

Competency Evaluation/Restoration Bill Draft

June 23, 2008

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

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

(1)(a) Whenever ~~((a defendant has pleaded not guilty by reason of insanity, or))~~ there is reason to doubt ~~((his or her))~~ a defendant's competency, the court on its own motion or on the motion of any party shall ~~((either appoint or))~~ request the secretary to designate ~~((at least two))~~ a qualified expert~~((s))~~ or professional person~~((s, one of whom shall be approved by the prosecuting attorney,))~~ to ~~((examine))~~ evaluate and report upon the mental condition of the defendant. The signed order of the court shall serve as authority for the expert~~((s))~~ to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. ~~((At least one of the experts or professional persons appointed shall be a developmental disabilities professional if the court is advised by any party that the defendant may be developmentally disabled. Upon agreement of the parties, the court may designate one expert or professional person to conduct the examination and report on the mental condition of the defendant. For purposes of the examination, the court may order the defendant committed to))~~

(b) If at any point the expert or professional person becomes aware that the defendant may be developmentally disabled, or if it appears that the characteristics of developmental disability may be a significant factor in the defendant's ability to participate in the criminal proceeding, the evaluation shall be performed by or in conjunction with a developmental disabilities professional.

(c) If the defendant is being held in jail or other detention facility, the court shall order the evaluation to occur in the jail or other detention facility, unless the evaluator determines that it is necessary for the defendant to be admitted into a hospital or other suitably secure public or private mental health facility ((for a period of time necessary to complete the examination, but not to exceed)) in order to complete the evaluation. If the defendant is charged with a class A felony, the court may order the evaluation to occur at a hospital or other suitably secure mental health facility

without a prior clinical determination of necessity.

(d) The prosecutor shall send the order to the secretary along with a copy of the charging document, certification of probable cause, police report, and a summary of the defendant's criminal history. These documents shall be sent as soon as possible after the order is signed, and in no event later than three business days after signature. If the defendant is being held in a jail or other detention facility, the secretary shall complete its report of the evaluation within twenty-one days from the time of receipt of these documents, except as follows:

(i) If the expert or professional person determines that it is necessary to admit the defendant into a hospital or secure mental health facility in order to complete the competency evaluation, the secretary shall immediately notify the court, all parties, and the jail or other detention facility of this determination and arrange for the defendant to be committed to such facility for a period not to exceed fifteen days. The report of the evaluation shall be completed within thirty days from such notification. The original court order shall state that the secretary has the authority to cause the defendant to be transported to a hospital or secure mental health facility to complete the competency evaluation without the need for a subsequent order.

(ii) If the court orders a defendant charged with a class A felony to be evaluated at a hospital or secure mental health facility, the secretary shall complete the report of the evaluation within thirty days. The secretary shall arrange to admit the defendant to a hospital or secure mental health facility for a period not to exceed fifteen days ((from the time of admission to the facility. If the defendant is being held in jail or other detention facility, upon agreement of the parties, the court may direct that the examination be conducted at the jail or other detention facility.

~~— (b) When a defendant is ordered to be committed for inpatient examination under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the expert or professional persons regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found~~

~~incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety)).~~

(e) If the secretary fails to meet time limits for completion of a report pursuant to (d) of this subsection, a party may request a show cause hearing as the sole remedy. Upon a showing of good cause, the court may extend the time period for completion of the evaluation.

(f) In addition to the information required to be provided to the secretary pursuant to (d) of this subsection, the court or any party may provide any additional information which it reasonably deems may be of assistance to the evaluation, unless such action would infringe upon the ethical duties of defense counsel.

(g) Upon agreement by all parties, the court may appoint a qualified expert or professional person to fulfill the duties of this section instead of requesting the secretary to designate a qualified expert or professional person.

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

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

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

(a) A description of the nature of the ~~((examination))~~ evaluation;

(b) A diagnosis of the mental condition of the defendant;

(c) If the defendant suffers from a mental disease or defect, or is developmentally disabled, an opinion as to competency;

~~(d) ((If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, an opinion as to the defendant's sanity at the time of the act;~~

~~—(e) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;~~

~~—(f))~~ An opinion as to whether the defendant should be evaluated by a ~~((county))~~ designated mental health professional under chapter

71.05 RCW(~~(, and an opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions)~~)).

(4) The secretary may execute such agreements as appropriate and necessary to implement this section.

**Sec. 2.** RCW 10.77.065 and 2000 c 74 s 2 are each amended to read as follows:

(1)(a)(i) (~~The facility conducting the evaluation~~) A qualified expert or professional person appointed under RCW 10.77.060 or section 6 of this act shall provide (~~its~~) his or her report and recommendation to the court in which the criminal proceeding is pending. A copy of the report and recommendation shall be provided to the (~~county designated mental health professional, the~~) prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(ii) of this subsection. Upon request, the (~~facility~~) secretary shall (~~also~~) provide copies of the report and recommendation and copies of any source documents relevant to the evaluation to the (~~county~~) designated mental health professional. The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.

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

(iii) When a defendant is transferred to (~~the facility conducting~~) a hospital or other mental health facility for the evaluation, or upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator or the facility conducting the evaluation of the name of the professional person, or person designated under (a)(ii) of this subsection to receive the report and recommendation.

(b) If the (~~facility concludes, under RCW 10.77.060(3)(f), the person should be kept under further control, an evaluation shall be~~

~~conducted of such person))~~ evaluation report recommends that the defendant should be referred for evaluation by a designated mental health professional under chapter 71.05 RCW~~((=)),~~ the court shall order an evaluation be conducted by the ~~((appropriate county))~~ designated mental health professional~~((:—(i)))~~ prior to the defendant's release from confinement ~~((for such person who is convicted, if sentenced to confinement for twenty-four months or less; (ii) for any person who is acquitted; or (iii) for any person: (A) whose charges are dismissed pursuant to RCW 10.77.090(4); or (B) whose nonfelony charges are dismissed))~~ following any conviction, dismissal, or acquittal, unless the defendant is sentenced to confinement for more than twenty-four months.

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

(3) The ~~((prosecuting attorney))~~ petitioner in a proceeding commenced under subsection (2) of this section shall provide a copy of the results of ~~((any))~~ the proceeding~~((s commenced by the county designated mental health professional under subsection (2) of this section to the facility conducting the evaluation under this chapter))~~ to the secretary.

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

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

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section. The court shall order the defendant to undergo a period of treatment for restoration of competency, if permitted, within the time limitations established by RCW 10.77.086 and 10.77.088 and the requirements of this section.

(b) ~~((A defendant found incompetent shall be evaluated at the~~

~~direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.~~

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

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

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

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

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

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

~~(e))~~ At the end of ~~((the mental health treatment and))~~ any competency restoration period ordered under (a) of this subsection, or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing. If, after notice and hearing, the court finds that competency has been restored, the stay entered under (a) of this subsection shall be lifted. ~~((If competency has not been restored, the proceedings shall be dismissed.))~~ If the court ~~((concludes))~~ finds that competency has not been restored, but that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, the court may order ~~((that))~~ the defendant to undergo an additional period of treatment

for purposes of competency restoration (~~(be continued. Such treatment may not extend beyond the combination of time provided for in RCW 10.77.086 or 10.77.088)~~).

~~((d))~~ (c) If at any time during the proceeding the court finds, following notice and hearing, ~~((a))~~ the defendant is not likely to regain competency, or that the defendant is not competent and not eligible for further competency restoration, or is not competent and the court does not order competency restoration treatment, the ~~((proceedings))~~ charges shall be dismissed without prejudice and ~~((the defendant shall be evaluated for civil commitment proceedings.))~~ the court shall enter the following order:

(i) If the charge was a felony, the defendant shall be detained and transferred to a state hospital or other suitably secure mental health facility for purposes of filing a petition under chapter 71.05 RCW.

(ii) If the charge was a nonfelony, and was a serious offense as defined by RCW 10.77.092, and the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and transferred to an evaluation and treatment facility for purposes of filing a petition under chapter 71.05 RCW. The defendant may be detained in jail for no more than three days, excluding holidays, prior to transfer under this subsection (1)(c)(ii). The defendant may be detained at the evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation prior to the filing of a petition under chapter 71.05 RCW.

(iii) If the charge was a nonfelony, and the charge was not a serious offense as defined by RCW 10.77.092, or the defendant was on conditional release at the time of dismissal, the court may order the defendant to be evaluated by a designated mental health professional prior to release, and shall do so if required by RCW 10.77.065(1)(b).

(d) Notwithstanding the provisions of (a), (b) and (c) of this subsection, if the defendant has multiple pending criminal charges, the length of competency restoration treatment available for all charges shall be the longest treatment period ordered for any of the charges.

(2) If the defendant is referred to the designated mental health professional for consideration of initial detention proceedings under chapter 71.05 RCW pursuant to this chapter, the designated mental health professional shall provide prompt written notification of the

results of the determination whether to commence initial detention proceedings under chapter 71.05 RCW and whether the ~~((person))~~ defendant was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor in the criminal action, the defense attorney in the criminal action, and the ~~((facility that evaluated the defendant for competency))~~ secretary.

(3) ~~((The fact))~~ A finding that the defendant is ~~((unfit to proceed))~~ not competent does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

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

(5) At or before the conclusion of any ~~((commitment))~~ competency restoration period provided for by ~~((this section))~~ RCW 10.77.086 or RCW 10.77.088, the facility providing evaluation and treatment shall provide to the court a written report of ~~((examination))~~ evaluation which meets the requirements of RCW 10.77.060(3).

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

~~((1))~~ If ~~((the))~~ a defendant is charged with a felony and determined to be incompetent~~((r))~~:

(1) Until ~~((he or she))~~ the defendant has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined to be unlikely to regain competency ~~((pursuant to RCW 10.77.084(1)(c))~~, but in any event for a period of no longer than ninety days, the court~~((a))~~ shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment~~((r))~~, or ~~((b))~~ may alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person.

(2) On or before expiration of the initial ninety-day period of commitment under subsection (1) of this section the secretary shall provide the court and the parties with a report in accordance with RCW 10.77.060(3). The secretary shall return the defendant to court

~~((shall conduct))~~ for a hearing as provided by RCW 10.77.084(1)(b), at which ~~((it))~~ the court shall determine by a preponderance of the evidence whether or not the defendant is incompetent.

(3) If the court finds ~~((by a preponderance of the evidence))~~ that ~~((a))~~ the defendant ~~((charged with a felony is))~~ remains incompetent, the court ~~((shall have the option of extending the))~~ may order ~~((of commitment or alternative))~~ a second period of competency restoration treatment for an additional ~~((ninety day))~~ period of up to ninety days. If an extension of the restoration period would cause the defendant to be in custody for a length of time that would exceed the top of the defendant's standard sentencing range if convicted, the court shall consider the nature of the allegations, the defendant's criminal history, and the public interest to be served by further competency restoration treatment before ordering a second restoration period. If treatment is extended, ~~((but))~~ the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ninety-day period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second ninety-day period, nor for any subsequent period as provided in subsection (4) of this section, if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(4) ~~((For persons charged with a felony, at the hearing upon the expiration of the second ninety day period or at the end of the first ninety day period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and either civil commitment proceedings shall be instituted or the court shall order the release of the defendant. The criminal charges shall not be dismissed))~~ If, following the second ninety-day period, the court finds that the defendant remains incompetent, the court may order a third and final period of competency restoration treatment for the defendant only if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of

time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. A third period of competency restoration shall not be ordered if the allegations against the defendant do not include charges which would be classified as serious offenses under RCW 10.77.092.

**Sec. 5.** RCW 10.77.088 and 2007 c 375 s 5 are each amended to read as follows:

(1)((~~a~~)) If the defendant is charged with a nonfelony crime which is a serious offense as (~~identified in~~) defined by RCW 10.77.092 and is found by the court to be not competent, then the court shall order the secretary to place the defendant:

((~~i~~)) (a) At a secure mental health facility in the custody of the department or an agency designated by the department for mental health treatment and restoration of competency. The placement shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060(1)(d). The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060(1)(d) shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility; or

((~~ii~~)) (b) On conditional release for up to ninety days for mental health treatment and restoration of competency(~~;~~~~or~~

~~—(iii) Any combination of this subsection.~~

~~—(b)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated mental health professional within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.~~

~~—(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period).~~

(2) ((~~If the~~)) A defendant who is charged with a nonfelony crime

that is not a serious offense as defined in RCW 10.77.092(~~+~~  
~~—The court may stay or dismiss proceedings and detain the defendant~~  
~~for sufficient time to allow the designated mental health professional~~  
~~to evaluate the defendant and consider initial detention proceedings~~  
~~under chapter 71.05 RCW. The court must give notice to all parties at~~  
~~least twenty-four hours before the dismissal of any proceeding under~~  
~~this subsection, and provide an opportunity for a hearing on whether~~  
~~to dismiss the proceedings)) shall not be ordered to receive~~

competency restoration treatment.

NEW SECTION. **Sec. 6.** A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or has advised the court or a party of his or her intention to rely upon a defense of diminished capacity and endorsed an expert witness who will testify in support of a diminished capacity defense, the court, on motion of the prosecuting attorney, shall either appoint or request the secretary to designate a qualified expert or professional person to evaluate and report upon the mental condition of the defendant. The signed order of the court shall serve as authority for the expert to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant.

(b) The department shall not be obliged to evaluate and report upon a defense of diminished capacity unless the defendant advises the court or an opposing party that it intends to rely on a defense of diminished capacity and endorses an expert witness who will testify in support of a diminished capacity defense. The department shall not be obliged to evaluate and report upon a defense of diminished capacity for any charged offense that lacks a mental state element.

(c) The prosecutor shall send the order to the secretary along with a copy of the charging document, certification of probable cause, police report, and a summary of the defendant's criminal history. In addition, any party may provide additional information which it reasonably deems may be of assistance to the evaluation, unless such action would infringe on the ethical duties of defense counsel.

(2) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis of the mental condition of the defendant;

(c) If the defendant suffers from a mental disease or defect, or is developmentally disabled, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity under RCW 10.77.030, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions;

(e) When directed by the court, subject to the restrictions of subsection (1)(b), an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated mental health professional for civil commitment under chapter 71.05 RCW.

(3) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the evaluator. The defendant's expert or professional person has the right to file his or her own report following the guidelines of subsection (2) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

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

Statements made by a defendant during a competency evaluation, competency hearing, or competency restoration treatment are not admissible in the state's case in chief. After the state's case in chief, those statements are admissible if a mental defense such as insanity or diminished capacity is asserted and in any event are admissible to impeach testimony by the defendant.

NEW SECTION. **Sec. 8.** A new section is added to chapter 10.77 RCW to read as follows:

Any defendant placed in the custody of the secretary for competency restoration treatment shall be evaluated at the direction of the secretary as soon as possible and a determination made whether

the defendant is an individual with a developmental disability.

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

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

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

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

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

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

NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

Whenever a jail receives notice of an order requiring transfer of a defendant to a state hospital or other medical facility under RCW 10.77.060(1) (c), (d), or (e) or 10.77.084(1)(c) (i) or (ii), the jail shall transmit all medical screening information necessary to the transfer to the secretary within three days.

A jail is not responsible for the secretary's failure to make bed space available at a state hospital or suitably secure mental health facility within a reasonable time. If the secretary fails to make bed space available, the jail may take actions including but not limited to seeking a judicial order to compel, an order for reimbursement of costs, and other penalties.

NEW SECTION. **Sec. 10.** A new section is added to chapter 10.77

RCW to read as follows:

The department shall report annually to the legislature beginning October 1, 2010, concerning the waiting period for competency evaluations and competency restoration treatment during the past state fiscal year.

The report shall present average waiting periods on a monthly basis, grouped by Western State Hospital catchment and Eastern State Hospital catchment. The report shall also include average waiting period information on an annual basis which is itemized by county.

For competency evaluations, the waiting period measured shall be from the time the referral is completed to the time of distribution of the evaluation report. For evaluations that occur in the hospital, the report shall also include the waiting period for admission to the hospital from jail, beginning from the time the necessity for a hospital evaluation is determined. The report shall present waiting periods separately based on whether the evaluation takes place in the jail, in the hospital, or in the community, separated by felony and nonfelony referrals.

For competency restoration, the waiting period measured shall be the waiting period for admission to the hospital from jail, separated by felony and nonfelony referrals.

The report shall also include average length of stay information and percentage of successful outcomes for competency restoration, separated by misdemeanor cases and felony cases at the stage of the first 90 day, second 90 day, and final 180 day restoration periods. This information shall be reported on an annual basis and separated by state hospital catchment.

The report shall also include the number of show cause hearings held during the past fiscal year concerning the length of the waiting period for competency services by state hospital catchment, and the total amount of any sanctions imposed as a result of such hearings. The department may include any additional information or sub-groupings that it determines to be appropriate.