
SENATE BILL 6492

State of Washington

62nd Legislature

2012 Regular Session

By Senators Hargrove, Stevens, and Regala

Read first time 01/26/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to improving timeliness, efficiency, and
2 accountability of forensic resource utilization associated with
3 competency to stand trial; amending RCW 10.77.060, 10.77.065,
4 10.77.084, 10.77.086, and 71.05.310; adding new sections to chapter
5 10.77 RCW; creating new sections; providing an effective date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The purpose of this act is to sustainably
9 improve the timeliness of services related to competency to stand trial
10 by setting performance expectations, establishing new mechanisms for
11 accountability, and enacting reforms to ensure that forensic resources
12 are expended in an efficient and clinically appropriate manner without
13 diminishing the quality of competency services.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.77 RCW
15 to read as follows:

16 (1)(a) The legislature establishes the following performance
17 targets for the timeliness of the completion of accurate and reliable
18 evaluations of competency to stand trial and related competency

1 services for adult criminal defendants. The legislature recognizes
2 that these targets may not be achievable in all cases without
3 compromise to quality of evaluation services, but intends for the
4 department to manage, allocate, and request appropriations for
5 resources in order to meet these targets whenever possible without
6 sacrificing the accuracy of evaluations, and to otherwise make
7 sustainable improvements and track performance related to the
8 timeliness of competency services:

9 (i) For a state hospital to extend an offer of admission to a
10 defendant in pretrial custody for legally authorized treatment or
11 evaluation services related to competency, or to extend an offer of
12 admission for legally authorized services following dismissal of
13 charges based on incompetent to proceed or stand trial, seven days or
14 less;

15 (ii) For completion of a competency evaluation in jail and
16 distribution of the evaluation report for a defendant in pretrial
17 custody, seven days or less;

18 (iii) For completion of a competency evaluation in the community
19 and distribution of the evaluation report for a defendant who is
20 released from custody and makes a reasonable effort to cooperate with
21 the evaluation, twenty-one days or less. If the report cannot be
22 completed within this time frame based on a lack of cooperation by the
23 defendant, the evaluator shall notify the court and continue to provide
24 notice at twenty-one day intervals unless otherwise instructed by the
25 court.

26 (b) The time periods measured in these performance targets shall
27 run from the date on which the state hospital receives the court
28 referral and charging documents, discovery, and criminal history
29 information related to the defendant. The targets in (a)(i) and (ii)
30 of this subsection shall be phased in over a six-month period from the
31 effective date of this section. The target in (a)(iii) of this
32 subsection shall be phased in over a twelve-month period from the
33 effective date of this section.

34 (2) The legislature recognizes the following nonexclusive list of
35 circumstances which may place achievement of targets for completion of
36 competency services described in subsection (1) of this section out of
37 the department's reach in an individual case without aspersion to the
38 efforts of the department:

1 (a) Despite a timely request, the department has not received
2 necessary medical clearance information regarding the current medical
3 status of a defendant in pretrial custody for the purposes of admission
4 to a state hospital;

5 (b) The individual circumstances of the defendant make accurate
6 completion of an evaluation of competency to proceed or stand trial
7 dependent upon review of medical history information which is in the
8 custody of a third party and cannot be immediately obtained by the
9 department. Completion of a competency evaluation shall not be
10 postponed for procurement of medical history information which is
11 merely supplementary to the competency determination;

12 (c) Completion of the referral is frustrated by lack of
13 availability or participation by counsel, jail or court personnel,
14 interpreters, or the defendant; or

15 (d) An unusual spike in the receipt of evaluation referrals or in
16 the number of defendants requiring restoration services has occurred,
17 causing temporary delays until the unexpected excess demand for
18 competency services can be resolved.

19 (3) The department shall:

20 (a) Develop, document, and implement procedures to monitor the
21 clinical status of defendants admitted to a state hospital for
22 competency services that allow the state hospital to accomplish early
23 discharge for defendants for whom clinical objectives have been
24 achieved or may be achieved before expiration of the commitment period;

25 (b) Investigate the extent to which patients admitted to a state
26 hospital under this chapter overstay time periods authorized by law and
27 take reasonable steps to limit the time of commitment to authorized
28 periods; and

29 (c) Establish written standards for the productivity of forensic
30 evaluators and utilize these standards to internally review the
31 performance of forensic evaluators.

32 (4) Following any quarter in which a state hospital has failed to
33 meet one or more of the performance targets in subsection (1) of this
34 section after full implementation of the performance target, the
35 department shall report the extent of this deviation to the executive
36 and legislature and describe any corrective action being taken to
37 improve performance. This report shall be made publicly available.

1 (5) Beginning December 1, 2013, the department shall report
2 annually on the timeliness of services related to competency to proceed
3 or stand trial in a form which is accessible to the public and which
4 breaks down performance by county.

5 (6) The performance targets in subsection (1) of this section do
6 not apply to any referral received from a court in a county which has
7 opted out under section 11 of this act.

8 (7) This section does not create any new entitlement or cause of
9 action related to the timeliness of competency evaluations or admission
10 for inpatient services related to competency to proceed or stand trial.

11 **Sec. 3.** RCW 10.77.060 and 2004 c 9 s 1 are each amended to read as
12 follows:

13 (1)(a) Whenever a defendant has pleaded not guilty by reason of
14 insanity, or there is reason to doubt his or her competency, the court
15 on its own motion or on the motion of any party shall either appoint or
16 request the secretary to designate ~~((at least two))~~ a qualified
17 expert~~((s))~~ or professional person~~((s))~~, ~~((one of whom))~~ who shall be
18 approved by the prosecuting attorney, to ~~((examine))~~ evaluate and
19 report upon the mental condition of the defendant.

20 (b) The signed order of the court shall serve as authority for the
21 ~~((experts))~~ evaluator to be given access to all records held by any
22 mental health, medical, educational, or correctional facility that
23 relate to the present or past mental, emotional, or physical condition
24 of the defendant. ~~((At least one of the experts or professional
25 persons appointed shall be a developmental disabilities professional))~~
26 If the court is advised by any party that the defendant may ((be
27 developmentally disabled)) have a developmental disability, the
28 evaluation must be performed by a developmental disabilities
29 professional. ((Upon agreement of the parties, the court may designate
30 one expert or professional person to conduct the examination and report
31 on the mental condition of the defendant. For purposes of the
32 examination, the court may order))

33 (c) The evaluator shall assess the defendant in a jail, detention
34 facility, the community, or the court to determine whether a period of
35 inpatient commitment will be necessary to complete an accurate
36 evaluation. If inpatient commitment is needed, the signed order of the
37 court shall serve as authority for the evaluator to request the jail or

1 detention facility to transport the defendant ((committed)) to a
2 hospital or ((other suitably)) secure ((public or private)) mental
3 health facility for a period of ((time necessary to complete the
4 examination, but)) commitment not to exceed fifteen days from the time
5 of admission to the facility. Otherwise, the evaluator shall complete
6 the evaluation. The court may commit the defendant for evaluation to
7 a hospital or secure mental health facility without an assessment if
8 the defendant is charged with murder in the first degree. ((If the
9 defendant is being held in jail or other detention facility, upon
10 agreement of the parties, the court may direct that the examination be
11 conducted at the jail or other detention facility.

12 ~~(b))~~ (d) The order shall indicate whether, in the event the
13 defendant is committed to a hospital or secure mental health facility
14 for evaluation, all parties agree to waive the presence of the
15 defendant or to the defendant's remote participation at a subsequent
16 competency hearing or presentation of an agreed order if the
17 recommendation of the evaluator is for continuation of the stay of
18 criminal proceedings, or if the opinion of the evaluator is that the
19 defendant remains incompetent and there is no remaining restoration
20 period, and the hearing is held prior to the expiration of the
21 authorized commitment period.

22 (e) When a defendant is ordered to be committed for inpatient
23 examination under this subsection (1), the court may delay granting
24 bail until the defendant has been evaluated for competency or sanity
25 and appears before the court. Following the evaluation, in determining
26 bail the court shall consider: (i) Recommendations of the ((expert or
27 professional persons)) evaluator regarding the defendant's competency,
28 sanity, or diminished capacity; (ii) whether the defendant has a recent
29 history of one or more violent acts; (iii) whether the defendant has
30 previously been acquitted by reason of insanity or found incompetent;
31 (iv) whether it is reasonably likely the defendant will fail to appear
32 for a future court hearing; and (v) whether the defendant is a threat
33 to public safety.

34 (2) The court may direct that a qualified expert or professional
35 person retained by or appointed for the defendant be permitted to
36 witness the examination authorized by subsection (1) of this section,
37 and that the defendant shall have access to all information obtained by
38 the court appointed experts or professional persons. The defendant's

1 expert or professional person shall have the right to file his or her
2 own report following the guidelines of subsection (3) of this section.
3 If the defendant is indigent, the court shall upon the request of the
4 defendant assist him or her in obtaining an expert or professional
5 person.

6 (3) The report of the examination shall include the following:

7 (a) A description of the nature of the examination;

8 (b) A ~~((diagnosis))~~ description of the current mental condition of
9 the defendant;

10 (c) If the defendant suffers from a mental disease or defect, or
11 ~~((is developmentally disabled))~~ has a developmental disability, an
12 opinion as to competency;

13 (d) If the defendant has indicated his or her intention to rely on
14 the defense of insanity pursuant to RCW 10.77.030, and an evaluation
15 and report by an expert or professional person has been provided
16 concluding that the defendant was criminally insane at the time of the
17 alleged offense, an opinion as to the defendant's sanity at the time of
18 the act, and an opinion as to whether the defendant presents a
19 substantial danger to other persons, or presents a substantial
20 likelihood of committing criminal acts jeopardizing public safety or
21 security, unless kept under further control by the court or other
22 persons or institutions, provided that no opinion shall be rendered
23 under this subsection (3)(d) unless the evaluator or court determines
24 that the defendant is competent to stand trial;

25 (e) When directed by the court, if an evaluation and report by an
26 expert or professional person has been provided concluding that the
27 defendant lacked the capacity at the time of the offense to form the
28 mental state necessary to commit the charged offense, an opinion as to
29 the capacity of the defendant to have a particular state of mind which
30 is an element of the offense charged;

31 (f) An opinion as to whether the defendant should be evaluated by
32 a ~~((county))~~ designated mental health professional under chapter 71.05
33 RCW ~~((, and an opinion as to whether the defendant is a substantial~~
34 ~~danger to other persons, or presents a substantial likelihood of~~
35 ~~committing criminal acts jeopardizing public safety or security, unless~~
36 ~~kept under further control by the court or other persons or~~
37 ~~institutions))~~.

1 (4) The secretary may execute such agreements as appropriate and
2 necessary to implement this section and may choose to designate more
3 than one evaluator.

4 **Sec. 4.** RCW 10.77.065 and 2008 c 213 s 1 are each amended to read
5 as follows:

6 (1)(a)(i) The ~~((facility))~~ expert conducting the evaluation shall
7 provide ~~((its))~~ his or her report and recommendation to the court in
8 which the criminal proceeding is pending. A copy of the report and
9 recommendation shall be provided to the designated mental health
10 professional, the prosecuting attorney, the defense attorney, and the
11 professional person at the local correctional facility where the
12 defendant is being held, or if there is no professional person, to the
13 person designated under ~~(a)((+ii))~~ (iii) of this subsection. Upon
14 request, the ~~((facility))~~ evaluator shall also provide copies of any
15 source documents relevant to the evaluation to the designated mental
16 health professional. ~~((The report and recommendation shall be provided
17 not less than twenty-four hours preceding the transfer of the defendant
18 to the correctional facility in the county in which the criminal
19 proceeding is pending.))~~

20 (ii) Any facility providing inpatient services related to
21 competency shall discharge the defendant as soon as the facility
22 determines that the defendant is competent to stand trial. Discharge
23 shall not be postponed during the writing and distribution of the
24 evaluation report. Distribution of an evaluation report by a facility
25 providing inpatient services shall ordinarily be accomplished within
26 two working days or less following the final evaluation of the
27 defendant. If the defendant is detained in a local correctional
28 facility, the local correctional facility must continue the medication
29 regimen prescribed by the hospital unless the defendant refuses to
30 cooperate with medication.

31 (iii) If there is no professional person at the local correctional
32 facility, the local correctional facility shall designate a
33 professional person as defined in RCW 71.05.020 or, in cooperation with
34 the regional support network, a professional person at the regional
35 support network to receive the report and recommendation.

36 ~~((+iii) When a defendant is transferred to the facility conducting
37 the evaluation, or))~~ (iv) Upon commencement of a defendant's evaluation

1 in the local correctional facility, the local correctional facility
2 must notify the evaluator (~~((or the facility conducting the evaluation))~~)
3 of the name of the professional person, or person designated under
4 (a)(~~((ii))~~) (iii) of this subsection, to receive the report and
5 recommendation.

6 (b) If the (~~(facility))~~ evaluator concludes, under RCW
7 10.77.060(3)(f), the person should be (~~((kept under further control, an~~
8 ~~evaluation shall be conducted of such person))~~ evaluated by a
9 designated mental health professional under chapter 71.05 RCW(~~((--))~~), the
10 court shall order (~~(an))~~ such evaluation be conducted (~~((by the~~
11 ~~appropriate designated mental health professional:--(i))~~) prior to
12 release from confinement (~~((for such person who is convicted, if~~
13 ~~sentenced to confinement for twenty four months or less; (ii) for any~~
14 ~~person who is acquitted; or (iii) for any person:--(A) Whose charges~~
15 ~~are dismissed pursuant to RCW 10.77.086(4); or (B) whose nonfelony~~
16 ~~charges are dismissed))~~ when the person is acquitted, convicted and
17 sentenced to confinement for twenty-four months or less, or charges are
18 dismissed pursuant to a finding of incompetent to stand trial.

19 (2) The designated mental health professional shall provide written
20 notification within twenty-four hours of the results of the
21 determination whether to commence proceedings under chapter 71.05 RCW.
22 The notification shall be provided to the persons identified in
23 subsection (1)(a) of this section.

24 (3) The prosecuting attorney shall provide a copy of the results of
25 any proceedings commenced by the designated mental health professional
26 under subsection (2) of this section to the (~~(facility conducting the~~
27 ~~evaluation under this chapter)) secretary.~~

28 (4) The fact of admission and all information and records compiled,
29 obtained, or maintained in the course of providing services under this
30 chapter may also be disclosed to the courts solely to prevent the entry
31 of any evaluation or treatment order that is inconsistent with any
32 order entered under chapter 71.05 RCW.

33 **Sec. 5.** RCW 10.77.084 and 2007 c 375 s 3 are each amended to read
34 as follows:

35 (1)(a) If at any time during the pendency of an action and prior to
36 judgment the court finds, following a report as provided in RCW

1 10.77.060, a defendant is incompetent, the court shall order the
2 proceedings against the defendant be stayed except as provided in
3 subsection (4) of this section.

4 ~~(b) ((A defendant found incompetent shall be evaluated at the
5 direction of the secretary and a determination made whether the
6 defendant is an individual with a developmental disability. Such
7 evaluation and determination shall be accomplished as soon as possible
8 following the court's placement of the defendant in the custody of the
9 secretary.~~

10 ~~(i) When appropriate, and subject to available funds, if the
11 defendant is determined to be an individual with a developmental
12 disability, he or she may be placed in a program specifically reserved
13 for the treatment and training of persons with developmental
14 disabilities where the defendant shall have the right to habilitation
15 according to an individualized service plan specifically developed for
16 the particular needs of the defendant. A copy of the evaluation shall
17 be sent to the program.~~

18 ~~(A) The program shall be separate from programs serving persons
19 involved in any other treatment or habilitation program.~~

20 ~~(B) The program shall be appropriately secure under the
21 circumstances and shall be administered by developmental disabilities
22 professionals who shall direct the habilitation efforts.~~

23 ~~(C) The program shall provide an environment affording security
24 appropriate with the charged criminal behavior and necessary to protect
25 the public safety.~~

26 ~~(ii) The department may limit admissions of such persons to this
27 specialized program in order to ensure that expenditures for services
28 do not exceed amounts appropriated by the legislature and allocated by
29 the department for such services.~~

30 ~~(iii) The department may establish admission priorities in the
31 event that the number of eligible persons exceeds the limits set by the
32 department.~~

33 ~~(e))~~ At the end of the mental health treatment and restoration
34 period, if any, or at any time a professional person determines
35 competency has been, or is unlikely to be, restored, the defendant
36 shall be returned to court for a hearing. The parties may agree to
37 waive the defendant's presence or to remote participation by the
38 defendant at a hearing or presentation of an agreed order if the

1 recommendation of the evaluator is for the continuation of the stay of
2 criminal proceedings, or if the opinion of the evaluator is that the
3 defendant remains incompetent and there is no remaining restoration
4 period, and the hearing is held prior to expiration of the defendant's
5 authorized period of commitment. If, after notice and hearing,
6 competency has been restored, the stay entered under (a) of this
7 subsection shall be lifted. If competency has not been restored, the
8 proceedings shall be dismissed without prejudice. If the court
9 concludes that competency has not been restored, but that further
10 treatment within the time limits established by RCW 10.77.086 or
11 10.77.088 is likely to restore competency, the court may order that
12 treatment for purposes of competency restoration be continued. Such
13 treatment may not extend beyond the combination of time provided for in
14 RCW 10.77.086 or 10.77.088.

15 ~~((d))~~ (c) If at any time during the proceeding the court finds,
16 following notice and hearing, a defendant is not likely to regain
17 competency, the proceedings shall be dismissed without prejudice and
18 the defendant shall be evaluated for civil commitment proceedings.

19 (2) If the defendant is referred ~~((to the))~~ for evaluation by a
20 designated mental health professional ~~((for consideration of initial~~
21 ~~detention proceedings under chapter 71.05 RCW pursuant to))~~ under this
22 chapter, the designated mental health professional shall provide prompt
23 written notification of the results of the ~~((determination whether to~~
24 ~~commence initial detention proceedings under chapter 71.05 RCW))~~
25 evaluation and whether the person was detained. The notification shall
26 be provided to the court in which the criminal action was pending, the
27 prosecutor, the defense attorney in the criminal action, and the
28 facility that evaluated the defendant for competency.

29 (3) The fact that the defendant is unfit to proceed does not
30 preclude any pretrial proceedings which do not require the personal
31 participation of the defendant.

32 (4) A defendant receiving medication for either physical or mental
33 problems shall not be prohibited from standing trial, if the medication
34 either enables the defendant to understand the proceedings against him
35 or her and to assist in his or her own defense, or does not disable him
36 or her from so understanding and assisting in his or her own defense.

37 (5) At or before the conclusion of any commitment period provided
38 for by this section, the facility providing evaluation and treatment

1 shall provide to the court a written report of examination which meets
2 the requirements of RCW 10.77.060(3). For defendants charged with a
3 felony, the report following the second competency restoration period
4 or first competency restoration period if the defendant's incompetence
5 is determined to be solely due to a developmental disability or the
6 evaluator concludes that the defendant is not likely to regain
7 competency must include an assessment of the defendant's future
8 dangerousness which is evidence-based regarding predictive validity.

9 **Sec. 6.** RCW 10.77.086 and 2007 c 375 s 4 are each amended to read
10 as follows:

11 (1)(a) If the defendant is charged with a felony and determined to
12 be incompetent, until he or she has regained the competency necessary
13 to understand the proceedings against him or her and assist in his or
14 her own defense, or has been determined unlikely to regain competency
15 pursuant to RCW 10.77.084(1)((+e)) (b), but in any event for a period
16 of no longer than ninety days, the court:

17 ((+a)) (i) Shall commit the defendant to the custody of the
18 secretary who shall place such defendant in an appropriate facility of
19 the department for evaluation and treatment; or

20 ((+b)) (ii) May alternatively order the defendant to undergo
21 evaluation and treatment at some other facility as determined by the
22 department, or under the guidance and control of a professional person.

23 (b) For a defendant whose highest charge is a class C felony, the
24 maximum time allowed for the first competency restoration period is
25 forty-five days.

26 (2) On or before expiration of the initial ((~~ninety-day~~)) period of
27 commitment under subsection (1) of this section the court shall conduct
28 a hearing, at which it shall determine whether or not the defendant is
29 incompetent.

30 (3) If the court finds by a preponderance of the evidence that a
31 defendant charged with a felony is incompetent, the court shall have
32 the option of extending the order of commitment or alternative
33 treatment for an additional ((~~ninety-day~~)) period of ninety days, but
34 the court must at the time of extension set a date for a prompt hearing
35 to determine the defendant's competency before the expiration of the
36 second ((~~ninety-day~~)) restoration period. The defendant, the
37 defendant's attorney, or the prosecutor has the right to demand that

1 the hearing be before a jury. No extension shall be ordered for a
2 second (~~ninety-day~~) or third restoration period(~~(, nor for any~~
3 ~~subsequent period)~~) as provided in subsection (4) of this section(~~(7)~~)
4 if the defendant's incompetence has been determined by the secretary to
5 be solely the result of a developmental disability which is such that
6 competence is not reasonably likely to be regained during an extension.

7 (4) For persons charged with a felony, at the hearing upon the
8 expiration of the second (~~ninety-day~~) restoration period or at the
9 end of the first (~~ninety-day~~) restoration period, in the case of a
10 defendant with a developmental disability, if the jury or court finds
11 that the defendant is incompetent, the charges shall be dismissed
12 without prejudice, and (~~either civil commitment proceedings shall be~~
13 ~~instituted or~~) the court shall either order the release of the
14 defendant or order the defendant be committed to a hospital or secure
15 mental health facility for up to seventy-two hours starting from
16 admission to the facility, excluding Saturdays, Sundays, and holidays,
17 for evaluation for the purpose of filing a civil commitment petition.
18 The criminal charges shall not be dismissed if the court or jury finds
19 that: (a) The defendant (i) is a substantial danger to other persons;
20 or (ii) presents a substantial likelihood of committing criminal acts
21 jeopardizing public safety or security; and (b) there is a substantial
22 probability that the defendant will regain competency within a
23 reasonable period of time. In the event that the court or jury makes
24 such a finding, the court may extend the period of commitment for up to
25 an additional six months.

26 NEW SECTION. Sec. 7. A new section is added to chapter 10.77 RCW
27 to read as follows:

28 (1) A defendant found incompetent by the court under RCW 10.77.084
29 must be evaluated at the direction of the secretary and a determination
30 made whether the defendant is an individual with a developmental
31 disability. Such evaluation and determination must be accomplished as
32 soon as possible following the court's placement of the defendant in
33 the custody of the secretary.

34 (2) When appropriate, and subject to available funds, if the
35 defendant is determined to be an individual with a developmental
36 disability, he or she may be placed in a program specifically reserved
37 for the treatment and training of persons with developmental

1 disabilities where the defendant has the right to habilitation
2 according to an individualized service plan specifically developed for
3 the particular needs of the defendant. A copy of the evaluation must
4 be sent to the program.

5 (a) The program must be separate from programs serving persons
6 involved in any other treatment or habilitation program.

7 (b) The program must be appropriately secure under the
8 circumstances and must be administered by developmental disabilities
9 professionals who shall direct the habilitation efforts.

10 (c) The program must provide an environment affording security
11 appropriate with the charged criminal behavior and necessary to protect
12 the public safety.

13 (3) The department may limit admissions of such persons to this
14 specialized program in order to ensure that expenditures for services
15 do not exceed amounts appropriated by the legislature and allocated by
16 the department for such services.

17 (4) The department may establish admission priorities in the event
18 that the number of eligible persons exceeds the limits set by the
19 department.

20 **Sec. 8.** RCW 71.05.310 and 2005 c 504 s 709 are each amended to
21 read as follows:

22 The court shall conduct a hearing on the petition for ninety-day
23 treatment within five judicial days of the first court appearance after
24 the probable cause hearing, or within ten judicial days for a petition
25 filed under RCW 71.05.280(3). The court may continue the hearing for
26 good cause shown upon the written request of the person named in the
27 petition (~~(or)~~), the person's attorney, (~~(for good cause shown)~~) or in
28 the case of a petition filed under RCW 71.05.280(3) the petitioner,
29 which continuance shall not exceed five additional judicial days. If
30 the person named in the petition requests a jury trial, the trial shall
31 commence within ten judicial days of the first court appearance after
32 the probable cause hearing. The burden of proof shall be by clear,
33 cogent, and convincing evidence and shall be upon the petitioner. The
34 person shall be present at such proceeding, which shall in all respects
35 accord with the constitutional guarantees of due process of law and the
36 rules of evidence pursuant to RCW 71.05.360 (8) and (9).

1 During the proceeding, the person named in the petition shall
2 continue to be treated until released by order of the superior court.
3 If no order has been made within thirty days after the filing of the
4 petition, not including extensions of time requested by the detained
5 person or his or her attorney, the detained person shall be released.

6 NEW SECTION. **Sec. 9.** The joint legislative audit and review
7 committee shall make an independent assessment of the progress and
8 compliance of the state hospitals with matters specified in section 1
9 of this act both six and eighteen months following the effective date
10 of this section, and report its findings and recommendations to the
11 legislature. The department of social and health services shall
12 cooperate in a timely manner with requests for data related to this
13 assessment.

14 NEW SECTION. **Sec. 10.** The Washington state institute for public
15 policy shall study the benefit of standardizing protocols used for
16 treatment to restore competency to stand trial in Washington and during
17 what clinically appropriate time period said treatment may be expected
18 to be effective and report to the legislature. The department of
19 social and health services shall cooperate in a timely manner with data
20 requests in service of this study.

21 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.77 RCW
22 to read as follows:

23 A county may opt out of participation in the performance targets
24 for the timeliness of services related to competency to stand trial
25 under section 2 of this act by majority vote of the county legislative
26 authority and service of a resolution to this effect upon the
27 secretary. If this occurs, a court in said county which orders a
28 competency evaluation under RCW 10.77.060 may choose to commit the
29 defendant to a hospital or other secure mental health facility for up
30 to fifteen days for the evaluation or direct that the evaluation be
31 conducted in a jail, detention facility, or the community. The
32 department shall complete referrals for services related to competency
33 to stand trial that originate in such a county as swiftly as
34 practicable after performance targets for referrals from participating
35 counties have been met.

1 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 May 1, 2012.

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