

**ESB 6610** - H COMM AMD

By Committee on Human Services

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The institute for public policy shall,  
4 in collaboration with the department of social and health services and  
5 other applicable entities, undertake a search for validated mental  
6 health assessment tools in each of the following areas:

7 (a) An assessment tool or combination of tools to be used by  
8 individuals performing court-ordered competency assessments and level  
9 of risk assessments of defendants pursuant to chapter 10.77 RCW; and

10 (b) An assessment tool or combination of tools to be used by  
11 individuals developing recommendations to courts as to the  
12 appropriateness of conditional release from inpatient treatment of  
13 criminally insane patients pursuant to chapter 10.77 RCW.

14 (2) This section expires June 30, 2011.

15 **Sec. 2.** RCW 10.77.150 and 1998 c 297 s 41 are each amended to read  
16 as follows:

17 (1) Persons examined pursuant to RCW 10.77.140 may make application  
18 to the secretary for conditional release. The secretary shall, after  
19 considering the reports of experts or professional persons conducting  
20 the examination pursuant to RCW 10.77.140, forward to the court of the  
21 county which ordered the person's commitment the person's application  
22 for conditional release as well as the secretary's recommendations  
23 concerning the application and any proposed terms and conditions upon  
24 which the secretary reasonably believes the person can be conditionally  
25 released. Conditional release may also contemplate partial release for  
26 work, training, or educational purposes.

27 (2) In instances in which persons examined pursuant to RCW  
28 10.77.140 have not made application to the secretary for conditional  
29 release, but the secretary, after considering the reports of experts or

1 professional persons conducting the examination pursuant to RCW  
2 10.77.140, reasonably believes the person may be conditionally  
3 released, the secretary may submit a recommendation for release to the  
4 court of the county which ordered the person's commitment. The  
5 secretary's recommendation must include any proposed terms and  
6 conditions upon which the secretary reasonably believes the person may  
7 be conditionally released. Conditional release may also include  
8 partial release for work, training, or educational purposes. Notice of  
9 the secretary's recommendation under this subsection must be provided  
10 to the person for whom the secretary has made the recommendation for  
11 release and to his or her attorney.

12 (3)(a) The court of the county which ordered the person's  
13 commitment, upon receipt of an application or recommendation for  
14 conditional release with the secretary's recommendation for conditional  
15 release terms and conditions, shall within thirty days schedule a  
16 hearing. The court may schedule a hearing on applications recommended  
17 for disapproval by the secretary.

18 (b) The prosecuting attorney shall represent the state at such  
19 hearings and shall have the right to have the patient examined by an  
20 expert or professional person of the prosecuting attorney's choice. If  
21 the committed person is indigent, and he or she so requests, the court  
22 shall appoint a qualified expert or professional person to examine the  
23 person on his or her behalf.

24 (c) The issue to be determined at such a hearing is whether or not  
25 the person may be released conditionally without substantial danger to  
26 other persons, or substantial likelihood of committing criminal acts  
27 jeopardizing public safety or security.

28 (d) The court, after the hearing, shall rule on the secretary's  
29 recommendations, and if it disapproves of conditional release, may do  
30 so only on the basis of substantial evidence. The court may modify the  
31 suggested terms and conditions on which the person is to be  
32 conditionally released. Pursuant to the determination of the court  
33 after hearing, the committed person shall thereupon be released on such  
34 conditions as the court determines to be necessary, or shall be  
35 remitted to the custody of the secretary. If the order of conditional  
36 release includes a requirement for the committed person to report to a  
37 community corrections officer, the order shall also specify that the  
38 conditionally released person shall be under the supervision of the

1 secretary of corrections or such person as the secretary of corrections  
2 may designate and shall follow explicitly the instructions of the  
3 secretary of corrections including reporting as directed to a community  
4 corrections officer, remaining within prescribed geographical  
5 boundaries, and notifying the community corrections officer prior to  
6 making any change in the offender's address or employment. If the  
7 order of conditional release includes a requirement for the committed  
8 person to report to a community corrections officer, the community  
9 corrections officer shall notify the secretary or the secretary's  
10 designee, if the person is not in compliance with the court-ordered  
11 conditions of release.

12 ((+3+)) (4) If the court determines that receiving regular or  
13 periodic medication or other medical treatment shall be a condition of  
14 the committed person's release, then the court shall require him or her  
15 to report to a physician or other medical or mental health practitioner  
16 for the medication or treatment. In addition to submitting any report  
17 required by RCW 10.77.160, the physician or other medical or mental  
18 health practitioner shall immediately upon the released person's  
19 failure to appear for the medication or treatment report the failure to  
20 the court, to the prosecuting attorney of the county in which the  
21 released person was committed, to the secretary, and to the supervising  
22 community corrections officer.

23 ((+4+)) (5) Any person, whose application for conditional release  
24 has been denied, may reapply after a period of six months from the date  
25 of denial.

26 **Sec. 3.** RCW 10.77.200 and 2000 c 94 s 16 are each amended to read  
27 as follows:

28 (1) Upon application by the committed or conditionally released  
29 person, the secretary shall determine whether or not reasonable grounds  
30 exist for release. In making this determination, the secretary may  
31 consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140,  
32 and 10.77.160, and other reports and evaluations provided by  
33 professionals familiar with the case. If the secretary approves the  
34 release he or she then shall authorize the person to petition the  
35 court.

36 (2) In instances in which persons have not made application for  
37 release, but the secretary believes, after consideration of the reports

1 filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and  
2 other reports and evaluations provided by professionals familiar with  
3 the case, that reasonable grounds exist for release, the secretary may  
4 petition the court. If the secretary petitions the court for release  
5 under this subsection, notice of the petition must be provided to the  
6 person who is the subject of the petition and to his or her attorney.

7 (3) The petition shall be served upon the court and the prosecuting  
8 attorney. The court, upon receipt of the petition for release, shall  
9 within forty-five days order a hearing. Continuance of the hearing  
10 date shall only be allowed for good cause shown. The prosecuting  
11 attorney shall represent the state, and shall have the right to have  
12 the petitioner examined by an expert or professional person of the  
13 prosecuting attorney's choice. If the petitioner is indigent, and the  
14 person so requests, the court shall appoint a qualified expert or  
15 professional person to examine him or her. If the petitioner (~~is~~  
16 ~~developmentally — disabled~~) has a developmental disability, the  
17 examination shall be performed by a developmental disabilities  
18 professional. The hearing shall be before a jury if demanded by either  
19 the petitioner or the prosecuting attorney. The burden of proof shall  
20 be upon the petitioner to show by a preponderance of the evidence that  
21 the petitioner no longer presents, as a result of a mental disease or  
22 defect, a substantial danger to other persons, or a substantial  
23 likelihood of committing criminal acts jeopardizing public safety or  
24 security, unless kept under further control by the court or other  
25 persons or institutions.

26 (~~(+3)~~) (4) Nothing contained in this chapter shall prohibit the  
27 patient from petitioning the court for release or conditional release  
28 from the institution in which he or she is committed. The issue to be  
29 determined on such proceeding is whether the petitioner, as a result of  
30 a mental disease or defect, is a substantial danger to other persons,  
31 or presents a substantial likelihood of committing criminal acts  
32 jeopardizing public safety or security, unless kept under further  
33 control by the court or other persons or institutions.

34 Nothing contained in this chapter shall prohibit the committed  
35 person from petitioning for release by writ of habeas corpus.

36 NEW SECTION. Sec. 4. A new section is added to chapter 10.77 RCW  
37 to read as follows:

1 (1) The department shall review the costs of the operation of each  
2 of the following boards and the rates of recidivism and treatment  
3 outcomes for the populations under their jurisdiction as follows:

4 (a) The Oregon psychiatric security review board's administration  
5 of cases involving (i) persons judged to be guilty except for insanity,  
6 (ii) persons who would have been guilty of a felony or misdemeanor  
7 which caused or risked physical injury to another except for insanity,  
8 and (iii) persons affected by mental illness and determined to be a  
9 substantial danger to others; and

10 (b) The Virginia community services boards' administration of cases  
11 involving persons found not guilty by reason of insanity.

12 (2) The department shall report the results of its review to the  
13 appropriate committees of the legislature by December 15, 2010.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.77 RCW  
15 to read as follows:

16 For persons who have received court approval for conditional  
17 release, the secretary, or such person as the secretary shall  
18 designate, shall supervise the person's compliance with the court-  
19 ordered conditions of release. The level of supervision provided by  
20 the secretary shall correspond to the level of the person's assessed  
21 public safety risk. In undertaking supervision of persons under this  
22 section, the secretary shall coordinate with any treatment providers  
23 designated pursuant to RCW 10.77.150(3), any department of corrections  
24 staff designated pursuant to RCW 10.77.150(2), and local law  
25 enforcement, if appropriate. The secretary shall adopt rules to  
26 implement this section."

27 Correct the title.

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