

2 SSB 5465 - S AMD 389  
3 By Senator Costa

4 ADOPTED 04/30/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. Sec. 1. The legislature finds that the state needs  
8 an increasing number of certified sex offender treatment providers to  
9 treat sexually violent predators and meet the state's commitment to  
10 long-term treatment, help reduce recidivism, and more adequately  
11 provide for the community. The legislature recognizes that these  
12 treatment providers offer a valuable service to the people of  
13 Washington and may experience difficulty maintaining adequate liability  
14 protection given the inherent uncertainties of providing treatment to  
15 sexually violent predators. The legislature intends to provide very  
16 limited immunity, for instances of simple negligence only, to certified  
17 sex offender treatment providers for their treatment decisions  
18 involving sexually violent predators released to a less restrictive  
19 alternative under chapter 71.09 RCW.

20 **Sec. 2.** RCW 18.155.020 and 2000 c 171 s 33 and 2000 c 28 s 38 are  
21 each reenacted and amended to read as follows:

22 Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout this chapter:

24 (1) "Certified sex offender treatment provider" means a licensed,  
25 certified, or registered health professional who is certified to  
26 examine and treat sex offenders pursuant to chapters 9.94A and 13.40  
27 RCW ((~~9.94A.670~~ and ~~13.40.160~~)) and sexually violent predators under  
28 chapter 71.09 RCW.

29 (2) "Department" means the department of health.

30 (3) "Secretary" means the secretary of health.

31 (4) "Sex offender treatment provider" means a person who counsels  
32 or treats sex offenders accused of or convicted of a sex offense as  
33 defined by RCW 9.94A.030.

1       **Sec. 3.** RCW 18.155.030 and 2000 c 171 s 34 and 2000 c 28 s 39 are  
2 each reenacted and amended to read as follows:

3       (1) No person shall represent himself or herself as a certified sex  
4 offender treatment provider without first applying for and receiving a  
5 certificate pursuant to this chapter.

6       (2) Only a certified sex offender treatment provider may perform or  
7 provide the following services:

8       (a) Evaluations conducted for the purposes of and pursuant to RCW  
9 9.94A.670 and 13.40.160;

10       (b) Treatment of convicted sex offenders who are sentenced and  
11 ordered into treatment pursuant to ((RCW 9.94A.670)) chapter 9.94A RCW  
12 and adjudicated juvenile sex offenders who are ordered into treatment  
13 pursuant to ((RCW 13.40.160)) chapter 13.40 RCW;

14       (c) Except as provided under subsection (3) of this section,  
15 treatment of sexually violent predators who are conditionally released  
16 to a less restrictive alternative pursuant to chapter 71.09 RCW.

17       (3) A certified sex offender treatment provider may not perform or  
18 provide treatment of sexually violent predators under subsection (2)(c)  
19 of this section if the certified sex offender treatment provider has  
20 been:

21       (a) Convicted of a sex offense, as defined in RCW 9.94A.030;

22       (b) Convicted in any other jurisdiction of an offense that under  
23 the laws of this state would be classified as a sex offense as defined  
24 in RCW 9.94A.030; or

25       (c) Suspended or otherwise restricted from practicing any health  
26 care profession by competent authority in any state, federal, or  
27 foreign jurisdiction.

28       NEW SECTION. Sec. 4. A new section is added to chapter 4.24 RCW  
29 to read as follows:

30       (1) A certified sex offender treatment provider, acting in the  
31 course of his or her duties, providing treatment to a person who has  
32 been released to a less restrictive alternative under chapter 71.09 RCW  
33 or to a level III sex offender on community custody as a court or  
34 department ordered condition of sentence is not negligent because he or  
35 she treats a high risk offender; sex offenders are known to have a risk  
36 of reoffense. The treatment provider is not liable for civil damages  
37 resulting from the reoffense of a client unless the treatment  
38 provider's acts or omissions constituted gross negligence or willful or

1 wanton misconduct. This limited liability provision does not eliminate  
2 the treatment provider's duty to warn of and protect from a client's  
3 threatened violent behavior if the client communicates a serious threat  
4 of physical violence against a reasonably ascertainable victim or  
5 victims. This limited liability provision applies only to the conduct  
6 of certified sex offender treatment providers and not the conduct of  
7 the state.

8 (2) Sex offender treatment providers who provide services to the  
9 department of corrections by identifying risk factors and notifying the  
10 department of risks for the subset of high risk offenders who are not  
11 amenable to treatment and who are under court order for treatment or  
12 supervision are practicing within the scope of their profession.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.09 RCW  
14 to read as follows:

15 (1) Examinations and treatment of sexually violent predators who  
16 are conditionally released to a less restrictive alternative under this  
17 chapter shall be conducted only by sex offender treatment providers  
18 certified by the department of health under chapter 18.155 RCW unless  
19 the court or the department of social and health services finds that:  
20 (a) The court-ordered less restrictive alternative placement is located  
21 in another state; (b) the treatment provider is employed by the  
22 department; or (c)(i) all certified treatment providers become  
23 unavailable to provide treatment within a reasonable geographic  
24 distance of the person's home, as determined in rules adopted by the  
25 department of social and health services; and (ii) the evaluation and  
26 treatment plan comply with the rules adopted by the department of  
27 social and health services.

28 A treatment provider approved by the department of social and  
29 health services under (c) of this subsection, who is not certified by  
30 the department of health, shall consult with a certified provider  
31 during the person's period of treatment to ensure compliance with the  
32 rules adopted by the department of health. The frequency and content  
33 of the consultation shall be based on the recommendation of the  
34 certified provider.

35 (2) A treatment provider, whether or not he or she is employed or  
36 approved by the department of social and health services under  
37 subsection (1) of this section or otherwise certified, may not perform

1 or provide treatment of sexually violent predators under this section  
2 if the treatment provider has been:

3 (a) Convicted of a sex offense, as defined in RCW 9.94A.030;

4 (b) Convicted in any other jurisdiction of an offense that under  
5 the laws of this state would be classified as a sex offense as defined  
6 in RCW 9.94A.030; or

7 (c) Suspended or otherwise restricted from practicing any health  
8 care profession by competent authority in any state, federal, or  
9 foreign jurisdiction.

10 (3) Nothing in this section prohibits a qualified expert from  
11 examining or evaluating a sexually violent predator who has been  
12 conditionally released for purposes of presenting an opinion in court  
13 proceedings."

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17 On page 1, line 1 of the title, after "providers;" strike the  
18 remainder of the title and insert "reenacting and amending RCW  
19 18.155.020 and 18.155.030; adding a new section to chapter 4.24 RCW;  
20 adding a new section to chapter 71.09 RCW; and creating a new section."

EFFECT: Prohibits a treatment provider, whether certified or not,  
from providing treatment to sexually violent predators who are in an  
LRA if the treatment provider has been convicted of a sex offense or  
been suspended or restricted from practicing any health care profession  
in any jurisdiction. Makes technical and clarifying changes.

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