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**SENATE BILL 5038**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators O'Ban, Becker, Honeyford, and Wagoner

AN ACT Relating to limiting the placement of institutionalized persons with a history of criminal justice involvement in adult family homes; amending RCW 71.09.092 and 70.97.030; and adding a new section to chapter 71.05 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 71.05 RCW to read as follows:

(1) The secretary may not discharge a person committed under this chapter in a case where the court has made an affirmative special finding under RCW 71.05.280(3)(b) to an adult family home.

(2) For the purposes of this section, "adult family home" has the same meaning as provided under chapter 70.128 RCW.

**Sec.**  RCW 71.09.092 and 2009 c 409 s 9 are each amended to read as follows:

(1) Before the court may enter an order directing conditional release to a less restrictive alternative, it must find the following: ((~~(1)~~)) (a) The person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington under chapter 18.155 RCW; ((~~(2)~~)) (b) the treatment provider has presented a specific course of treatment and has agreed to assume responsibility for such treatment and will report progress to the court on a regular basis, and will report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center; ((~~(3)~~)) (c) housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center if the person leaves the housing to which he or she has been assigned without authorization; ((~~(4)~~)) (d) the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and ((~~(5)~~)) (e) the person will be under the supervision of the department of corrections and is willing to comply with supervision requirements imposed by the department of corrections.

(2) No less restrictive alternative order entered under this chapter after the effective date of this section may be entered placing a person committed as a sexually violent predator in an adult family home. A person subject to a less restrictive order under this section who would otherwise be appropriate for adult family home placement must be placed in an enhanced services facility, or a setting that provides at least an equivalent staffing ratio and level of security and supervision.

(3) For the purposes of this section, "adult family home" has the same meaning as provided under chapter 70.128 RCW and "enhanced services facility" has the same meaning as provided under chapter 70.97 RCW.

**Sec.**  RCW 70.97.030 and 2005 c 504 s 405 are each amended to read as follows:

A person, eighteen years old or older, may be admitted to an enhanced services facility if he or she meets the criteria in subsections (1) through (3) of this section:

(1) The person requires: (a) Daily care by or under the supervision of a mental health professional, chemical dependency professional, or nurse; or (b) assistance with three or more activities of daily living; and

(2) The person has: (a) A mental disorder, chemical dependency disorder, or both; (b) an organic or traumatic brain injury; ((~~or~~)) (c) a cognitive impairment that results in symptoms or behaviors requiring supervision and facility services; ((~~[and]~~)) or (d) been judicially determined to meet the definition of sexually violent predator under RCW 71.09.020; and

(3) The person has two or more of the following:

(a) Self-endangering behaviors that are frequent or difficult to manage;

(b) Aggressive, threatening, or assaultive behaviors that create a risk to the health or safety of other residents or staff, or a significant risk to property and these behaviors are frequent or difficult to manage;

(c) Intrusive behaviors that put residents or staff at risk;

(d) Complex medication needs and those needs include psychotropic medications;

(e) A history of or likelihood of unsuccessful placements in either a licensed facility or other state facility or a history of rejected applications for admission to other licensed facilities based on the person's behaviors, history, or security needs;

(f) A history of frequent or protracted mental health hospitalizations;

(g) A history of offenses against a person or felony offenses that created substantial damage to property.

**--- END ---**