

SENATE BILL REPORT

ESSB 6487

As Passed Senate, February 14, 2000

Title: An act relating to information concerning mental health services provided to offenders.

Brief Description: Providing for the release of mental health information under certain circumstances.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Sheahan and Winsley; by request of Department of Social and Health Services and Department of Corrections).

Brief History:

Committee Activity: Human Services & Corrections: 2/1/2000 [DPS].
Passed Senate, 2/14/2000, 44-2.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6487 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Long, Stevens and Zarelli.

Staff: Fara Daun (786-7459)

Background: Current law mandates cooperation between the Department of Corrections (DOC) and state mental health service providers. Part of the cooperation, with regard to the supervision of offenders in the community, is the sharing of mental health information between the departments and those responsible for assisting mentally ill offenders in the community.

Summary of Bill: The Department of Social and Health Services (DSHS) Mental Health Division and mental health providers are permitted to share relevant mental health records with DOC employees for whom the information is necessary to their employment duties. Information under this act may be provided only for completing pre-sentence investigations, risk assessment, supervising of incarcerated offenders, and planning for and supervising offenders in the community.

DOC may disclose mental health information to the Indeterminate Sentence Review Board, which is bound by the same provisions on redisclosure that DOC is bound by. DOC may disclose to state and local agencies as relevant to plan for and provide offenders transition, treatment, and supervision services or as relevant and necessary to protect the public and counteract the danger presented by a particular offender. State and local agencies may redisclose the information only as permitted by chapters 70.02, 71.05, and 71.34 to the extent that the information is to counteract the danger presented by a particular offender.

DOC may provide all relevant and necessary information to law enforcement agencies, on request, in a crisis or emergent situation that poses a public safety risk.

DOC may disclose mental health information to individuals as relevant and necessary for those individuals to take reasonable steps for self protection, but not to engage the public in a system of supervising, monitoring, and reporting offender behavior to DOC. Nothing prevents a member of the public from reporting behavior believed to create a public safety risk to either DOC or law enforcement.

In sentencing hearings or any other hearings in which DOC presents mental health information, the court may close those portions of the hearing that include disclosure of mental health information to the public, seal those portions of the record, or grant other relief to prevent the inappropriate disclosure of mental health information to the public. Sealing a record under this provision does not prevent the subsequent release of the information as authorized in the act.

Appropriation: None.

Fiscal Note: Requested on January 21, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is joint request legislation from DOC and DSHS. While the majority of the mentally ill do not present any threat to the community, it is vital for DOC to have mental health information on those that do. The bill also provides for needed disclosure to law enforcement in crisis and emergent situations.

Testimony Against: Need to be very careful when broadening disclosure because it can prevent mentally ill persons from recovering and living their lives in the community. The bill as originally drafted is overbroad and infringes on mental health confidentiality. Defenders want screening for relevance and a link between released information and the need for services or the crime.

Testified: Pat Terry, Acting Director Mental Health Division, DSHS (pro); David Weston, Mental Health Division (pro); Kathy Stuart, DOC (pro); Andrea Stephenson, The Empower Alliance (con); Sherry Appleton, Washington Association of Criminal Defense Lawyers (con).

House Amendment(s): DOC is required to limit disclosure of mental health information to the public to that information permitted under RCW 9.94A.110 or this act.