
SUBSTITUTE HOUSE BILL 1114

State of Washington

63rd Legislature

2013 Regular Session

By House Judiciary (originally sponsored by Representatives Pedersen, Rodne, Morrell, Nealey, Green, and Jenkins)

READ FIRST TIME 02/15/13.

1 AN ACT Relating to criminal incompetency and civil commitment;
2 amending RCW 10.77.086, 10.77.088, 10.77.270, 71.05.235, 71.05.280,
3 71.05.320, and 71.05.425; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that persons with a
6 mental illness or developmental disability are more likely to be
7 victimized by crime than to be perpetrators of crime. The legislature
8 further finds that there are a small number of individuals who commit
9 repeated violent acts against others while suffering from the effects
10 of a mental illness and/or developmental disability that both
11 contributes to their criminal behaviors and renders them legally
12 incompetent to be held accountable for those behaviors. The
13 legislature further finds that the primary statutory mechanisms
14 designed to protect the public from violent behavior, either criminal
15 commitment to a corrections institution, or long-term commitment as not
16 guilty by reason of insanity, are unavailable due to the legal
17 incompetence of these individuals to stand trial. The legislature
18 further finds that the existing civil system of short-term commitments
19 under the Washington's involuntary treatment act is insufficient to

1 protect the public from these violent acts because it fails to
2 recognize the important link in some individuals between continued
3 incompetence, a mental condition, and the risk to commit further acts
4 of violence. Finally, the legislature finds that changes to the
5 involuntary treatment act to account for this small number of
6 individuals is necessary in order to serve Washington's compelling
7 interest in public safety and to provide for the proper care of these
8 individuals.

9 **Sec. 2.** RCW 10.77.086 and 2012 c 256 s 6 are each amended to read
10 as follows:

11 (1)(a) If the defendant is charged with a felony and determined to
12 be incompetent, until he or she has regained the competency necessary
13 to understand the proceedings against him or her and assist in his or
14 her own defense, or has been determined unlikely to regain competency
15 pursuant to RCW 10.77.084(1)(b), but in any event for a period of no
16 longer than ninety days, the court:

17 (i) Shall commit the defendant to the custody of the secretary who
18 shall place such defendant in an appropriate facility of the department
19 for evaluation and treatment; or

20 (ii) May alternatively order the defendant to undergo evaluation
21 and treatment at some other facility as determined by the department,
22 or under the guidance and control of a professional person.

23 (b) For a defendant whose highest charge is a class C felony, or a
24 class B felony that is not classified as violent under RCW 9.94A.030,
25 the maximum time allowed for the initial period of commitment for
26 competency restoration is forty-five days.

27 (2) On or before expiration of the initial period of commitment
28 under subsection (1) of this section the court shall conduct a hearing,
29 at which it shall determine whether or not the defendant is
30 incompetent.

31 (3) If the court finds by a preponderance of the evidence that a
32 defendant charged with a felony is incompetent, the court shall have
33 the option of extending the order of commitment or alternative
34 treatment for an additional period of ninety days, but the court must
35 at the time of extension set a date for a prompt hearing to determine
36 the defendant's competency before the expiration of the second
37 restoration period. The defendant, the defendant's attorney, or the

1 prosecutor has the right to demand that the hearing be before a jury.
2 No extension shall be ordered for a second or third restoration period
3 as provided in subsection (4) of this section if the defendant's
4 incompetence has been determined by the secretary to be solely the
5 result of a developmental disability which is such that competence is
6 not reasonably likely to be regained during an extension.

7 (4) For persons charged with a felony, at the hearing upon the
8 expiration of the second restoration period or at the end of the first
9 restoration period, in the case of a defendant with a developmental
10 disability, if the jury or court finds that the defendant is
11 incompetent, the charges shall be dismissed without prejudice, and the
12 court shall (~~either order the release of the defendant or~~) order the
13 defendant be committed to a state hospital (~~or secure mental health~~
14 ~~facility~~) as defined in RCW 72.23.020 for up to seventy-two hours
15 starting from admission to the facility, excluding Saturdays, Sundays,
16 and holidays, for evaluation for the purpose of filing a civil
17 commitment petition under chapter 71.05 RCW. The criminal charges
18 shall not be dismissed if the court or jury finds that: (a) The
19 defendant (i) is a substantial danger to other persons; or (ii)
20 presents a substantial likelihood of committing criminal acts
21 jeopardizing public safety or security; and (b) there is a substantial
22 probability that the defendant will regain competency within a
23 reasonable period of time. In the event that the court or jury makes
24 such a finding, the court may extend the period of commitment for up to
25 an additional six months.

26 **Sec. 3.** RCW 10.77.088 and 2007 c 375 s 5 are each amended to read
27 as follows:

28 (1)(a) If the defendant is charged with a nonfelony crime which is
29 a serious offense as identified in RCW 10.77.092 and found by the court
30 to be not competent, then the court shall order the secretary to place
31 the defendant:

32 (i) At a secure mental health facility in the custody of the
33 department or an agency designated by the department for mental health
34 treatment and restoration of competency. The placement shall not
35 exceed fourteen days in addition to any unused time of the evaluation
36 under RCW 10.77.060. The court shall compute this total period and
37 include its computation in the order. The fourteen-day period plus any

1 unused time of the evaluation under RCW 10.77.060 shall be considered
2 to include only the time the defendant is actually at the facility and
3 shall be in addition to reasonable time for transport to or from the
4 facility;

5 (ii) On conditional release for up to ninety days for mental health
6 treatment and restoration of competency; or

7 (iii) Any combination of this subsection.

8 (b)(i) If the proceedings are dismissed under RCW 10.77.084 and the
9 defendant was on conditional release at the time of dismissal, the
10 court shall order the designated mental health professional within that
11 county to evaluate the defendant pursuant to chapter 71.05 RCW. The
12 evaluation may be conducted in any location chosen by the professional.

13 (ii) If the defendant was in custody and not on conditional release
14 at the time of dismissal, the defendant shall be detained and sent to
15 ~~((an evaluation and treatment facility))~~ a state hospital as defined in
16 RCW 72.23.020 for up to seventy-two hours, excluding Saturdays,
17 Sundays, and holidays, for evaluation for purposes of filing a petition
18 under chapter 71.05 RCW. The state hospital may arrange to screen the
19 defendant prior to transport and release the defendant if the civil
20 commitment criteria are not met.

21 If a local evaluation and treatment facility, the regional support
22 network, and the state hospital agree, a local evaluation and treatment
23 facility may be utilized.

24 (iii) The seventy-two-hour period shall commence upon the next
25 nonholiday weekday following the court order and shall run to the end
26 of the last nonholiday weekday within the seventy-two-hour period.

27 (2) If the defendant is charged with a nonfelony crime that is not
28 a serious offense as defined in RCW 10.77.092:

29 The court may stay or dismiss proceedings and detain the defendant
30 for sufficient time to allow the designated mental health professional
31 to evaluate the defendant and consider initial detention proceedings
32 under chapter 71.05 RCW. The court must give notice to all parties at
33 least twenty-four hours before the dismissal of any proceeding under
34 this subsection, and provide an opportunity for a hearing on whether to
35 dismiss the proceedings.

36 **Sec. 4.** RCW 10.77.270 and 2010 c 263 s 1 are each amended to read
37 as follows:

1 (1) The secretary shall establish an independent public safety
2 review panel for the purpose of advising the secretary and the courts
3 with respect to persons who have been found not guilty by reason of
4 insanity, or persons committed under the involuntary treatment act
5 where the court has made a special finding under RCW 71.05.280(3)(b).
6 The panel shall provide advice regarding all recommendations to the
7 secretary, decisions by the secretary, or actions pending in court:
8 (a) For a change in commitment status; (b) to allow furloughs or
9 temporary leaves accompanied by staff; (c) not to seek further
10 commitment terms under RCW 71.05.320; or ~~((e+))~~ (d) to permit movement
11 about the grounds of the treatment facility, with or without the
12 accompaniment of staff.

13 (2) The members of the public safety review panel shall be
14 appointed by the governor for a renewable term of three years and shall
15 include the following:

- 16 (a) A psychiatrist;
- 17 (b) A licensed clinical psychologist;
- 18 (c) A representative of the department of corrections;
- 19 (d) A prosecutor or a representative of a prosecutor's association;
- 20 (e) A representative of law enforcement or a law enforcement
21 association;
- 22 (f) A consumer and family advocate representative; and
- 23 (g) A public defender or a representative of a defender's
24 association.

25 (3) Thirty days prior to issuing a recommendation for conditional
26 release under RCW 10.77.150 or forty-five days prior to issuing a
27 recommendation for release under RCW 10.77.200, the secretary shall
28 submit its recommendation with the committed person's application and
29 the department's risk assessment to the public safety review panel.
30 The public safety review panel shall complete an independent assessment
31 of the public safety risk entailed by the secretary's proposed
32 conditional release recommendation or release recommendation and
33 provide this assessment in writing to the secretary. The public safety
34 review panel may, within funds appropriated for this purpose, request
35 additional evaluations of the committed person. The public safety
36 review panel may indicate whether it is in agreement with the
37 secretary's recommendation, or whether it would issue a different
38 recommendation. The secretary shall provide the panel's assessment

1 when it is received along with any supporting documentation, including
2 all previous reports of evaluations of the committed person in the
3 person's hospital record, to the court, prosecutor in the county that
4 ordered the person's commitment, and counsel for the committed person.

5 (4) The secretary shall notify the public safety review panel at
6 appropriate intervals concerning any changes in the commitment or
7 custody status of persons found not guilty by reason of insanity, or
8 persons committed under the involuntary treatment act where the court
9 has made a special finding under RCW 71.05.280(3)(b). The panel shall
10 have access, upon request, to a committed person's complete hospital
11 record, and any other records deemed necessary by the public safety
12 review panel.

13 (5) The department shall provide administrative and financial
14 support to the public safety review panel. The department, in
15 consultation with the public safety review panel, may adopt rules to
16 implement this section.

17 (6) By December 1, 2014, the public safety review panel shall
18 report to the appropriate legislative committees the following:

19 (a) Whether the public safety review panel has observed a change in
20 statewide consistency of evaluations and decisions concerning changes
21 in the commitment status of persons found not guilty by reason of
22 insanity;

23 (b) Whether the public safety review panel should be given the
24 authority to make release decisions and monitor release conditions;

25 (c) Whether further changes in the law are necessary to enhance
26 public safety in cases where incompetency prevents operation of the
27 criminal justice system and/or long-term commitment of the criminally
28 insane; and

29 (d) Any other issues the public safety review panel deems relevant.

30 **Sec. 5.** RCW 71.05.235 and 2008 c 213 s 5 are each amended to read
31 as follows:

32 (1) If an individual is referred to a designated mental health
33 professional under RCW 10.77.088(1)(b)(i), the designated mental health
34 professional shall examine the individual within forty-eight hours. If
35 the designated mental health professional determines it is not
36 appropriate to detain the individual or petition for a ninety-day less
37 restrictive alternative under RCW 71.05.230(4), that decision shall be

1 immediately presented to the superior court for hearing. The court
2 shall hold a hearing to consider the decision of the designated mental
3 health professional not later than the next judicial day. At the
4 hearing the superior court shall review the determination of the
5 designated mental health professional and determine whether an order
6 should be entered requiring the person to be evaluated at an evaluation
7 and treatment facility. No person referred to an evaluation and
8 treatment facility may be held at the facility longer than seventy-two
9 hours.

10 (2) If an individual is placed in (~~an evaluation and treatment~~
11 ~~facility~~) a state hospital as defined in RCW 72.23.020, under RCW
12 10.77.088(1)(b)(ii) or 10.77.086(4) or an evaluation and treatment
13 facility under RCW 10.77.088(1)(b)(ii), a professional person shall
14 evaluate the individual for purposes of determining whether to file a
15 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.
16 Before expiration of the seventy-two hour evaluation period authorized
17 under RCW 10.77.088(1)(b)(ii) or 10.77.086(4), the professional person
18 shall file a petition or, if the recommendation of the professional
19 person is to release the individual, present his or her recommendation
20 to the superior court of the county in which the criminal charge was
21 dismissed. The superior court shall review the recommendation not
22 later than forty-eight hours, excluding Saturdays, Sundays, and
23 holidays, after the recommendation is presented. If the court rejects
24 the recommendation to unconditionally release the individual, the court
25 may order the individual detained at a designated evaluation and
26 treatment facility for not more than a seventy-two hour evaluation and
27 treatment period and direct the individual to appear at a surety
28 hearing before that court within seventy-two hours, or the court may
29 release the individual but direct the individual to appear at a surety
30 hearing set before that court within eleven days, at which time the
31 prosecutor may file a petition under this chapter for ninety-day
32 inpatient or outpatient treatment. If a petition is filed by the
33 prosecutor, the court may order that the person named in the petition
34 be detained at the evaluation and treatment facility that performed the
35 evaluation under this subsection or order the respondent to be in
36 outpatient treatment. If a petition is filed but the individual fails
37 to appear in court for the surety hearing, the court shall order that
38 a mental health professional or peace officer shall take such person or

1 cause such person to be taken into custody and placed in an evaluation
2 and treatment facility to be brought before the court the next judicial
3 day after detention. Upon the individual's first appearance in court
4 after a petition has been filed, proceedings under RCW 71.05.310 and
5 71.05.320 shall commence. For an individual subject to this
6 subsection, the prosecutor or professional person may directly file a
7 petition for ninety-day inpatient or outpatient treatment and no
8 petition for initial detention or fourteen-day detention is required
9 before such a petition may be filed.

10 The court shall conduct the hearing on the petition filed under
11 this subsection within five judicial days of the date the petition is
12 filed. The court may continue the hearing upon the written request of
13 the person named in the petition or the person's attorney, for good
14 cause shown, which continuance shall not exceed five additional
15 judicial days. If the person named in the petition requests a jury
16 trial, the trial shall commence within ten judicial days of the date of
17 the filing of the petition. The burden of proof shall be by clear,
18 cogent, and convincing evidence and shall be upon the petitioner. The
19 person shall be present at such proceeding, which shall in all respects
20 accord with the constitutional guarantees of due process of law and the
21 rules of evidence pursuant to RCW 71.05.360 (8) and (9).

22 During the proceeding the person named in the petition shall
23 continue to be detained and treated until released by order of the
24 court. If no order has been made within thirty days after the filing
25 of the petition, not including any extensions of time requested by the
26 detained person or his or her attorney, the detained person shall be
27 released.

28 (3) If a designated mental health professional or the professional
29 person and prosecuting attorney for the county in which the criminal
30 charge was dismissed or attorney general, as appropriate, stipulate
31 that the individual does not present a likelihood of serious harm or is
32 not gravely disabled, the hearing under this section is not required
33 and the individual, if in custody, shall be released.

34 (4) The individual shall have the rights specified in RCW 71.05.360
35 (8) and (9).

36 **Sec. 6.** RCW 71.05.280 and 2008 c 213 s 6 are each amended to read
37 as follows:

1 At the expiration of the fourteen-day period of intensive treatment
2 or a restoration period under RCW 10.77.086, a person may be confined
3 for further treatment pursuant to RCW 71.05.320 if:

4 (1) Such person after having been taken into custody for evaluation
5 and treatment has threatened, attempted, or inflicted: (a) Physical
6 harm upon the person of another or himself or herself, or substantial
7 damage upon the property of another, and (b) as a result of mental
8 disorder presents a likelihood of serious harm; or

9 (2) Such person was taken into custody as a result of conduct in
10 which he or she attempted or inflicted physical harm upon the person of
11 another or himself or herself, or substantial damage upon the property
12 of others, and continues to present, as a result of mental disorder, a
13 likelihood of serious harm; or

14 (3) Such person has been determined to be incompetent and criminal
15 charges have been dismissed pursuant to RCW 10.77.086(4), and has
16 committed acts constituting a felony, and as a result of a mental
17 disorder or developmental disability, presents a substantial likelihood
18 of repeating similar acts.

19 (a) In any proceeding pursuant to this subsection it shall not be
20 necessary to show intent, willfulness, or state of mind as an element
21 of the crime;

22 (b) For any person subject to commitment under this subsection
23 where the charge underlying the finding of incompetence is for a felony
24 classified as violent under RCW 9.94A.030, the court shall determine
25 whether the acts the person committed constitute a violent offense
26 under RCW 9.94A.030; or

27 (4) Such person is gravely disabled.

28 **Sec. 7.** RCW 71.05.320 and 2009 c 323 s 2 are each amended to read
29 as follows:

30 (1) If the court or jury finds that grounds set forth in RCW
31 71.05.280 have been proven and that the best interests of the person or
32 others will not be served by a less restrictive treatment which is an
33 alternative to detention, the court shall remand him or her to the
34 custody of the department or to a facility certified for ninety day
35 treatment by the department for a further period of intensive treatment
36 not to exceed ninety days from the date of judgment. If the grounds
37 set forth in RCW 71.05.280(3) are the basis of commitment, then the

1 period of treatment may be up to but not exceed one hundred eighty days
2 from the date of judgment in a facility certified for one hundred
3 eighty day treatment by the department.

4 (2) If the court or jury finds that grounds set forth in RCW
5 71.05.280 have been proven, but finds that treatment less restrictive
6 than detention will be in the best interest of the person or others,
7 then the court shall remand him or her to the custody of the department
8 or to a facility certified for ninety day treatment by the department
9 or to a less restrictive alternative for a further period of less
10 restrictive treatment not to exceed ninety days from the date of
11 judgment. If the grounds set forth in RCW 71.05.280(3) are the basis
12 of commitment, then the period of treatment may be up to but not exceed
13 one hundred eighty days from the date of judgment.

14 (3) The person shall be released from involuntary treatment at the
15 expiration of the period of commitment imposed under subsection (1) or
16 (2) of this section unless the superintendent or professional person in
17 charge of the facility in which he or she is confined, or in the event
18 of a less restrictive alternative, the designated mental health
19 professional, files a new petition for involuntary treatment on the
20 grounds that the committed person:

21 (a) During the current period of court ordered treatment: (i) Has
22 threatened, attempted, or inflicted physical harm upon the person of
23 another, or substantial damage upon the property of another, and (ii)
24 as a result of mental disorder or developmental disability presents a
25 likelihood of serious harm; or

26 (b) Was taken into custody as a result of conduct in which he or
27 she attempted or inflicted serious physical harm upon the person of
28 another, and continues to present, as a result of mental disorder or
29 developmental disability a likelihood of serious harm; or

30 (c) Is in custody pursuant to RCW 71.05.280(3) and as a result of
31 mental disorder or developmental disability continues to present~~((s))~~
32 a substantial likelihood of repeating ~~((similar))~~ acts ~~((considering))~~
33 similar to the charged criminal behavior, when considering the person's
34 life history, progress in treatment, and the public safety. In cases
35 under this subsection where the court has made an affirmative special
36 finding under RCW 71.05.280(3)(b), the commitment shall continue for up
37 to an additional one hundred eighty day period whenever the petition
38 presents prima facie evidence that the person continues to suffer from

1 a mental disorder or developmental disability that results in a
2 substantial likelihood of committing acts similar to the charged
3 criminal behavior, unless the person presents proof through an
4 admissible expert opinion that the person's condition has so changed
5 such that the mental disorder or developmental disability no longer
6 presents a substantial likelihood of the person committing acts similar
7 to the charged criminal behavior; or

8 (d) Continues to be gravely disabled.

9 If the conduct required to be proven in (b) and (c) of this
10 subsection was found by a judge or jury in a prior trial under this
11 chapter, it shall not be necessary to prove such conduct again.

12 (4) For a person committed under subsection (2) of this section who
13 has been remanded to a period of less restrictive treatment, in
14 addition to the grounds specified in subsection (3) of this section,
15 the designated mental health professional may file a new petition for
16 continued less restrictive treatment if:

17 (a) The person was previously committed by a court to detention for
18 involuntary mental health treatment during the thirty-six months that
19 preceded the person's initial detention date during the current
20 involuntary commitment cycle, excluding any time spent in a mental
21 health facility or in confinement as a result of a criminal conviction;

22 (b) In view of the person's treatment history or current behavior,
23 the person is unlikely to voluntarily participate in outpatient
24 treatment without an order for less restrictive treatment; and

25 (c) Outpatient treatment that would be provided under a less
26 restrictive treatment order is necessary to prevent a relapse,
27 decompensation, or deterioration that is likely to result in the person
28 presenting a likelihood of serious harm or the person becoming gravely
29 disabled within a reasonably short period of time.

30 (5) A new petition for involuntary treatment filed under subsection
31 (3) or (4) of this section shall be filed and heard in the superior
32 court of the county of the facility which is filing the new petition
33 for involuntary treatment unless good cause is shown for a change of
34 venue. The cost of the proceedings shall be borne by the state.

35 (6) The hearing shall be held as provided in RCW 71.05.310, and if
36 the court or jury finds that the grounds for additional confinement as
37 set forth in this section are present, the court may order the
38 committed person returned for an additional period of treatment not to

1 exceed one hundred eighty days from the date of judgment. At the end
2 of the one hundred eighty day period of commitment, the committed
3 person shall be released unless a petition for another one hundred
4 eighty day period of continued treatment is filed and heard in the same
5 manner as provided in this section. Successive one hundred eighty day
6 commitments are permissible on the same grounds and pursuant to the
7 same procedures as the original one hundred eighty day commitment.
8 However, a commitment is not permissible under subsection (4) of this
9 section if thirty-six months have passed since the last date of
10 discharge from detention for inpatient treatment that preceded the
11 current less restrictive alternative order, nor shall a commitment
12 under subsection (4) of this section be permissible if the likelihood
13 of serious harm in subsection (4)(c) of this section is based solely on
14 harm to the property of others.

15 (7) No person committed as provided in this section may be detained
16 unless a valid order of commitment is in effect. No order of
17 commitment can exceed one hundred eighty days in length.

18 **Sec. 8.** RCW 71.05.425 and 2011 c 305 s 5 are each amended to read
19 as follows:

20 (1)(a) Except as provided in subsection (2) of this section, at the
21 earliest possible date, and in no event later than thirty days before
22 conditional release, final release, authorized leave under RCW
23 71.05.325(2), or transfer to a facility other than a state mental
24 hospital, the superintendent shall send written notice of conditional
25 release, release, authorized leave, or transfer of a person committed
26 under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex,
27 violent, or felony harassment offense pursuant to RCW 10.77.086(4) to
28 the following:

29 (i) The chief of police of the city, if any, in which the person
30 will reside; (~~and~~)

31 (ii) The sheriff of the county in which the person will reside; and

32 (iii) The prosecuting attorney of the county in which the criminal
33 charges against the committed person were dismissed.

34 (b) The same notice as required by (a) of this subsection shall be
35 sent to the following, if such notice has been requested in writing
36 about a specific person committed under RCW 71.05.280(3) or

1 71.05.320(3)(c) following dismissal of a sex, violent, or felony
2 harassment offense pursuant to RCW 10.77.086(4):

3 (i) The victim of the sex, violent, or felony harassment offense
4 that was dismissed pursuant to RCW 10.77.086(4) preceding commitment
5 under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin
6 if the crime was a homicide;

7 (ii) Any witnesses who testified against the person in any court
8 proceedings;

9 (iii) Any person specified in writing by the prosecuting attorney.
10 Information regarding victims, next of kin, or witnesses requesting the
11 notice, information regarding any other person specified in writing by
12 the prosecuting attorney to receive the notice, and the notice are
13 confidential and shall not be available to the person committed under
14 this chapter; and

15 (iv) The chief of police of the city, if any, and the sheriff of
16 the county, if any, which had jurisdiction of the person on the date of
17 the applicable offense.

18 (c) The thirty-day notice requirements contained in this subsection
19 shall not apply to emergency medical transfers.

20 (d) The existence of the notice requirements in this subsection
21 will not require any extension of the release date in the event the
22 release plan changes after notification.

23 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c)
24 following dismissal of a sex, violent, or felony harassment offense
25 pursuant to RCW 10.77.086(4) escapes, the superintendent shall
26 immediately notify, by the most reasonable and expedient means
27 available, the chief of police of the city and the sheriff of the
28 county in which the person escaped and in which the person resided
29 immediately before the person's arrest and the prosecuting attorney of
30 the county in which the criminal charges against the committed person
31 were dismissed. If previously requested, the superintendent shall also
32 notify the witnesses and the victim of the sex, violent, or felony
33 harassment offense that was dismissed pursuant to RCW 10.77.086(4)
34 preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the
35 victim's next of kin if the crime was a homicide. In addition, the
36 secretary shall also notify appropriate parties pursuant to RCW
37 71.05.390(18). If the person is recaptured, the superintendent shall

1 send notice to the persons designated in this subsection as soon as
2 possible but in no event later than two working days after the
3 department learns of such recapture.

4 (3) If the victim, the victim's next of kin, or any witness is
5 under the age of sixteen, the notice required by this section shall be
6 sent to the parent or legal guardian of the child.

7 (4) The superintendent shall send the notices required by this
8 chapter to the last address provided to the department by the
9 requesting party. The requesting party shall furnish the department
10 with a current address.

11 (5) For purposes of this section the following terms have the
12 following meanings:

- 13 (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- 14 (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- 15 (c) "Next of kin" means a person's spouse, state registered
16 domestic partner, parents, siblings, and children;
- 17 (d) "Felony harassment offense" means a crime of harassment as
18 defined in RCW 9A.46.060 that is a felony.

19 NEW SECTION. **Sec. 9.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

--- END ---