
SUBSTITUTE HOUSE BILL 2205

State of Washington 63rd Legislature 2014 Regular Session

By House Public Safety (originally sponsored by Representative Takko)

READ FIRST TIME 02/03/14.

1 AN ACT Relating to mental status evaluations; amending RCW
2 9.94B.080, 9.94A.500, and 9.94A.500; providing an effective date; and
3 providing an expiration date.

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

5 **Sec. 1.** RCW 9.94B.080 and 2008 c 231 s 53 are each amended to read
6 as follows:

7 The court may order an offender whose sentence includes community
8 placement or community supervision to undergo a mental status
9 evaluation and to participate in available outpatient mental health
10 treatment, if the court finds that reasonable grounds exist to believe
11 that the offender is a mentally ill person as defined in RCW 71.24.025,
12 and that this condition is likely to have influenced the offense. An
13 order requiring outpatient mental status evaluation or treatment
14 (~~must~~) may be based on a presentence report and, if applicable,
15 mental status evaluations that have been filed with the court to
16 determine the offender's competency or eligibility for a defense of
17 insanity. The court may order additional evaluations at a later date
18 if deemed appropriate.

1 **Sec. 2.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read
2 as follows:

3 (1) Before imposing a sentence upon a defendant, the court shall
4 conduct a sentencing hearing. The sentencing hearing shall be held
5 within forty court days following conviction. Upon the motion of
6 either party for good cause shown, or on its own motion, the court may
7 extend the time period for conducting the sentencing hearing.

8 Except in cases where the defendant shall be sentenced to a term of
9 total confinement for life without the possibility of release or, when
10 authorized by RCW 10.95.030 for the crime of aggravated murder in the
11 first degree, sentenced to death, the court may order the department to
12 complete a risk assessment report. If available before sentencing, the
13 report shall be provided to the court.

14 Unless specifically waived by the court, the court shall order the
15 department to complete a chemical dependency screening report before
16 imposing a sentence upon a defendant who has been convicted of a
17 violation of the uniform controlled substances act under chapter 69.50
18 RCW, a criminal solicitation to commit such a violation under chapter
19 9A.28 RCW, or any felony where the court finds that the offender has a
20 chemical dependency that has contributed to his or her offense. In
21 addition, the court shall, at the time of plea or conviction, order the
22 department to complete a presentence report before imposing a sentence
23 upon a defendant who has been convicted of a felony sexual offense.
24 The department of corrections shall give priority to presentence
25 investigations for sexual offenders. If the court determines that the
26 defendant may be a mentally ill person as defined in RCW 71.24.025,
27 although the defendant has not established that at the time of the
28 crime he or she lacked the capacity to commit the crime, was
29 incompetent to commit the crime, or was insane at the time of the
30 crime, the court (~~shall~~) may order the department to complete a
31 presentence report before imposing a sentence.

32 The court shall consider the risk assessment report and presentence
33 reports, if any, including any victim impact statement and criminal
34 history, and allow arguments from the prosecutor, the defense counsel,
35 the offender, the victim, the survivor of the victim, or a
36 representative of the victim or survivor, and an investigative law
37 enforcement officer as to the sentence to be imposed.

1 A criminal history summary relating to the defendant from the
2 prosecuting authority or from a state, federal, or foreign governmental
3 agency shall be prima facie evidence of the existence and validity of
4 the convictions listed therein. If the court is satisfied by a
5 preponderance of the evidence that the defendant has a criminal
6 history, the court shall specify the convictions it has found to exist.
7 All of this information shall be part of the record. Copies of all
8 risk assessment reports and presentence reports presented to the
9 sentencing court and all written findings of facts and conclusions of
10 law as to sentencing entered by the court shall be sent to the
11 department by the clerk of the court at the conclusion of the
12 sentencing and shall accompany the offender if the offender is
13 committed to the custody of the department. Court clerks shall
14 provide, without charge, certified copies of documents relating to
15 criminal convictions requested by prosecuting attorneys.

16 (2) To prevent wrongful disclosure of information related to mental
17 health services, as defined in RCW 71.05.445 and 71.34.345, a court may
18 take only those steps necessary during a sentencing hearing or any
19 hearing in which the department presents information related to mental
20 health services to the court. The steps may be taken on motion of the
21 defendant, the prosecuting attorney, or on the court's own motion. The
22 court may seal the portion of the record relating to information
23 relating to mental health services, exclude the public from the hearing
24 during presentation or discussion of information relating to mental
25 health services, or grant other relief to achieve the result intended
26 by this subsection, but nothing in this subsection shall be construed
27 to prevent the subsequent release of information related to mental
28 health services as authorized by RCW 71.05.445, 71.34.345, or
29 72.09.585. Any person who otherwise is permitted to attend any hearing
30 pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the
31 hearing solely because the department intends to disclose or discloses
32 information related to mental health services.

33 **Sec. 3.** RCW 9.94A.500 and 2013 c 200 s 33 are each amended to read
34 as follows:

35 (1) Before imposing a sentence upon a defendant, the court shall
36 conduct a sentencing hearing. The sentencing hearing shall be held

1 within forty court days following conviction. Upon the motion of
2 either party for good cause shown, or on its own motion, the court may
3 extend the time period for conducting the sentencing hearing.

4 Except in cases where the defendant shall be sentenced to a term of
5 total confinement for life without the possibility of release or, when
6 authorized by RCW 10.95.030 for the crime of aggravated murder in the
7 first degree, sentenced to death, the court may order the department to
8 complete a risk assessment report. If available before sentencing, the
9 report shall be provided to the court.

10 Unless specifically waived by the court, the court shall order the
11 department to complete a chemical dependency screening report before
12 imposing a sentence upon a defendant who has been convicted of a
13 violation of the uniform controlled substances act under chapter 69.50
14 RCW, a criminal solicitation to commit such a violation under chapter
15 9A.28 RCW, or any felony where the court finds that the offender has a
16 chemical dependency that has contributed to his or her offense. In
17 addition, the court shall, at the time of plea or conviction, order the
18 department to complete a presentence report before imposing a sentence
19 upon a defendant who has been convicted of a felony sexual offense.
20 The department of corrections shall give priority to presentence
21 investigations for sexual offenders. If the court determines that the
22 defendant may be a mentally ill person as defined in RCW 71.24.025,
23 although the defendant has not established that at the time of the
24 crime he or she lacked the capacity to commit the crime, was
25 incompetent to commit the crime, or was insane at the time of the
26 crime, the court (~~shall~~) may order the department to complete a
27 presentence report before imposing a sentence.

28 The court shall consider the risk assessment report and presentence
29 reports, if any, including any victim impact statement and criminal
30 history, and allow arguments from the prosecutor, the defense counsel,
31 the offender, the victim, the survivor of the victim, or a
32 representative of the victim or survivor, and an investigative law
33 enforcement officer as to the sentence to be imposed.

34 A criminal history summary relating to the defendant from the
35 prosecuting authority or from a state, federal, or foreign governmental
36 agency shall be prima facie evidence of the existence and validity of
37 the convictions listed therein. If the court is satisfied by a
38 preponderance of the evidence that the defendant has a criminal

1 history, the court shall specify the convictions it has found to exist.
2 All of this information shall be part of the record. Copies of all
3 risk assessment reports and presentence reports presented to the
4 sentencing court and all written findings of facts and conclusions of
5 law as to sentencing entered by the court shall be sent to the
6 department by the clerk of the court at the conclusion of the
7 sentencing and shall accompany the offender if the offender is
8 committed to the custody of the department. Court clerks shall
9 provide, without charge, certified copies of documents relating to
10 criminal convictions requested by prosecuting attorneys.

11 (2) To prevent wrongful disclosure of information and records
12 related to mental health services, as described in RCW 71.05.445 and
13 70.02.250, a court may take only those steps necessary during a
14 sentencing hearing or any hearing in which the department presents
15 information related to mental health services to the court. The steps
16 may be taken on motion of the defendant, the prosecuting attorney, or
17 on the court's own motion. The court may seal the portion of the
18 record relating to information relating to mental health services,
19 exclude the public from the hearing during presentation or discussion
20 of information and records relating to mental health services, or grant
21 other relief to achieve the result intended by this subsection, but
22 nothing in this subsection shall be construed to prevent the subsequent
23 release of information and records related to mental health services as
24 authorized by RCW 71.05.445, 70.02.250, or 72.09.585. Any person who
25 otherwise is permitted to attend any hearing pursuant to chapter 7.69
26 or 7.69A RCW shall not be excluded from the hearing solely because the
27 department intends to disclose or discloses information related to
28 mental health services.

29 NEW SECTION. **Sec. 4.** Section 2 of this act expires July 1, 2014.

30 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect July 1,
31 2014.

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