation, if deemed necessary under Section 101 (b), would not be reimbursed. However, if the language of the bill is interpreted to mean that local governments would be reimbursed for these additional jail days, and on average 3.5 additional days were reimbursed, then for each 100 persons referred for competency restoration treatment local governments would be reimbursed an additional \$31,500 per year at the \$90 per day rate. A total of 1,958 persons were evaluated during the sample year; only a portion are referred to competency restoration treatment.

The bill also removes a requirement that a competency evaluation must include an opinion as to whether a defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety (Section 101 (3c)). DSHS estimates that this change will shorten the period required for an evaluator to complete the evaluation report, resulting in that evaluator being able to evaluate a greater number of defendants in a given timeframe, and therefore shortening the wait period between when an evaluation is ordered and when it is completed. If wait times were reduced by an average of one day per defendant, this would result in fewer defendants being held over 21 days. As such, counties would have less expenditure impacts associated with the costs of housing those defendants and show cause hearings (see expenditure discussion). There would also be corresponding decreases in the revenue anticipated as a result of DSHS reimbursing the counties at a rate of \$90 per day.

ASSUMPTIONS AND METHODOLOGY

The local government maximum revenue impacts of this bill were assessed based on a 12-month sample of western and eastern Washington competency evaluation data provided by the Mental Health Division of DSHS. The 12 months reviewed were from July 2007 to July 2008. The number of individual felon and misdemeanant evaluations that took more than 21 days from the time they were ordered by the court to the time they were provided to the court were counted within the data set for both inpatient (at a state mental hospital) and outpatient (at a jail) evaluations. Based on the sample data, the following assumptions were made:

- o The same evaluation timeline patterns would occur after implementation of the bill.

- Fourteen percent of all evaluations would be beyond the 21 day time limit.
- Each evaluation over 21 days would take a weighted average of 4.4 days longer to complete.
- The reimbursement rate specified in the bill, \$90 per day, was assumed as the reimbursement rate for each day over 21 days.
- All show cause hearings would order reimbursement and all evaluations over 21 days would have a show cause hearing.
- The seven-day timeline for transporting an offender after evaluation and the 12-hour timeline for release, would not be reimbursed and are outside of the 21-day window.

D – Sources Consulted

Thurston-Mason Regional Support Network
Peninsula Regional Support Network
Pierce County Sheriff's Department
King County Prosecutor's Office
Benton County Corrections Center
Pacific County Sheriff's Department
Administrative Office of the Courts, 2008 Caseload Statistics
Department of Social and Health Services, Mental Health Division
Washington State Association of Counties
Local Government Fiscal Note Program 2008 jail cost survey
Washington Association of Sheriffs and Police Chiefs, Jail Statistics
Washington Association of Prosecuting Attorneys
Washington State Institute for Public Policy, various reports cited above
Department of Community, Trade and Economic Development, *County Financial Health and Governance Alternatives*, 2007
Association of Washington Cities, 2008 Salary Survey