

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5177 E 2S SB AMH JUDI H2506.3	<b>Title:</b> Competency eval. timeliness
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## Estimated Cash Receipts

Agency Name	2015-17		2017-19		2019-21	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.					
<b>Total \$</b>	0	0	0	0	0	0

Local Gov. Courts *						
Loc School dist-SPI						
Local Gov. Other **		456,000		208,000		
Local Gov. Total		456,000		208,000		

## Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	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.								
<b>Total</b>	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *									
Loc School dist-SPI									
Local Gov. Other **			456,000			208,000			
Local Gov. Total			456,000			208,000			

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Danielle Cruver, OFM	<b>Phone:</b> (360) 902-0575	<b>Date Published:</b> Final 4/10/2015
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

ENPID: 42074

FNS029 Multi Agency rollup

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5177 E 2S SB AMH JUDI H2506.3	<b>Title:</b> Competency eval. timeliness	<b>Agency:</b> 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: Andy Toulon	Phone: 360-786-7178	Date: 04/02/2015
Agency Preparation: Kitty Hjelm	Phone: 360-704-5528	Date: 04/09/2015
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 04/09/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/09/2015

Request # 5177 E2SHB-1

**Part II: Narrative Explanation**

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

This bill would clarify the process for referring a person for evaluation under the involuntary treatment act when the court dismisses criminal charges after finding that the person is incompetent to stand trial and is unlikely to regain competency .

This bill would not result in additional workload for the courts.

**II. B - Cash Receipts Impact**

**II. C - Expenditures**

**Part III: Expenditure Detail**

**Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5177 E 2S SB AMH JUDI H2506.3	<b>Title:</b> Competency eval. timeliness	<b>Agency:</b> 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.

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

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: Andy Toulon	Phone: 360-786-7178	Date: 04/02/2015
Agency Preparation: Ken Brown	Phone: 360-902-7583	Date: 04/09/2015
Agency Approval: Kelci Karl-Robinson	Phone: 360-902-8174	Date: 04/09/2015
OFM Review: Danielle Cruver	Phone: (360) 902-0575	Date: 04/10/2015

## 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.*

Sections 3 and 4 amend RCWs 10.77.086 and 10.77.088 to allow locations for competency restoration services to include but not be limited to community mental health providers or other local facilities. During the 2015-17 biennium, the department may contract with county or municipal jails provided that they are willing and able to provide competency restoration services and the secretary documents an emergent need for beds, including a plan to address the emergency. If the department contracts with county or city jails during the 2015-17 biennium, competency restoration patients must be physically separated from other jail populations, the model of restoration treatment services must be substantially equivalent to that provided in the state hospitals, and restoration treatment services must be provided as much as possible within a therapeutic environment and performed by staff and professionals who have the skills and qualifications necessary to provide restoration treatment services comparable to those provided at a state hospital.

Section 5 amends RCW 10.77.073 to require the department to reimburse counties for the cost of appointing a qualified expert or professional person under RCW 10.77.060(1)(a) if the department during the most recent quarter did not perform at least one-third of the jail-based competency evaluations for in-custody defendants as were performed by qualified experts or professional persons appointed by the court or did not meet performance targets. The bill requires the county to work with the DSHS to develop and maintain critical data elements relating to timeliness of evaluations and share this data with the DSHS. The section expiration is extended from June 30, 2016 to June 30, 2018.

Section 6 removes the June 30, 2015 expiration date from RCW 10.77.091, which allows the DSHS secretary to transfer patients found not guilty by reason of insanity that present unreasonable safety risks within a state hospital setting to any secure facility operated by DSHS or the Department of Corrections. Requires the secretary of the DSHS to give consideration to reasonable alternatives that would be effective to manage the person's behavior, and to include written documentation of the decision and reasoning in the patient's medical file.

Section 8 adds a new section to chapter 10.77 RCW related to diversion of non-felony charges when a person (or court) has raised the issue of competency to stand trial. If a court or party under RCW 10.77.060 raises the issue of competency to stand trial and the defendant has been charged with a non-felony offense and has no current or prior conviction for a serious violent offense or sex offense, the prosecutor may continue with the competency process or dismiss charges without prejudice and refer the client for assessment by a mental health, chemical dependency, or developmental disabilities professional to determine appropriate service needs for the defendant.

Section 9 adds a new section to chapter 10.77 RCW to create an office of forensic mental health services within the department. The office would be led by a director on at least the level of a deputy assistant secretary within the department. The director would have responsibility for operational control of all forensic evaluation services including budget allocations; training of forensic evaluators; development of a system to certify forensic evaluators and monitor the quality of forensic evaluation reports; liaison with courts, jails and community mental health programs; coordination with state hospitals; and oversight of forensic data collection and analysis statewide and coordination with regional support networks, Department of Corrections and others regarding community treatment and monitoring of persons on conditional release. The bill includes that the office of forensic mental health services must have a clearly delineated budget separate from the overall budget for state hospital services.

New Section. Sec. 16. Emergency clause.

## **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.*

## **Medicaid Title XIX**

## **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.*

Sections 3, and 4 amend RCWs 10.77.086 and 10.77.088 to allow competency restoration services to be provided by community mental health providers or other local facilities. During the 2015-17 biennium, the department may contract with county or municipal jails provided that they are willing and able to provide competency restoration services and the secretary documents an emergent need for beds, including a plan to address the emergency. If the department contracts with county or city jails during the 2015-17 biennium, competency restoration patients must be physically separated from other jail populations, the model of restoration treatment services must be substantially equivalent to that provided in the state hospitals, and restoration treatment services must be provided as much as possible within a therapeutic environment and performed by staff and professionals who have the skills and qualifications necessary to provide restoration treatment services comparable to those provided at a state hospital.

Currently, virtually all competency restoration services are provided at the state psychiatric hospitals. This bill expands the settings in which a defendant can receive treatment for competency restoration services from the state hospitals to include but not be limited to community health providers or other local facilities, both secure and semi-secure. Subject to the amounts appropriated, the bill directs the department to develop alternative locations to provide competency restoration services for individuals who do not require the level of security and treatment intensity present in the state hospitals. The substitute bill allows the use of jail-based settings during the 2015-17 biennium only if a set of specific criteria are met.

Other states have created alternatives to inpatient competency restoration in hospitals, such as outpatient competency, jail based, and residential competency restorations programs. The department is currently obtaining information regarding the settings, populations served and costs of other states' programs, and will provide more detailed information as it becomes available. For illustrative purposes only, below are estimates of what alternative programs may cost:

### **Outpatient Restoration Treatment:**

The state of Texas instituted outpatient restoration treatment programs for defendants charged with a misdemeanor or a felony that are not a danger to others and can be safely treated in the community. In 2012, the total annual spend was approximately \$2.2 million. On average, the state spent \$11,894 per case with an average length of stay of 112 days.

### **Jail Based Restoration Treatment (only allowed in 2015-17 if there is an emergent need for beds):**

Based on conversations with King County in late 2012, it is estimated that one 30-bed unit at the King County

Regional Justice Center would have a daily housing rate of \$130.00 per person per day for an annual cost of \$1.4 million.

It is assumed that 14.5 FTE are needed to provide state employee competency restoration staffing at a 30 bed facility. These positions would include 0.5 FTE Psychiatrist, 1.0 FTE Psychological Evaluation Specialist, 3.0 Educators, 1.0 FTE Administrative Assistance 3, 3.0 FTE Psychiatric Social Worker 3, 3.0 FTE Recreational Therapist; 2.0 FTE Psychologist 4; and 1.0 FTE Office Assistance 3. The fiscal impact for these positions is estimated at \$1.5 million per year.

In addition to the costs above, it is estimated that \$1.0 million will be needed for pharmaceuticals.

The estimated fiscal impact of jail based restoration services is \$3.9 million per year. Please note that this estimate was prepared as result of preliminary discussions with King County in late 2012. There are no discussions currently underway for use of the King County Regional Justice Center for this purpose and the substitute bill limits the use of this setting to the 2015-17 biennium.

#### Residential Restoration Treatment:

In March of 2011, the Texas Department of State Health Services instituted residential rehabilitation units that are similar to inpatient hospital settings. However, such settings may not have locked doors during day time hours and have less staffing than an inpatient hospital setting. A client who may qualify for such a setting cannot be at risk of self-harm, does not have aggressive behaviors, is able to take care of personal needs, is at low risk of leaving the facility and is not in need of nursing care. Patients in this type of setting would receive psychiatric care, nursing, social work, psychiatric services, and rehabilitation services with classes focused on independence as well as returning to the community. In 2012, the 120 bed residential program had an average daily census of 105; the average per case cost was \$142 per day, which led to a total annual cost of \$5.4 million.

Of course, there is much work to do in establishing such programs in the state of Washington.

Section 5: If during any quarter, DSHS does not perform one-third as many competency evaluations as evaluations performed by the referring county, DSHS must reimburse that county for competency evaluations provided by qualified experts. Language is stricken requiring these reimbursements to be provided within funds appropriated for this specific purpose. The expiration date for this section of law is extended three years, until June 30, 2018. It is assumed there is no fiscal impact as funding was provided in SSB 5889.

Section 6 amends RCW 10.77.091 to remove the sunset date to allow the DSHS secretary to continue to transfer patients found not guilty by reason of insanity that present unreasonable safety risks within a state hospital to any security facility operated by DSHS or the Department of Corrections.

Currently when a person has been committed to the custody of the Secretary of the Department of Social and Health Services (DSHS) for treatment after being found NGRI, and that person presents an unreasonable safety risk in a state hospital setting, the secretary of DSHS may transfer the person to any secure facility operated by the Secretary or the Secretary of the Department of Corrections (DOC). Only one person has transferred from DSHS to a DOC facility pursuant to RCW 10.77.091. DSHS reimburses DOC for the costs associated with providing the person's 24-hour a day care, custody and supervision per an interagency memorandum of understanding. The base cost for this contract is \$120 per day plus other costs for required additional staffing, transportation, and approved medical care provided outside of the DOC Offender Health Plan or off-site medical

care. Total expenditures during Fiscal Year 2014 paid by DSHS to DOC was \$241,101. The state hospital costs to provide additional security staff to keep the individual that presents unreasonable safety risks in the hospital setting is often times higher than the cost of the contract with DOC. Therefore, it is assumed that this section of the bill has no fiscal impact on the department.

Section 8 adds a new section to chapter 10.77 RCW related to non-felony charges when a person (or court) has raised the issue of competency to stand trial.

In Calendar Year 2014, Western State Hospital received 1,721 referrals for evaluations of competency to stand trial for non-felony cases. Eastern State Hospital received 371 referrals for misdemeanor evaluations. It is unknown how many of the 2,092 total non-felony referrals would be dismissed and referred for assessment; therefore, the fiscal note is indeterminate. The bill allows referral to mental health, developmental disabilities and chemical dependency professionals. For purposes of this fiscal note, it is assumed that 10 to 15 percent would be referred for mental health outpatient services. The cost of housing or other support services are not included in this note and would be significantly higher. Of the 2,092 non-felony competency evaluation outpatient referrals, there were 725 referrals to the state hospitals for inpatient competency evaluation and restoration services. This resulted in an average of 8.6 beds in use statewide on any given day during CY 2014.

Given that a small percent of these cases would be dismissed, there would be no savings in the state hospital as the utilization is not large enough to close a ward.

The low estimate is 209 cases and the high estimate would be 314 cases individuals that would be referred for services. The total fiscal impact of this section is estimated to range from between \$1,492,000 Total Funds (\$865,000 GF-State) and \$2,237,000 Total Funds (\$1,297,000 GF-State) per fiscal year.

Community Outpatient Evaluations. The department assumes that between 209 and 314 competency evaluation referrals would be dismissed and referred for an assessment. The average cost of each evaluation by a mental health professional is \$171. The cost for outpatient mental health services is estimated to cost about \$8,024 per individual and would include individual treatment services, medication management, and medication monitoring.

This analysis is based on clients receiving individual treatment services four times a week for 12 weeks, medication monitoring three times a week, and medication monitoring on a weekly basis for twelve weeks. The department assumes a 58% GF-State, 42% federal fund split, so the fiscal impact of this section ranges from between \$1,714,000 Total Funds (\$994,000 GF-State) and \$2,571,000 Total Funds (\$1,491,000 GF-State) per fiscal year.

Staffing Impact. If individuals are referred for outpatient services, they would not be referred to the state hospitals for competency evaluations. The department assumes that each Psychologist 4 can complete ten outpatient evaluations per month. Using our estimated ranges determined earlier of between 209 and 314, between 1.7 FTE and 2.6 FTE Psychologist 4 would no longer be needed to complete outpatient evaluations at the state hospitals. (209 referrals/12 months/10 evaluations per month = 1.7 FTE and 314 referrals/12 months/10 evaluations per month = 2.6 FTE). Using the agency staffing model and assuming a 58% GF-State, 42% federal fund split, the cost savings ranges from between -\$221,000 Total Funds (-\$129,000 GF-State) and -\$334,000 Total Funds (-\$194,000 GF-State). However, there is a current waitlist and growing demand for competency evaluations. The department projects the need for 10.5 additional evaluators to meet this demand. Therefore, these savings wouldn't be realized until those positions were fully funded.



Section 9 adds a new section to RCW 10.77 establishing a centralized office of forensic mental health services. The office will prioritize goals of accuracy, prompt service to the court, quality assurance, and service integration and will work with many business partners statewide. For the purposes of this fiscal note, the department assumes that all staff positions would begin on July 1, 2015 and would continue indefinitely.

Section 9(1)(a). Deputy Assistant Secretary. A Deputy Assistant Secretary is needed to provide operational control of all forensic evaluation services, including specific budget allocations. An Administrative Assistant 5 is needed to provide administrative support to the Deputy Assistant Secretary and other office of forensic mental health services staff. In addition, a WMS Band 2 position is needed to manage the budget for this division.

Section 9(1)(b), 9(1)(c), 9(1)(e), and 9(1)(f). Quality Assurance and Training and Community Restoration Programs. 1.0 FTE Psychiatrist 4 position is needed for training forensic evaluators and develop a system to certify forensic evaluators, monitor the quality of forensic evaluation reports, and standardize clinical restoration processes and not guilty by reason of insanity care models. In addition, this staff will coordinate with the state hospitals to identify and develop best practice interventions and curricula unique to forensic patients and promote congruence across state hospitals where appropriate and promote interventions that flow smoothly into community interventions. To be successful, this staff will share their clinical leadership and oversight and is expected to work closely with and in the field. This position is not assumed to be administrative. It is important for this position to be a clinician to establish peer to peer relationships.

Section 9(1)(d) and 9(1)(g). Community Coordination and Monitoring. 1.0 FTE WMS Band 2 position is needed to act as a liaison with the courts, jails, and community mental health programs to ensure proper flow of information, coordinate logistical issues, and solve problems in complex circumstances. In addition, this position will coordinate with the regional support networks, behavioral health organizations, community mental health agencies, and the Department of Corrections regarding community treatment and monitoring of individuals on conditional release.

The fiscal impact of Section 9 is 5.0 FTE, \$740,000 GF-State in Fiscal Year 2016 and 5.0 FTE, \$712,000 GF-State each Fiscal Year thereafter.

### **Part III: Expenditure Detail**

### **Part IV: Capital Budget Impact**

NONE

The capital impact of this bill is indeterminate because there is not enough information to determine the residential settings that would be selected as these costs can significantly vary depending on factors including whether services are inpatient or outpatient and the size, security level, and location.

### **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.*

This bill would require new or amended rules.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 5177 E 2S SB AMH JUDI H2506.3	<b>Title:</b> Competency eval. timeliness
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## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- ☐ Cities:
- ☒ Counties: Costs for competency evaluations; reimbursement for competency evaluations from DSHS; indeterminate costs for jails to conduct competency restoration for mentally ill defendants found to be incompetent to stand trial for felonies and misdemeanors.
- ☐ 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: Indeterminate costs for jails would depend upon how DSHS phased in competency restoration at county jails, how many defendants were ordered by the court to serve their competency restoration period in jail, and the number of defendants who did not achieve competency and were subsequently ordered to a second or third restoration period.

### Estimated revenue impacts to:

Jurisdiction	FY 2016	FY 2017	2015-17	2017-19	2019-21
County	248,000	208,000	456,000	208,000	
<b>TOTAL \$</b>	248,000	208,000	456,000	208,000	
<b>GRAND TOTAL \$</b>	664,000				

### Estimated expenditure impacts to:

Jurisdiction	FY 2016	FY 2017	2015-17	2017-19	2019-21
County	248,000	208,000	456,000	208,000	
<b>TOTAL \$</b>	248,000	208,000	456,000	208,000	
<b>GRAND TOTAL \$</b>	664,000				

## Part III: Preparation and Approval

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 04/09/2015
Leg. Committee Contact: Andy Toulon	Phone: 360-786-7178	Date: 04/02/2015
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 04/09/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/09/2015

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

#### **CHANGES BETWEEN THIS VERSION AND THE PREVIOUS BILL VERSION:**

The amended engrossed substitute extends the expiration date for state reimbursement to counties for the costs of appointing competency evaluators for in-custody defendants, and allows counties to request reimbursement if DSHS in the most recent quarter did not perform at least one-third of the number of in-custody evaluations. It requires counties to work with the DSHS to develop and maintain critical data elements relating to the timeliness of evaluations. The bill now requires that the model of restoration treatment must be substantially equivalent to that provided at the state hospitals.

#### **SUMMARY OF THE BILL:**

Sec. 1 states legislative intent. The Legislature encourages the Department of Social and Health Services (DSHS) to develop, on a phased-in basis, alternative locations and increased access to competency restoration services under chapter 10.77 RCW for individuals who do not require in-patient psychiatric hospitalization level services. This may include services within county-operated jails and other community settings.

Sec. 3 amends RCW 10.77.086. If a defendant is charged with a felony and determined to be incompetent, the court shall commit the defendant to an appropriate facility for evaluation and treatment. During the 2015-2017 biennium, DSHS may contract with one or more cities or counties to provide competency restoration services. Patients receiving competency restoration services must be physically separated from other populations at the jail, the model of restoration treatment services must be substantially equivalent to that provided at the state hospitals, and services must be provided by staff and professionals who have the skills and qualifications necessary to provide restoration treatment services comparable to those provided at a state hospital. The period for restoration or subsequent commitments includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

Sec. 4 amends RCW 10.77.088. If a defendant is charged with a non-felony, serious offense and determined to be incompetent, the court shall commit the defendant to an appropriate facility for evaluation and treatment. Such facilities may include, but are not limited to, community mental health providers, county jails, or other local facilities.

Sec. 5 amends RCW 10.77.073. DSHS shall reimburse a county for the cost of appointing a qualified expert or professional person to conduct a competency evaluation, if during the most recent quarter, DSHS 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 in the referring county; or did not meet the performance target for timely completion of competency evaluations during the most recent quarter in 50 percent of cases submitted by the referring county.

The county shall provide a copy of the evaluation report to the applicable state hospital upon referral of the defendant for admission to the state hospital. The county shall, in consultation with DSHS, develop and maintain critical data elements, including data on the timeliness of competency evaluations completed under this section; and share this data with the department upon the department's request. This section expires June 30, 2018.

Sec. 8 adds a new section to RCW 10.77. If the defendant is charged with a non-felony offense, and the issue of competency to stand trial is raised by the court or a party under RCW 10.77.060, the prosecutor may continue with the competency process or dismiss the charges without prejudice and refer the defendant for assessment by a mental health professional, chemical dependency professional, or developmental disabilities professional to determine the appropriate service needs for the defendant. This section does not apply to defendants with a current charge or prior conviction for a serious violent offense or sex offense as defined in RCW 9.94A.030.

### **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.*

The legislation would result in costs for counties to pay for competency evaluations for jailed offenders when DSHS did not meet timeliness requirements. It would additionally result in indeterminate costs for jails conducting competency restoration. The indeterminate costs are not represented in the expenditure grid.

Currently, counties pay for in-jail competency evaluations for offenders given certain criteria are met. According to DSHS, Pierce County pays for the majority of these and is projected to continue to do so in the next four years. Any other county meeting the criteria established by the legislation would also be able to hire their own evaluator and request reimbursement from DSHS.

DSHS estimates that the number of competency evaluations which will meet the criteria in the legislation will be 310 evaluations in Fiscal Year 2016 and 260 evaluations in fiscal years 2017 and 2018. The cost for an evaluation is \$800, according to the Pierce County Jail.

Therefore, Pierce County and other counties are expected to expend amounts similar to what they are reimbursed for in-jail competency evaluations.

Additional costs for jails would depend upon how DSHS phased in the placement of mentally ill defendants in county jails for competency restoration, and how many defendants were ordered by the court to serve their competency restoration period in jail. Costs would also depend on the success of defendants restoring their competency in jails, because the average length of restoration for those who do not achieve competency is significantly higher than for those who do.

#### COSTS FOR QUALIFIED EXPERTS TO CONDUCT IN-JAIL COMPETENCY EVALUATIONS:

The legislation would result in costs for counties to pay for competency evaluations for jailed offenders when DSHS did not meet timeliness requirements. Currently, counties pay for in-jail competency evaluations for offenders given certain criteria are met. According to DSHS, Pierce County pays for the majority of these and is projected to continue to do so in the next four years. Any other county meeting the criteria established by the legislation would also be able to hire their own evaluator and request reimbursement from DSHS. DSHS estimates that the number of competency evaluations which will meet the criteria in the legislation will be 310 evaluations in Fiscal Year 2016 and 260 evaluations in fiscal years 2017, 2018, and 2019. The cost for an evaluation is \$800, according to the Pierce County Jail. Therefore, Pierce County and other counties are expected to expend amounts similar to what they are reimbursed for in-jail competency evaluations.

#### COMPETENCY RESTORATION TIMEFRAMES:

Competency restoration lasts up to either 14 or 29 days for misdemeanors and up to either 45, 90 or 180 days for felonies, depending on the class of the crime and the length of time ordered by the court. Felony defendants may be committed for a second 90-day period of treatment as long as their incompetence is not the result of a developmental disability. In certain circumstances, felony defendants may be committed for a third period of up to six months (180 days). Defendants who are restored to competence proceed to trial or to the next step of the criminal adjudication process. Defendants who are not restored to competence have their charges dismissed and are evaluated for civil commitment proceedings.

A January 2013 study from the Washington State Institute of Public Policy found that felony defendants who restored their competency were at Eastern State Hospital (ESH) an average of 89 days and at Western State Hospital an average of 81 days. Felony defendants who did not have their competency restored were at ESH an average of 154 days. Data was not available for WSH. Misdemeanor defendants who were able to restore their competency were at ESH an average of 29 days, and those that could not restore their competency were at ESH for 76 days on average. Data for misdemeanor defendants at WSH was not available.

#### COMPONENTS OF COMPETENCY RESTORATION:

According to DSHS, the first step in competency restoration is an intake process with the defendant conducted by a team which includes a psychiatrist, a social worker, nursing staff and, on occasion, the designated mental health professional who conducted the competency evaluation. This team then develops an individualized treatment plan for the defendant. The team continues to meet regularly to evaluate the defendant's progress during the restoration period.

During competency restoration, the defendant participates in a psycho-educational group which is led by either rehabilitation or therapy staff or a masters-level clinician. The group work is up to 20 hours per week. The treatment provided by the group work focuses on identified barriers to competency and can include education on the court system.

Medication is also provided during the restoration period, based upon the individualized treatment plan developed for the defendant.

It is not known how jails would implement the components of competency restoration currently conducted at ESH and WSH, and thus it is not possible to assess the costs. Jails reported to the Local Government Fiscal Note Program (LGFN) that, in their experience, mentally ill defendants tend to decompensate in a jail setting. Therefore, it is likely that a higher percentage would be unsuccessful in efforts to restore competency, requiring either a second or third competency restoration process (for felony defendants) or release and evaluation for civil commitment (for misdemeanor defendants).

#### COSTS FOR MENTALLY ILL DEFENDANTS IN JAILS:

Statewide, the average daily cost for jail inmates is \$88 per day (2013 Local Government Fiscal Note jail cost survey). However, counties report that the actual costs associated with mentally ill defendants are higher. Mentally ill defendants are currently in jails under several circumstances, of which one or more can apply to an inmate:

- 1) The defendant is awaiting a court order for competency evaluation;
- 2) The defendant is awaiting an in-jail competency evaluation after the court order has been issued, when the evaluation is to take place in the jail (which is the case for the majority of evaluations);
- 3) The defendant is awaiting transfer to ESH or WSH if the evaluation is to take place in the hospital;
- 4) The defendant was found to be competent to stand trial and is awaiting the next step in their adjudication process;
- 5) The defendant is awaiting transfer to ESH or WSH for competency restoration if the evaluation took place at the jail and they were found to be incompetent;
- 6) The defendant is awaiting the next stage of their adjudication process if their competency was restored at the hospital and they have been returned to jail;
- 7) The defendant has been found competent to stand trial, was found guilty and, if the sentence is less than one year, is serving their sentence 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 \$280 per day for that county. King County reported that their daily cost for defendants needing acute psychiatric housing was \$242 per day in 2013. In 2012, Kitsap County jail reported an average cost of \$250 per day for an individual in need of a competency evaluation. Counties generally have increased costs due to additional monitoring, security, housing requirements, and health services provided by non-jail staff.

#### PREVALENCE OF MENTALLY ILL INMATES:

According to a 2010 report published by the National Sheriffs Association and the Treatment Advocacy Center, 16 percent of Washington inmates were found to be seriously mentally ill. The same report found that a person with serious mental illness was three times more likely to be in jail or prison in Washington than in a hospital. Other national studies have made similar findings about the rate of mental illness in jails and prisons. In 2000 the American Psychiatric Association estimated that about 20 percent of prisoners were seriously mentally ill, with 5 percent actively psychotic at any given time. A 2006 Department of Justice survey, based on a selected sampling of inmates, reported that 24 percent of jail inmates “reported at least one symptom of a psychotic disorder.” A 2009 national study examined 822 inmates in five jails using a structured diagnostic interview to determine the existence of serious mental illness during the previous month. Serious mental illness was defined as including schizophrenia, schizophrenia spectrum disorder, schizoaffective disorder, bipolar disorder, brief psychotic disorder, delusional disorder, and psychotic disorder not otherwise specified. A total of 16.6 percent of the prisoners met criteria for one of these diagnoses in the previous month, with the rate among women (31.0 percent) being much higher than that among men (14.5 percent). The percentages can vary significantly among jails. In November 2013, the Thurston County Corrections Facility estimated that between 30 and 40 percent of their inmates were mentally ill.

### 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.*

The legislation would result in revenue for counties as a result of receiving reimbursement for the cost of having qualified experts conduct in-jail competency evaluations.

Currently, counties receive reimbursement for in-jail competency evaluations if DSHS did not meet 50 percent or more of timeliness targets in the preceding quarter. Under the bill, reimbursement would be expanded to include counties in which DSHS did not perform at least one-third of jail-based competency evaluations in the preceding quarter for a particular county. The provision would expire at the end of fiscal year 2018. DSHS estimates that the number of competency evaluations that will meet the criteria in the legislation will be 310 evaluations in Fiscal Year 2016 and 260 evaluations in fiscal years 2017 and 2018. DSHS further anticipates that Pierce County will conduct 260 evaluations in Fiscal Year 2016; the remaining 50 evaluations will be done in other counties such as Clark, Thurston, and possibly Snohomish. The reimbursement for an evaluation will be \$800.

#### SOURCES:

King County Jail  
Pierce County Jail  
Washington State Association of Counties  
Washington Association of Sheriffs and Police Chiefs  
City of Kent Jail  
Thurston County Corrections Facility  
Department of Social and Health Services

