
Public Safety Committee

HB 1081

Brief Description: Addressing certain annual reviews of commitment.

Sponsors: Representative Appleton.

Brief Summary of Bill

- Requires that a person awaiting trial for civil commitment as a sexually violent predator (SVP) receive an examination of his or her mental condition every year, including consideration of whether the person is an SVP and whether he or she should be released to a less restrictive alternative.
- Requires the Department of Social and Health Services to allow an annual review interview to be recorded, or to have a committed person's attorney present.
- Allows a person awaiting trial as an SVP to petition the court for a less restrictive placement after one year of detention, if there is probable cause of a change in the person's mental condition due to continuing participation in treatment.

Hearing Date: 1/29/13

Staff: Sarah Koster (786-7303).

Background:

Sexually Violent Predator Commitment Proceedings: A sexually violent predator (SVP) is a person who has been convicted of, found not guilty by reason of insanity of, or found to be incompetent to stand trial for a crime of sexual violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

Once the prosecutor files a petition to civilly commit a person, the court first must determine whether there is probable cause to believe the person is an SVP. If there is probable cause, a full trial is held to determine whether the person is an SVP.

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.

At the trial, the burden is on the state to prove beyond a reasonable doubt that the person is an SVP. If the person requests a 12-person jury, the jury must be unanimous. If the person is found to be an SVP, he or she is committed to the custody of the Department of Social and Health Services (DSHS) for control, care, and treatment at the Special Commitment Center on McNeil Island.

Annual Examinations: The DSHS must perform an examination of the mental condition of every person committed as an SVP at least once a year. The examination must be prepared by a professionally qualified person. It must address whether the person continues to meet the definition of an SVP and whether conditional release to a less restrictive alternative (LRA) is in the person's best interest and conditions can be imposed to adequately protect the community. The report must be filed with the court, with copies sent to the prosecutor and the committed person. The person may have an expert appointed if he or she is indigent.

Review Proceedings: If the DSHS determines after the annual examination that: (1) the person's condition has so changed that he or she no longer meets the definition of an SVP, or (2) conditional release to an LRA is in the person's best interest and conditions can be imposed to adequately protect the community, the DSHS must authorize the person to petition the court for a full hearing to consider either unconditional discharge or conditional release to an LRA. The committed person may also petition the court for release without the approval of the DSHS. The DSHS must send annual written notice of the right to petition the court, along with a waiver of rights. If the committed person does not waive the right, the court must set a show cause hearing to determine if probable cause exists to warrant a hearing on whether the person's condition has so changed. If the court determines either that: (1) the state failed to present prima facie evidence that the person is still an SVP, or (2) there is probable cause to believe the person's condition has so changed that he or she no longer meets the definition of an SVP or that release to an LRA would be in the person's best interest and conditions would adequately protect the community, the court will set a full hearing.

At the final review hearing, the person is entitled to be present and is afforded the same protections as at the commitment proceeding, including the right to a jury trial and the right to be evaluated by an expert. The burden of proof on the state is beyond a reasonable doubt.

Summary of Bill:

Like a person who is committed as an SVP, a person who is confined subject to a probable cause determination, but not yet committed, is entitled to an annual examination of his or her mental condition, including consideration of whether the person currently meets the definition of an SVP and whether conditional release to a LRA is in the best interest of the person and conditions can be imposed that would adequately protect the community.

For a person who is confined under a probable cause determination, but not yet committed after a full trial, after the person has been detained for one year, he or she is entitled to petition the court for release to a LRA if there is probable cause of a change in his or her mental condition brought about through participation in treatment.

All annual examinations may be recorded or the person's attorney may be present, upon request of the committed person.

Appropriation: None.

Fiscal Note: Available.

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