
HOUSE BILL 2847

State of Washington**52nd Legislature****1992 Regular Session**

By Representatives Leonard, Hargrove, Prentice, Winsley, H. Myers, Beck, Riley, Anderson, Brekke, Wineberry and Basich

Read first time 01/29/92. Referred to Committee on Human Services.

1 AN ACT Relating to the placement of mentally disordered offenders;
2 adding new sections to chapter 9.94A RCW; creating new sections; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
6 offenders with mental disorders be managed within the least restrictive
7 setting in accordance to their risk to the safety of the community and
8 need for continuing treatment within the community. In recognition of
9 this need, a community supervision alternative is established. This
10 alternative will provide a mechanism for local service and correction
11 systems and agencies to develop the capacity to collaboratively meet
12 the offender's complex needs through a tailored care approach.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout sections 2 through 9 of this act.

3 (1) "Mental disorder" has the meaning given in RCW 71.05.020.

4 (2) "Psychiatric review board" means a board composed of two
5 representatives from the local regional support network including
6 resource management services, a private psychiatrist, a defense
7 attorney, a prosecutor, a law enforcement representative, a community
8 corrections staff member, and a citizen. The board shall function
9 independently of the court, the department, and the mental health
10 division of the department of social and health services. For the
11 purposes of this definition, "resource management services" has the
12 meaning given in RCW 71.24.025.

13 (3) "Case manager" means a person who works on a continuing basis
14 with chronically mentally ill adults. "Chronically mentally ill
15 adult," as used in this definition, has the meaning given in RCW
16 71.24.025.

17 (4) "Secretary" means the secretary of the department of
18 corrections.

19 (5) "Regional support network" has the meaning given in RCW
20 71.24.025.

21 NEW SECTION. **Sec. 3.** At the initiation of the secretary, a
22 person may be placed under community supervision with the concurrence
23 of the court if:

24 (1) The person is convicted of a felony other than a felony under
25 chapter 9A.44 or 9A.32 RCW.

26 (2) The sentence of confinement exceeds twelve months but does not
27 exceed six years.

28 (3) The person has the diagnosis of a mental disorder.

1 (4) There is no substantial danger to other persons and no
2 substantial likelihood that the offender will commit felonious acts
3 jeopardizing public safety or security.

4 NEW SECTION. **Sec. 4.** (1) When an offender who meets the
5 requirements of section 3 (1) and (2) of this act appears to be
6 suffering from a mental disorder, the sentencing court, on its own
7 motion or the motion of the state or defendant, may order the
8 psychiatric review board to: (a) Determine whether the defendant (i)
9 meets the criteria of having a mental disorder and (ii) should safely
10 be treated and supervised in the community and (b) recommend conditions
11 of community supervision.

12 (2) The court, upon receipt of the findings and recommendations of
13 the psychiatric review board and recommendations from the secretary,
14 shall within thirty days conduct a hearing. The prosecuting attorney
15 shall represent the state at such hearings. The defendant shall be
16 advised of his or her right to counsel at this hearing, and if
17 indigent, counsel shall be appointed. The issue to be determined at
18 such a hearing is whether or not the offender may be released to
19 community supervision without substantial danger to other persons or
20 substantial likelihood of committing felonious acts jeopardizing public
21 safety or security. The court after the hearing shall rule on the
22 psychiatric review board's and the secretary's recommendations and, if
23 it disapproves of community supervision, may do so only on the basis of
24 substantial evidence.

25 If the court determines that both the offender and the community
26 will benefit from use of this provision, the court shall then impose a
27 sentence within the sentence range and, if this sentence is less than
28 six years of confinement, the court may suspend the execution of the
29 sentence and place the offender on community supervision for up to two

1 years. Offenders sentenced to terms involving community supervision
2 shall be under the supervision of the secretary or such person as the
3 secretary may designate and shall follow all instructions of the
4 secretary.

5 (3) As a condition of the suspended sentence, the court may impose
6 other sentence conditions including up to six months of confinement,
7 not to exceed the sentence range of confinement for that offense,
8 crime-related prohibitions, and requirements that the offender perform
9 any one or more of the following:

10 (a) Report as directed to the court and a community corrections
11 officer;

12 (b) Participate in inpatient or outpatient mental health treatment;

13 (c) Pay all court-ordered legal financial obligations as provided
14 in RCW 9.94A.030, perform community service work, or any combination
15 thereof;

16 (d) Make recoupment to the victim for the cost of any counseling
17 required as a result of the offender's crime; or

18 (e) Remain within prescribed geographical boundaries and notify the
19 court or community corrections officer prior to any change in the
20 offender's address or employment.

21 (4) The court may impose a sentence requiring confinement if the
22 offender is not civilly committable as defined in RCW 71.05.150 or is
23 not acutely mentally ill as defined in RCW 71.24.025(1).

24 (5) If the offender violates these sentence conditions the court
25 may revoke the suspension and order execution of the sentence. All
26 confinement time served during the period of community supervision
27 shall be credited to the offender if the suspended sentence is revoked.
28 The court shall also give the offender credit for all confinement time
29 served before the sentencing if that confinement time was solely in
30 regard to the offense for which the offender is being sentenced.

1 NEW SECTION. **Sec. 5.** If an offender released on community
2 supervision is required by the terms of the release to report to a
3 community corrections officer, a case manager, a physician, or other
4 such person on a regular periodic basis, the doctor, community
5 corrections officer, or other such person shall quarterly or as
6 otherwise directed by the court, submit to the court, the secretary,
7 and the prosecuting attorney of the county in which the crime was
8 committed, a report stating whether the offender is adhering to the
9 terms and conditions of his or her release.

10 NEW SECTION. **Sec. 6.** (1) The secretary or the prosecuting
11 attorney may petition the court to, or the court on its own motion may,
12 schedule an immediate hearing for the purpose of modifying the
13 conditions of release if the petitioner or the court believes the
14 offender is failing to adhere to the terms and conditions of the
15 community supervision or is in need of alternative or additional care
16 and treatment.

17 (2) If the prosecuting attorney, the secretary, or the court, after
18 examining the report filed with them or based on other information,
19 reasonably believes that an offender on community supervision is
20 failing to adhere to the terms and conditions of the release, the court
21 or secretary may order the offender taken into custody, or if a risk to
22 himself or herself or others, placed in a psychiatric hospital unit or
23 in a mental health unit at a department of corrections facility until
24 such time as a hearing can be scheduled to determine the facts and
25 whether or not the person's community supervision should be revoked or
26 modified. The court shall be notified before the close of the next
27 judicial day of the apprehension or commitment. Both the prosecuting
28 attorney and the offender have the right to request an immediate mental
29 examination of the offender. If the offender is indigent, the court or

1 secretary shall on request assist the offender in obtaining a qualified
2 expert or professional person to conduct an examination.

3 (3) The court, upon receiving notification of the apprehension or
4 commitment, shall within thirty days schedule a hearing. The offender
5 shall be advised of his or her right to counsel at this hearing, and if
6 indigent, counsel shall be appointed. The issue to be determined is
7 whether the offender adhered to the terms and conditions of the
8 release. Pursuant to the determination of the court upon such hearing,
9 the offender shall either continue community supervision on the same or
10 modified conditions or be committed to full confinement within the
11 department of corrections.

12 NEW SECTION. **Sec. 7.** An offender involuntarily detained,
13 hospitalized, or supervised by the department of corrections under this
14 chapter has the right to adequate care and individualized treatment.
15 The person who has custody of the offender or is in charge of treatment
16 shall keep records detailing all medical, expert, and professional care
17 and treatment received by the offender and shall keep copies of all
18 reports of periodic examinations of the offender that have been filed
19 with the secretary pursuant to this chapter. All records and reports
20 made pursuant to this chapter shall be available, upon request, only to
21 the offender, the offender's attorney or personal physician, the
22 prosecuting attorney, the court, the department, or other expert or
23 professional person who, upon proper showing, demonstrates a need for
24 access to the records.

25 NEW SECTION. **Sec. 8.** (1) Savings realized by the department
26 by diverting mentally disordered offenders from prison to community
27 supervision shall be used to subsidize services and treatment to
28 offenders. The amount shall be a fixed daily figure per offender.

1 (2) Once an offender is sentenced under sections 3 and 4 of this
2 act, an interagency individual support team shall be formed in the
3 local community. Members of the team shall meet as necessary during
4 the term of community supervision to develop and reconfigure a tailored
5 support and supervision plan for the offender.

6 (3) The tailored plan under subsection (2) of this section shall be
7 accomplished through the use of existing agency resources and the
8 subsidies received from the department under subsection (1) of this
9 section. The provision of funds shall require resources and services
10 to fit the needs of the offender.

11 (4) Participants in the individual support team shall include the
12 community corrections officer, a representative from the local regional
13 support network, the case manager, and representatives from any other
14 agencies or facilities providing services or supervision to the
15 offender as part of the sentencing requirement.

16 NEW SECTION. **Sec. 9.** One year after the effective date of
17 this act, the department shall evaluate the effectiveness of sections
18 2 through 8 of this act.

19 NEW SECTION. **Sec. 10.** Sections 2 through 8 of this act are
20 each added to chapter 9.94A RCW.