

RCW 71.09.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services.

(2) "Fair share principles" and "fair share principles of release" means that each county has adequate options for conditional release housing placements in a number generally equivalent to the number of residents from that county who are subject to total confinement pursuant to this chapter.

(3) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(4) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(5) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(6) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(7) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to RCW 71A.12.230.

(8) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(9) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(10) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment. Purported evidence of a personality disorder must be supported by testimony of a licensed forensic psychologist or psychiatrist.

(11) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

(12) "Prosecuting agency" means the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney, as provided in RCW 71.09.030.

(13) "Recent overt act" means any act, threat, or combination thereof that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act or behaviors.

(14) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

(15) "Secretary" means the secretary of social and health services or the secretary's designee.

(16) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

(17) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

(18) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

(19) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

(20) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

(21) "Treatment" means the sex offender specific treatment program at the special commitment center or a specific course of sex offender treatment pursuant to RCW 71.09.092 (1) and (2). [2021 c 236 s 2. Prior: 2015 c 278 s 2; 2009 c 409 s 1; 2006 c 303 s 10; prior: 2003 c 216 s 2; 2003 c 50 s 1; 2002 c 68 s 4; 2002 c 58 s 2; 2001 2nd sp.s. c 12 s 102; 2001 c 286 s 4; 1995 c 216 s 1; 1992 c 145 s 17; 1990 1st ex.s. c 12 s 2; 1990 c 3 s 1002.]

Findings—2021 c 236: "The legislature finds that in 2008, the sex offender policy board was established to provide a more coordinated and integrated response to sex offender management in Washington state. The legislature further finds that in March 2020, the board was convened to review policies and practices related to sexually violent predators. The legislature recognizes that the board released a report and a series of recommendations regarding improvement to the current practice in order to ensure a successful transition for individuals convicted of sex offenses from total confinement back into the community. The legislature resolves to increase community safety through successful transition by enacting the recommendations of the board and other related policies." [2021 c 236 s 1.]

Effective date—2015 c 278 ss 1 and 2: See note following RCW 71.09.070.

Application—2009 c 409: "This act applies to all persons currently committed or awaiting commitment under chapter 71.09 RCW either on, before, or after May 7, 2009, whether confined in a secure facility or on conditional release." [2009 c 409 s 15.]

Effective date—2009 c 409: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 7, 2009]." [2009 c 409 s 16.]

Severability—Effective date—2003 c 216: See notes following RCW 71.09.300.

Application—2003 c 50: "This act applies prospectively only and not retroactively and does not apply to development regulations adopted or amended prior to April 17, 2003." [2003 c 50 s 3.]

Effective date—2003 c 50: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 17, 2003]." [2003 c 50 s 4.]

Purpose—Severability—Effective date—2002 c 68: See notes following RCW 36.70A.200.

Effective date—2002 c 58: See note following RCW 71.09.085.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Recommendations—Application—Effective date—2001 c 286: See notes following RCW 71.09.015.

Effective date—1990 1st ex.s. c 12: See note following RCW 13.40.020.