

# HOUSE BILL ANALYSIS

## SSB 5047

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**Title:** An act relating to the sharing of information received by mental health professionals performing services under chapter 10.77 RCW.

**Brief Description:** Changing the standards for information sharing among mental health professionals.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove and Costa).

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**Staff:** Yvonne Walker (786-7841).

**Background:**

If a misdemeanor defendant pleads not guilty by reason of insanity (or incompetency) then the courts must order that person to be held for a 15-day evaluation. After the evaluation, if the person is found to be incompetent, the court may order the person to be treated to restore competency. This process is 14 days if inpatient and 90 days if on a less restrictive alternative. If the person cannot be made competent to stand trial, the professional mental health provider will report its findings back to the court. The decision must be reviewed by the court on the next judicial day. The court may acquit the defendant by reason of insanity from the misdemeanor charge or dismiss charges for incompetency to stand trial. If the offender is still in custody and the mental health professional recommends unconditional release, the court can either order the defendant's release or, if the court disagree's with the professional's recommendation (for the defendant's unconditional release), then the court may hold that defendant in custody pending another mental health evaluation to determine if civil commitment should be pursued.

If a defendant, whose misdemeanor charges have been dismissed due to his or her incompetency, remains in custody pending another mental health evaluation, relevant records of the defendant may only be disclosed with the consent of the patient or his or her guardian with the exception of certain other professional persons. The other professional persons include those: (a) who are employed by the evaluation and treatment facility; (b) who have medical responsibility for the patient's care; (c) who are county-designated mental health professionals; or (d) those who are employed by a state or local

correctional facility. Mental health professionals (who may be in private practice) who are asked to perform a mental health evaluation on a defendant, on behalf of the courts, are excluded from the list of persons who are able to obtain a defendant's record without the consent of the defendant.

**Summary:**

Mental health professionals providing evaluation and treatment or follow-up services under the criminal insanity law are permitted to obtain relevant mental health information or records without the patient's consent.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

Office of Program Research