HOUSE BILL ANALYSIS
SSB 5011

Title: An act relating to dangerous mentally ill offenders.

Brief Description: Changing provisions relating to dangerous mentally ill offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Loveland, Winsley, Patterson, Deccio, McCaslin, Goings, Oke and Costa).

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Staff: Yvonne Walker (786-7841).

Background:

Felony offenders, convicted under the Sentencing Reform Act, receive a determinate incarceration sentence (a set term) and then they are usually completely released from custody. However, it is unclear what happens with offenders (excluding sex offenders), about to be released from the Department of Corrections' (DOC) custody, who are believed to be both dangerous to themselves (or others) and have a mental disorder, once their sentence is completed.

Because the DOC and the ***Department of Social and Health Services (DSHS)*** (Division of Mental Health) operate as two separate distinct systems, there are few wrap-around services available to help an offender seek necessary mental health services and other support services (e.g. housing, education, etc.) upon his or her release from custody.

The DOC estimates it releases over 125 inmates each year who are believed to be both mentally ill and pose a serious threat to public safety.

Summary:

The DOC must identify offenders, who are under their custody, who are believed to be both dangerous to themselves or others and have a mental disorder. The department must consider the offender's behavior, as well as the offender's chemical dependency and abuse.

Prior to an offender's release, a release plan must be developed for any treatment and

support services that may be needed by the offender. A team consisting of representatives from the DOC, the Regional Support Network (RSN), the Division of Mental Health and other appropriate divisions of the DSHS (e.g. Division of Alcohol and Substance Abuse and the Division of Developmental Disabilities), a school district representative (if the offender is under the age of 21), and other treatment providers as appropriate, must help develop the offender's release plan for delivery of treatment and support services to the offender upon release. The team must consult with the offender's counsel, if any, and as appropriate, the offender's family and community. The team must also provide, through the victim/witness program, opportunity for enrolled persons to provide information and comments on the potential safety risk an offender poses to specific individuals or classes of individuals. The team may recommend a plan that suggests the offender: (1) to be evaluated for involuntary civil commitment for inpatient treatment; (2) to be placed in an involuntary civil commitment consisting of a less restrictive alternative (LRA); (3) to be supervised by the DOC while participating in community ***treatment; or (4) to participate in voluntary community treatment.***

Prior to the release of a dangerous and mentally ill felony offender, the team must determine if the offender needs be evaluated by a county designated mental health professional (CDMHP) for purposes of involuntary civil commitment. If an evaluation is recommended, supporting documentation (e.g. the offender's criminal history, any required anti-psychotic medication, and any history of involuntary civil commitment) must be forwarded to the appropriate CDMHP. The evaluation must occur between five and 10 days prior to release.

On the day of release, a second evaluation by a CDMHP (when the initial review did not result in a civil commitment or a LRA decision) must be conducted if requested by the team. The request must be based upon new information or a change in the offender's mental condition. If the CDMHP determines an emergency detention is necessary, the DOC must arrange transportation for the offender to a state hospital or to a consenting evaluation and treatment (E&T) facility.

If the CDMHP determines a LRA is appropriate, CDMHP must seek a summons to require the offender to appear at an E&T facility serving the jurisdiction where the offender will reside upon release. If a summons is issued, the DOC must transport the offender to the E&T***, following the completion of his or her incarceration confinement.***

When conducting an evaluation of an offender coming out of DOC, time spent in confinement is not automatically included in determining whether the person has committed a recent overt act– when the court makes a decision whether to require a LRA. When determining whether an offender is a danger to himself or herself or others under the mental health civil commitment law, a court must give great weight– to evidence regarding the offender's recent history of judicially ordered involuntary anti-psychotic medication while in confinement.

The DOC and the DSHS must develop rules and enter into working agreements to assist offenders in obtaining a Medicaid eligibility decision prior to their release from DOC. The DSHS must contract for case management services to assist offenders in coordination and procurement of needed services (e.g. mental health, chemical dependency, employment, education, housing, etc.) as identified by the assessment team at DOC. The offenders are eligible to receive assistance for up to five years. DSHS must also provide additional funds to the RSNs for expenses incurred for offenders who would not have otherwise received their services.

The Washington State Institute for Public Policy, in conjunction with the University of Washington, must conduct an evaluation and report to the Legislature on December 1, 2004. The report must evaluate whether the initiative stated in this act results in: a reduction in criminal recidivism; increases in treatment of and services to dangerous mentally ill offenders and increases in the effectiveness of those services; and bed spaces saved in DOC by this proposal. The study must also evaluate: possible expansion of the release planning process to other groups of offenders including cost estimates; effectiveness of efforts to obtain early Medicaid enrollment and associated cost savings; and the validity of DOC's risk assessment tool.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed. Sections 1, 2, and 4 through 9 of this act take effect March 15, 2000.

Office of Program Research