

HOUSE BILL REPORT

HB 2345

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to rule-making authority for the special commitment center.

Brief Description: Requiring the secretary of social and health services to adopt rules for oversight and operation of the sexually violent predator program.

Revised for 1st Substitute: Requiring the secretary of social and health services to adopt rules for oversight and operation of the sexually violent predator program.

Sponsors: Representatives O'Brien, Ballasiotes, Ruderman, Hurst and Lovick; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/21/00, 1/26/00 [DPS].

Brief Summary of Substitute Bill

- Grants rule-making authority to the secretary of Department of Social and Health Services (DSHS) with respect to oversight and operation of the sexually violent predator commitment law.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

Under chapter 71.09 RCW, enacted in 1990 as an element of the Community Protection Act, a sexually violent predator may be civilly committed upon expiration of his or her criminal sentence. A sexually violent predator is a person who has been

convicted of (or charged with and found not guilty by reason of insanity 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 to a secure facility. Sexually violent predators are committed to the custody of the DSHS for control, care, and treatment until the person's mental disorder has so changed that they are safe either to be released or transferred to a less restrictive alternative. Sexually violent predators are currently housed at the Special Commitment Center on the grounds of the McNeil Island Corrections Center.

The secretary of DSHS has certain obligations under chapter 71.09 RCW and is authorized to promulgate rules regarding specific aspects of the sexually violent predator system, such as rules establishing the professional qualifications necessary for persons conducting evaluations of whether an offender is a sexually violent predator and rules regarding escorted leave. The secretary may not adopt rules without specific statutory authority (RCW 43.20A.075).

Summary of Substitute Bill:

The secretary is given authority to adopt rules for the oversight and operation of the sexually violent predator commitment law. The rules must include provisions for an annual inspection of the special commitment center and requirements for treatment plans and the retention of records.

Substitute Bill Compared to Original Bill: The original bill gave the secretary broad authority to provide, or arrange with others to provide, all necessary services and facilities, to take all necessary actions, and to adopt rules as appropriate, in order to accomplish the purposes of the sexually violent predator law. The substitute bill narrows this authority and adds an emergency clause.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: There is currently a limit to the secretary's authority to adopt rules in this area. The commitment center is now under a federal injunction. Rules adopted under the administrative code will help ensure that there is a formal structure in place when that injunction is withdrawn. This bill requests specific and narrow

rule-making authority. The two major areas for which rule-making authority is necessary relate to oversight mechanisms and program operation.

Testimony Against: None.

Testified: (In favor) Mark Seling, Special Commitment Center, Department of Social and Health Services.