

HOUSE BILL REPORT

HB 2932

As Reported by House Committee On:
Human Services

Title: An act relating to improving procedures for assessing and treating persons with mental illnesses served under chapter 10.77 RCW

Brief Description: Concerning the assessment and treatment of certain persons with mental illnesses.

Sponsors: Representatives Kelley, Hope, Green, Conway, Hurst, Campbell, Wallace, Simpson, Ericks, Ericksen, Van De Wege, Johnson, Roach, Kirby, McCune and Morrell; by request of Governor Gregoire.

Brief History:

Committee Activity:

Human Services: 1/25/10, 1/28/10 [DPS].

Brief Summary of Substitute Bill

- Permits the Secretary of the Department of Social and Health Services (Secretary) to make an application to the court for the conditional release of a person committed to a state hospital facility in instances where the person has not made such application on his or her own behalf, and requires the Secretary to provide notice to the person and his or her counsel.
- Permits the Secretary to petition the court for the release of a person committed to a state hospital facility where reasonable grounds for such release exist and the person has not made such petition on his or her own behalf, and requires the Secretary to provide notice to the person and his or her counsel.
- Requires a community corrections officer to notify the Secretary if a person on conditional release and ordered to report to the community corrections officer is not in compliance with the terms of the conditional release.
- Requires the Department of Social and Health Services to review models of the Oregon and Virginia review boards regarding persons who have been found guilty but mentally ill or not guilty by reason of insanity and report to the Legislature regarding rates of recidivism, treatment outcomes, and the costs of each model.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Requires the Washington State Institute for Public Policy, in collaboration with the Department of Social and Health Services, to search for a validated mental health assessment tool or a combination of tools for competency evaluations and risk level assessments and for the development of recommendations regarding conditional release.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Darneille, Green, Herrera, O'Brien and Walsh.

Staff: Linda Merelle (786-7092).

Background:

Conditional Release.

Once committed to a state hospital facility, upon application by the person committed, the court may order a conditional release, allowing release from the state hospital or facility under certain conditions. A conditional release may be allowed for work release, training, or for education purposes. A person may also be granted a furlough which would allow him or her to leave the facility for a period of time unescorted. The Secretary of the Department of Social and Health Services (Secretary) may make recommendations concerning the application for conditional release.

Permanent Release.

Upon approval of the Secretary, a person committed to a state hospital may petition the court for release or discharge from the facility. Periodic reports prepared by experts after conducting examinations upon a person committed to a state facility provide the evidentiary basis for the Secretary's recommendation regarding conditional or permanent release.

Under current law, no express authority exists for the Secretary to petition on behalf of a person committed to a state facility for either conditional or permanent release.

Summary of Substitute Bill:

Risk Assessment Tools.

The Washington State Institute for Public Policy (WSIPP) will, in collaboration with the Department of Social and Health Services (DSHS), and other applicable entities, search for a validated mental health assessment tool or combination of tools: (1) for individuals performing competency and risk level assessments for persons for whom a court has ordered

a competency evaluation, ordered competency restored, or for whom there has been a finding of not guilty by reason of insanity; and (2) for individuals developing recommendations to courts regarding conditional release. The authority under this provision of the act expires on June 30, 2011.

Authority to Recommend Conditional Release.

The Secretary of the DSHS may request that a person be conditionally released if he or she reasonably believes that such release is appropriate. The Secretary may do so after reviewing and considering the reports of experts resulting from periodic examinations conducted during the person's commitment. The Secretary's recommendation must include any proposed terms and conditions. If the Secretary makes such a request, he or she must provide notice to the person and his or her counsel.

If an order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer must notify the Secretary if the person is not in compliance with the terms of the conditional release.

For persons who have received court approval for conditional release, the Secretary or his or her designee must supervise the person's compliance with the court-ordered conditions of release. The level of supervision must correspond with the level of the person's assessed public safety risk. The Secretary will coordinate with any treatment providers, Department of Corrections staff, and local law enforcement, as appropriate.

Authority to Petition for Release.

The Secretary, in cases where a person has not made an application for release, may petition the court for release where she or he believes that reasonable grounds exist for release. Such petition to the court may be made after the Secretary's consideration of reports and evaluations provided by professionals familiar with the case. The Secretary, upon filing a petition, must provide notice to the person and his or her counsel.

Models for Review Boards.

The Research and Data Analysis Division of the DSHS must review the models for review boards in Oregon and Virginia regarding individuals who have been found guilty but mentally ill or not guilty by reason of insanity. The DSHS must examine rates of recidivism, treatment outcomes, and costs of each model. The DSHS must report to the Legislature by December 15, 2010.

Substitute Bill Compared to Original Bill:

If the Secretary recommends a conditional release or files a petition for release on behalf of an individual, the Secretary must provide notice to the person on whose behalf the recommendation or petition is made, and to his or her attorney.

The Public Safety Review Panel is eliminated. The research arm of the DSHS must review the models for the review boards of Oregon and Virginia regarding individuals who have

been found guilty but mentally ill or not guilty by reason of insanity respectively. The DSHS will examine the rates of recidivism, treatment outcomes, and the costs of each model and report back to the Legislature. A report is due to the Legislature by December 15, 2010.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) When a person is found guilty under some counts and not guilty by reason of insanity under other counts, there is no mechanism for the DSHS to make a recommendation for conditional release or petition for release from a state hospital. The review panel allows a second set of eyes regarding the release of persons who have been found not guilty by reason of insanity.

The bill takes the issue of competency and asks the WSIPP to find a tool that all evaluators can use. Washington has a much higher rate of findings of incompetency. The review panel would give an independent assessment that may differ from that of the staff of the hospitals. The judge should have the benefit of hearing about the impact to public safety which would be provided by the review panel.

(With concerns) The static tool does not successfully get the dynamics of a mentally ill offender, and there is some concern about safety. There are a couple of different models where the panel may be a decision-making body rather than an advisory body. Under the Oregon model, there was some back log in getting people integrated into the community and the model in this bill is preferable.

(Opposed) If the Secretary of the DSHS is allowed to make a recommendation for conditional release or a petition for release under this bill, there is no provision for notification to the person on whose behalf the recommendation or petition is made.

Persons Testifying: (In support) Representative Kelley, prime sponsor; Kari Burrell, Office of the Governor; Dan Satterberg, King County Prosecuting Attorney's Office; and Don Pierce, Washington Association of Sheriffs and Police Chiefs.

(With concerns) Aaron Cole, Washington Federation of State Employees; Lawrance Thompson, Washington Federation of State Employees; and David Lord, Disability Rights Washington.

(Opposed) Michael Hanby, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.