

HOUSE BILL REPORT

HB 2476

As Reported by House Committee On:

Criminal Justice & Corrections

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

Brief Description: Authorizing release of mental health services information to department of corrections.

Sponsors: Representatives Lovick, O'Brien, Ballasiotes, Edwards, Ogden and Kenney; by request of Department of Corrections, Indeterminate Sentence Review Board and Department of Social and Health Services.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/29/02, 1/30/02 [DP].

Brief Summary of Bill

- Requires mental health providers to release records and reports to the Department of Corrections (DOC) regarding offenders sentenced to an indeterminate sentence.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

Staff: Yvonne Walker (786-7841).

Background:

Mental health providers are permitted to share mental health records and reports with certain employees of the DOC for whom the information is necessary to their employment duties.

Upon a request to a mental health service provider, information relating to mental health

services delivered to a person who has been sentenced or is being sentenced to a determinate sentence under the Sentencing Reform Act (SRA), must be released to the DOC. The request for the release of mental health records must be in writing and does not require the consent of the offender subject of the record. It is not clear whether service providers can release mental health records to the DOC with respect to offenders sentenced under an indeterminate sentence.

The Department of Social and Health Services (DSHS) and the DOC, in consultation with regional support networks, mental health service providers, mental health consumers, and advocates for persons with mental illness, must adopt rules regarding the release of such records, including the type and scope of information to be released. In addition, these rules must both facilitate the DOC's ability to carry out its responsibility of planning and ensure community protection.

All mental health information received by the DOC must remain confidential and may only be used for the purpose of completing a pre-sentence report for a court, providing supervision of a person, and completing a release plan when assessing a person's risk to the community.

Pre-Sentence Reports: Before imposing a sentence upon an offender, a court usually conducts a pre-sentence hearing. At that time, the court may order the DOC to complete a pre-sentence report to assist the trial court in sentencing the offender after he or she has been convicted. A pre-sentence report usually includes an offender's prior convictions, prior arrests, employment history, education history, and family and social background.

Release Plans: Prior to an offender's release from confinement, a release plan may be developed for the purpose of determining the offender's risk to the community and to plan for any needed treatment and support services that may be needed during his or her transition back into the community.

Indeterminate & Determinate Sentencing: Since 1984 an offender convicted in Washington receives a determinate sentence imposed under the SRA which is calculated using the seriousness level of the current offense and the extent of the offender's criminal history. However, before July 1, 1984, an offender who was convicted of a crime received a indeterminate sentence. Under indeterminate sentencing, any offender convicted by a superior court of Washington and sentenced to an institution is placed under the authority of the Indeterminate Sentence Review Board.

Summary of Bill:

Upon a request from the DOC information relating to mental health services, delivered to a person sentenced to an indeterminate sentence, must be released to the DOC personnel for whom the information is necessary to carry out the responsibilities of his or her

position.

Rules relating to the sharing of information adopted by the DOC and the DSHS must both facilitate the DOC's ability to carry out its responsibility of planning and ensure that community protection is maintained with respect to persons sentenced to an indeterminate sentence.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill includes the Indeterminate Sentencing Review Board in the loop of sharing and receiving mental health records when it comes to making a determination regarding the release of an offender. There is a provision in the bill that maintains the confidentiality of mental health records for all offenders. This bill is a technical amendment that will correct an oversight that was in the original bill that was passed by the Legislature last year.

This bill is a potentially good bill and can provide very useful information to both the police and the Department of Corrections as long as there is no potential for misuse of the records in terms of disclosing these types of records to other people.

(Concerns) The sponsor of this bill may want to expand the bill so that chemical dependency records are also shared between chemical dependency providers and the Department of Corrections.

Testimony Against: None.

Testified: (In support) John Austin, Intermediate Sentencing Review Board; Beth Anderson, Department of Corrections; and John Komorouski, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.

(In support w/concerns) Sarajane Siegfriedt, Association of Alcoholism and Addiction Programs.