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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5163

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State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rolfes, Dhingra, Saldaña, and Wilson, C.)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to the placement and treatment of conditionally  
2 released sexually violent predators; amending RCW 71.09.080,  
3 71.09.090, 71.09.092, 71.09.096, 71.09.130, 71.09.140, and 71.09.250;  
4 reenacting and amending RCW 71.09.020; adding new sections to chapter  
5 71.09 RCW; adding a new section to chapter 9.94A RCW; creating a new  
6 section; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that in 2008, the  
9 sex offender policy board was established to provide a more  
10 coordinated and integrated response to sex offender management in  
11 Washington state. The legislature further finds that in March 2020,  
12 the board was convened to review policies and practices related to  
13 sexually violent predators. The legislature recognizes that the board  
14 released a report and a series of recommendations regarding  
15 improvement to the current practice in order to ensure a successful  
16 transition for individuals convicted of sex offenses from total  
17 confinement back into the community. The legislature resolves to  
18 increase community safety through successful transition by enacting  
19 the recommendations of the board and other related policies.

1       **Sec. 2.** RCW 71.09.020 and 2015 c 278 s 2 are each reenacted and  
2 amended to read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Department" means the department of social and health  
6 services.

7       (2) "Fair share principles" and "fair share principles of  
8 release" means that each county has adequate options for conditional  
9 release housing placements in a number generally equivalent to the  
10 number of residents from that county who are subject to total  
11 confinement pursuant to this chapter.

12       (3) "Health care facility" means any hospital, hospice care  
13 center, licensed or certified health care facility, health  
14 maintenance organization regulated under chapter 48.46 RCW, federally  
15 qualified health maintenance organization, federally approved renal  
16 dialysis center or facility, or federally approved blood bank.

17       ~~((3))~~ (4) "Health care practitioner" means an individual or  
18 firm licensed or certified to engage actively in a regulated health  
19 profession.

20       ~~((4))~~ (5) "Health care services" means those services provided  
21 by health professionals licensed pursuant to RCW 18.120.020(4).

22       ~~((5))~~ (6) "Health profession" means those licensed or regulated  
23 professions set forth in RCW 18.120.020(4).

24       ~~((6))~~ (7) "Less restrictive alternative" means court-ordered  
25 treatment in a setting less restrictive than total confinement which  
26 satisfies the conditions set forth in RCW 71.09.092. A less  
27 restrictive alternative may not include placement in the community  
28 protection program as pursuant to RCW 71A.12.230.

29       ~~((7))~~ (8) "Likely to engage in predatory acts of sexual  
30 violence if not confined in a secure facility" means that the person  
31 more probably than not will engage in such acts if released  
32 unconditionally from detention on the sexually violent predator  
33 petition. Such likelihood must be evidenced by a recent overt act if  
34 the person is not totally confined at the time the petition is filed  
35 under RCW 71.09.030.

36       ~~((8))~~ (9) "Mental abnormality" means a congenital or acquired  
37 condition affecting the emotional or volitional capacity which  
38 predisposes the person to the commission of criminal sexual acts in a  
39 degree constituting such person a menace to the health and safety of  
40 others.

1       (~~(9)~~) (10) "Personality disorder" means an enduring pattern of  
2 inner experience and behavior that deviates markedly from the  
3 expectations of the individual's culture, is pervasive and  
4 inflexible, has onset in adolescence or early adulthood, is stable  
5 over time and leads to distress or impairment. Purported evidence of  
6 a personality disorder must be supported by testimony of a licensed  
7 forensic psychologist or psychiatrist.

8       (~~(10)~~) (11) "Predatory" means acts directed towards: (a)  
9 Strangers; (b) individuals with whom a relationship has been  
10 established or promoted for the primary purpose of victimization; or  
11 (c) persons of casual acquaintance with whom no substantial personal  
12 relationship exists.

13       (~~(11)~~) (12) "Prosecuting agency" means the prosecuting attorney  
14 of the county where the person was convicted or charged or the  
15 attorney general if requested by the prosecuting attorney, as  
16 provided in RCW 71.09.030.

17       (~~(12)~~) (13) "Recent overt act" means any act, threat, or  
18 combination thereof that has either caused harm of a sexually violent  
19 nature or creates a reasonable apprehension of such harm in the mind  
20 of an objective person who knows of the history and mental condition  
21 of the person engaging in the act or behaviors.

22       (~~(13)~~) (14) "Risk potential activity" or "risk potential  
23 facility" means an activity or facility that provides a higher  
24 incidence of risk to the public from persons conditionally released  
25 from the special commitment center. Risk potential activities and  
26 facilities include: Public and private schools, school bus stops,  
27 licensed day care and licensed preschool facilities, public parks,  
28 publicly dedicated trails, sports fields, playgrounds, recreational  
29 and community centers, churches, synagogues, temples, mosques, public  
30 libraries, public and private youth camps, and others identified by  
31 the department following the hearings on a potential site required in  
32 RCW 71.09.315. For purposes of this chapter, "school bus stops" does  
33 not include bus stops established primarily for public transit.

34       (~~(14)~~) (15) "Secretary" means the secretary of social and  
35 health services or the secretary's designee.

36       (~~(15)~~) (16) "Secure community transition facility" means a  
37 residential facility for persons civilly committed and conditionally  
38 released to a less restrictive alternative under this chapter. A  
39 secure community transition facility has supervision and security,  
40 and either provides or ensures the provision of sex offender

1 treatment services. Secure community transition facilities include  
2 but are not limited to the facility established pursuant to RCW  
3 71.09.250(1)(a)(i) and any community-based facilities established  
4 under this chapter and operated by the secretary or under contract  
5 with the secretary.

6 ~~((16))~~ (17) "Secure facility" means a residential facility for  
7 persons civilly confined under the provisions of this chapter that  
8 includes security measures sufficient to protect the community. Such  
9 facilities include total confinement facilities, secure community  
10 transition facilities, and any residence used as a court-ordered  
11 placement under RCW 71.09.096.

12 ~~((17))~~ (18) "Sexually violent offense" means an act committed  
13 on, before, or after July 1, 1990, that is: (a) An act defined in  
14 Title 9A RCW as rape in the first degree, rape in the second degree  
15 by forcible compulsion, rape of a child in the first or second  
16 degree, statutory rape in the first or second degree, indecent  
17 liberties by forcible compulsion, indecent liberties against a child  
18 under age fourteen, incest against a child under age fourteen, or  
19 child molestation in the first or second degree; (b) a felony offense  
20 in effect at any time prior to July 1, 1990, that is comparable to a  
21 sexually violent offense as defined in (a) of this subsection, or any  
22 federal or out-of-state conviction for a felony offense that under  
23 the laws of this state would be a sexually violent offense as defined  
24 in this subsection; (c) an act of murder in the first or second  
25 degree, assault in the first or second degree, assault of a child in  
26 the first or second degree, kidnapping in the first or second degree,  
27 burglary in the first degree, residential burglary, or unlawful  
28 imprisonment, which act, either at the time of sentencing for the  
29 offense or subsequently during civil commitment proceedings pursuant  
30 to this chapter, has been determined beyond a reasonable doubt to  
31 have been sexually motivated, as that term is defined in RCW  
32 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is  
33 an attempt, criminal solicitation, or criminal conspiracy to commit  
34 one of the felonies designated in (a), (b), or (c) of this  
35 subsection.

36 ~~((18))~~ (19) "Sexually violent predator" means any person who  
37 has been convicted of or charged with a crime of sexual violence and  
38 who suffers from a mental abnormality or personality disorder which  
39 makes the person likely to engage in predatory acts of sexual  
40 violence if not confined in a secure facility.

1       (~~(19)~~) (20) "Total confinement facility" means a secure  
2 facility that provides supervision and sex offender treatment  
3 services in a total confinement setting. Total confinement facilities  
4 include the special commitment center and any similar facility  
5 designated as a total confinement facility by the secretary.

6       (~~(20)~~) (21) "Treatment" means the sex offender specific  
7 treatment program at the special commitment center or a specific  
8 course of sex offender treatment pursuant to RCW 71.09.092 (1) and  
9 (2).

10       **Sec. 3.** RCW 71.09.080 and 2012 c 257 s 6 are each amended to  
11 read as follows:

12       (1) Any person subjected to restricted liberty as a sexually  
13 violent predator pursuant to this chapter shall not forfeit any legal  
14 right or suffer any legal disability as a consequence of any actions  
15 taken or orders made, other than as specifically provided in this  
16 chapter, or as otherwise authorized by law.

17       (2)(a) Any person committed or detained pursuant to this chapter  
18 shall be prohibited from possessing or accessing a personal computer  
19 if the resident's individualized treatment plan states that access to  
20 a computer is harmful to bringing about a positive response to a  
21 specific and certain phase or course of treatment.

22       (b) A person who is prohibited from possessing or accessing a  
23 personal computer under (a) of this subsection shall be permitted to  
24 access a limited functioning personal computer capable of word  
25 processing and limited data storage on the computer only that does  
26 not have: (i) Internet access capability; (ii) an optical drive,  
27 external drive, universal serial bus port, or similar drive  
28 capability; or (iii) the capability to display photographs, images,  
29 videos, or motion pictures, or similar display capability from any  
30 drive or port capability listed under (b)(ii) of this subsection.

31       (3) Any person committed pursuant to this chapter has the right  
32 to adequate care (~~and~~), individualized treatment, and the  
33 development of an ongoing, clinically appropriate discharge plan as  
34 part of the treatment process. The department of social and health  
35 services shall keep records detailing all medical, expert, and  
36 professional care and treatment received by a committed person, and  
37 shall keep copies of all reports of periodic examinations made  
38 pursuant to this chapter. All such records and reports shall be made  
39 available upon request only to: The committed person, his or her

1 attorney, the prosecuting agency, the court, the protection and  
2 advocacy agency, or another expert or professional person who, upon  
3 proper showing, demonstrates a need for access to such records.

4 (4) The right to the development of a discharge plan under  
5 subsection (3) of this section does not guarantee that any particular  
6 person will be determined appropriate for discharge at any particular  
7 time. Individualized and ongoing discharge planning requires, at a  
8 minimum, and as part of a person's treatment plan, the following are  
9 addressed based on information known to the department and in  
10 accordance with policies developed by the department to implement  
11 this subsection:

12 (a) The resident's physical health, functioning, and any need for  
13 health aid devices;

14 (b) The resident's intellectual or cognitive level of functioning  
15 and need for specialized programming;

16 (c) The resident's history of substance use and abuse;

17 (d) The resident's known history of risky or impulsive behaviors,  
18 criminogenic needs, and treatment interventions to address them;

19 (e) The resident's ability to perform life skills and activities  
20 of daily living independently and the resident's need for any  
21 disability accommodations;

22 (f) A summary of the community services and supports the resident  
23 needs for a safe life in the community and the type of providers of  
24 such services and support; and

25 (g) A plan to mitigate the needs identified in this subsection  
26 that also addresses ways to develop or increase social supports,  
27 recreation opportunities, gainful employment, and if applicable,  
28 spiritual opportunities.

29 (5) At the time a person is taken into custody or transferred  
30 into a facility pursuant to a petition under this chapter, the  
31 professional person in charge of such facility or his or her designee  
32 shall take reasonable precautions to inventory and safeguard the  
33 personal property of the persons detained or transferred. A copy of  
34 the inventory, signed by the staff member making it, shall be given  
35 to the person detained and shall, in addition, be open to inspection  
36 to any responsible relative, subject to limitations, if any,  
37 specifically imposed by the detained person. For purposes of this  
38 subsection, "responsible relative" includes the guardian,  
39 conservator, attorney, spouse, parent, adult child, or adult brother  
40 or sister of the person. The facility shall not disclose the contents

1 of the inventory to any other person without consent of the patient  
2 or order of the court.

3 ~~((+5))~~ (6) Nothing in this chapter prohibits a person presently  
4 committed from exercising a right presently available to him or her  
5 for the purpose of obtaining release from confinement, including the  
6 right to petition for a writ of habeas corpus.

7 ~~((+6))~~ (7) No indigent person may be conditionally released or  
8 unconditionally discharged under this chapter without suitable  
9 clothing, and the secretary shall furnish the person with such sum of  
10 money as is required by RCW 72.02.100 for persons without ample funds  
11 who are released from correctional institutions. As funds are  
12 available, the secretary may provide payment to the indigent persons  
13 conditionally released pursuant to this chapter consistent with the  
14 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt  
15 rules to do so.

16 ~~((+7))~~ (8) If a civil commitment petition is dismissed, or a  
17 trier of fact determines that a person does not meet civil commitment  
18 criteria, the person shall be released within twenty-four hours of  
19 service of the release order on the superintendent of the special  
20 commitment center, or later by agreement of the person who is the  
21 subject of the petition.

22 **Sec. 4.** RCW 71.09.090 and 2018 c 131 s 2 are each amended to  
23 read as follows:

24 (1) (a) If the secretary determines that the person's condition  
25 has so changed that ~~((either: (a) The))~~ the person no longer meets  
26 the definition of a sexually violent predator ~~((; or (b) conditional  
27 release to a less restrictive alternative is in the best interest of  
28 the person and conditions can be imposed that adequately protect the  
29 community))~~, the secretary shall authorize the person to petition the  
30 court for ~~((conditional release to a less restrictive alternative  
31 or))~~ unconditional discharge. The petition shall be filed with the  
32 court and served upon the prosecuting agency responsible for the  
33 initial commitment. The court, upon receipt of the petition for  
34 ~~((conditional release to a less restrictive alternative or))~~  
35 unconditional discharge, shall within ~~((forty-five))~~ 45 days order a  
36 hearing.

37 (b) If the secretary determines that the person's condition has  
38 so changed that conditional release to a less restrictive alternative  
39 is in the best interest of the person and conditions can be imposed

1 that adequately protect the community, then the secretary shall  
2 authorize the person to petition the court for conditional release to  
3 a less restrictive alternative. Upon receipt of the petition, the  
4 court shall order the department to, within 90 days, identify a less  
5 restrictive alternative placement that satisfies RCW 71.09.092 (1)  
6 through (4). Once identified, notice of the placement shall be filed  
7 with the court and served upon the prosecuting agency responsible for  
8 the initial commitment as well as the person and his or her counsel.  
9 If the department cannot identify a placement available to the person  
10 that satisfies RCW 71.09.092 (1) through (4) within 90 days, the  
11 department shall provide a written certification to the court, the  
12 prosecuting agency responsible for the initial commitment, and the  
13 person and his or her counsel, detailing the efforts of the  
14 department to identify a qualifying placement. Upon the department's  
15 certification, the person may propose a placement that satisfies RCW  
16 71.09.092 (1) through (3). After a less restrictive placement has  
17 been proposed by either the department or the person, the court shall  
18 within 45 days order a hearing.

19 (2) (a) Nothing contained in this chapter shall prohibit the  
20 person from otherwise petitioning the court for conditional release  
21 to a less restrictive alternative or unconditional discharge without  
22 the secretary's approval. The secretary shall provide the committed  
23 person with an annual written notice of the person's right to  
24 petition the court for conditional release to a less restrictive  
25 alternative or unconditional discharge over the secretary's  
26 objection. The notice shall contain a waiver of rights. The secretary  
27 shall file the notice and waiver form and the annual report with the  
28 court. If the person does not affirmatively waive the right to  
29 petition, the court shall set a show cause hearing to determine  
30 whether probable cause exists to warrant a hearing on whether the  
31 person's condition has so changed that: (i) He or she no longer meets  
32 the definition of a sexually violent predator; or (ii) conditional  
33 release to a proposed less restrictive alternative would be in the  
34 best interest of the person and conditions can be imposed that would  
35 adequately protect the community.

36 (b) (i) The committed person shall have a right to have an  
37 attorney represent him or her at the show cause hearing, which may be  
38 conducted solely on the basis of affidavits or declarations, but the  
39 person is not entitled to be present at the show cause hearing. At  
40 the show cause hearing, the prosecuting agency shall present prima



1 facie evidence establishing: (A) That the committed person continues  
2 to meet the definition of a sexually violent predator; and (B) that a  
3 less restrictive alternative is not in the best interest of the  
4 person and conditions cannot be imposed that adequately protect the  
5 community.

6 (ii)(A) If the state produces prima facie evidence that the  
7 committed person continues to be a sexually violent predator, then  
8 the state's burden under (b)(i)(A) of this subsection is met and an  
9 unconditional release trial may not be ordered unless the committed  
10 person produces evidence satisfying: Subsection (4)(a) of this  
11 section; and subsection (4)(b) (i) or (ii) of this section.

12 (B) If the state produces prima facie evidence that a less  
13 restrictive alternative is not appropriate for the committed person,  
14 then the state's burden under (b)(i)(B) of this subsection is met,  
15 and a conditional release trial may not be ordered unless the  
16 committed person:

17 (I) Produces evidence satisfying: Subsection (4)(a) of this  
18 section; and subsection (4)(b) (i) or (ii) of this section; and

19 (II) Presents the court with a specific placement satisfying the  
20 requirements of RCW 71.09.092.

21 (iii) In making the showing required under (b)(i) of this  
22 subsection, the state may rely exclusively upon the annual report  
23 prepared pursuant to RCW 71.09.070. The committed person may present  
24 responsive affidavits or declarations to which the state may reply.

25 (c)(i) If the court at the show cause hearing determines that  
26 either: ~~((+))~~ (A) The state has failed to present prima facie  
27 evidence that the committed person continues to meet the definition  
28 of a sexually violent predator ~~((and that no proposed less  
29 restrictive alternative is in the best interest of the person and  
30 conditions cannot be imposed that would adequately protect the  
31 community))~~; or ~~((+))~~ (B) probable cause exists to believe that  
32 the person's condition has so changed that ~~((: (A) The))~~ the person no  
33 longer meets the definition of a sexually violent predator ~~((; or (B)  
34 release to a proposed less restrictive alternative would be in the  
35 best interest of the person and conditions can be imposed that would  
36 adequately protect the community))~~, then the court shall set a  
37 hearing on ~~((either or both issues))~~ the issue of unconditional  
38 discharge.

39 (ii) If the court at the show cause hearing determines that the  
40 state has failed to present prima facie evidence that no proposed

1 less restrictive alternative is in the best interest of the person  
2 and conditions cannot be imposed that would adequately protect the  
3 community, the court shall enter an order directing the department to  
4 propose a less restrictive alternative that satisfies RCW 71.09.092  
5 (1) through (4) within 90 days. If the department cannot identify a  
6 placement available to the person that satisfies RCW 71.09.092 (1)  
7 through (4) within 90 days, the department shall provide a written  
8 certification to the court, the prosecuting agency responsible for  
9 the initial commitment, and the person and his or her counsel,  
10 detailing the efforts of the department to identify a qualifying  
11 placement. Upon the department's certification, the person may  
12 propose a placement that satisfies RCW 71.09.092 (1) through (3).  
13 After a less restrictive placement has been proposed by either the  
14 department or the person, the court shall set a hearing on the issue  
15 of conditional release.

16 (iii) If the court at the show cause hearing determines, based on  
17 the evidence submitted by the person, that probable cause exists to  
18 believe that release to a less restrictive alternative would be in  
19 the best interest of the person and conditions can be imposed that  
20 would adequately protect the community, the court shall set a hearing  
21 on the issue of conditional release if the person presents the court  
22 with a specific placement that satisfies the requirements of RCW  
23 71.09.092.

24 (d) If the court has not previously considered the issue of  
25 release to a less restrictive alternative, either through a trial on  
26 the merits or through the procedures set forth in RCW 71.09.094(1),  
27 or if an immediately preceding less restrictive alternative was  
28 revoked due to the loss of adequate housing or treatment for reasons  
29 other than noncompliance with housing requirements, treatment, or  
30 other conditions of the less restrictive alternative, the court shall  
31 consider whether release to a less restrictive alternative would be  
32 in the best interests of the person and conditions can be imposed  
33 that would adequately protect the community, without considering  
34 whether the person's condition has changed. (~~The court may not find~~  
35 ~~probable cause for a trial addressing less restrictive alternatives~~  
36 ~~unless a proposed less restrictive alternative placement meeting the~~  
37 ~~conditions of RCW 71.09.092 is presented to the court at the show~~  
38 ~~cause hearing.))~~

39 (3) (a) At the hearing resulting from subsection (1) or (2) of  
40 this section, the committed person shall be entitled to be present

1 and to the benefit of all constitutional protections that were  
2 afforded to the person at the initial commitment proceeding. The  
3 prosecuting agency shall represent the state and shall have a right  
4 to a jury trial and to have the committed person evaluated by experts  
5 chosen by the state. The prosecuting agency shall have a right to a  
6 current evaluation of the person by experts chosen by the state. The  
7 judge may require the person to complete any or all of the following  
8 procedures or tests if requested by the evaluator: (i) A clinical  
9 interview; (ii) psychological testing; (iii) plethysmograph testing;  
10 and (iv) polygraph testing. The judge may order the person to  
11 complete any other procedures and tests relevant to the evaluation.  
12 The state is responsible for the costs of the evaluation. The  
13 committed person shall also have the right to a jury trial and the  
14 right to have experts evaluate him or her on his or her behalf and  
15 the court shall appoint an expert if the person is indigent and  
16 requests an appointment.

17 (b) Whenever any indigent person is subjected to an evaluation  
18 under (a) of this subsection, the office of public defense is  
19 responsible for the cost of one expert or professional person  
20 conducting an evaluation on the person's behalf. When the person  
21 wishes to be evaluated by a qualified expert or professional person  
22 of his or her own choice, such expert or professional person must be  
23 permitted to have reasonable access to the person for the purpose of  
24 such evaluation, as well as to all relevant medical and psychological  
25 records and reports. In the case of a person who is indigent, the  
26 court shall, upon the person's request, assist the person in  
27 obtaining an expert or professional person to perform an evaluation  
28 or participate in the hearing on the person's behalf. Nothing in this  
29 chapter precludes the person from paying for additional expert  
30 services at his or her own expense.

31 (c) If the issue at the hearing is whether the person should be  
32 unconditionally discharged, the burden of proof shall be upon the  
33 state to prove beyond a reasonable doubt that the committed person's  
34 condition remains such that the person continues to meet the  
35 definition of a sexually violent predator. Evidence of the prior  
36 commitment trial and disposition is admissible. The recommitment  
37 proceeding shall otherwise proceed as set forth in RCW 71.09.050 and  
38 71.09.060.

39 (d) If the issue at the hearing is whether the person should be  
40 conditionally released to a less restrictive alternative, the burden

1 of proof at the hearing shall be upon the state to prove beyond a  
2 reasonable doubt that conditional release to any proposed less  
3 restrictive alternative either: (i) Is not in the best interest of  
4 the committed person; or (ii) does not include conditions that would  
5 adequately protect the community. Evidence of the prior commitment  
6 trial and disposition is admissible.

7 (4) (a) Probable cause exists to believe that a person's condition  
8 has "so changed," under subsection (2) of this section, only when  
9 evidence exists, since the person's last commitment trial, or less  
10 restrictive alternative revocation proceeding, of a substantial  
11 change in the person's physical or mental condition such that the  
12 person either no longer meets the definition of a sexually violent  
13 predator or that a conditional release to a less restrictive  
14 alternative is in the person's best interest and conditions can be  
15 imposed to adequately protect the community.

16 (b) A new trial proceeding under subsection (3) of this section  
17 may be ordered, or a trial proceeding may be held, only when there is  
18 current evidence from a licensed professional of one of the following  
19 and the evidence presents a change in condition since the person's  
20 last commitment trial proceeding:

21 (i) An identified physiological change to the person, such as  
22 paralysis, stroke, or dementia, that renders the committed person  
23 unable to commit a sexually violent act and this change is permanent;  
24 or

25 (ii) A change in the person's mental condition brought about  
26 through positive response to continuing participation in treatment  
27 which indicates that the person meets the standard for conditional  
28 release to a less restrictive alternative or that the person would be  
29 safe to be at large if unconditionally released from commitment.

30 (c) For purposes of this section, a change in a single  
31 demographic factor, without more, does not establish probable cause  
32 for a new trial proceeding under subsection (3) of this section. As  
33 used in this section, a single demographic factor includes, but is  
34 not limited to, a change in the chronological age, marital status, or  
35 gender of the committed person.

36 (5) When the court enters an order for unconditional discharge of  
37 a person from an immediately preceding less restrictive placement,  
38 the court must direct the clerk to transmit a copy of the order to  
39 the department of corrections for discharge process and termination  
40 of cause.

1        (6) The jurisdiction of the court over a person civilly committed  
2 pursuant to this chapter continues until such time as the person is  
3 unconditionally discharged.

4        ~~((+6+))~~ (7) During any period of confinement pursuant to a  
5 criminal conviction, or for any period of detention awaiting trial on  
6 criminal charges, this section is suspended.

7        **Sec. 5.** RCW 71.09.092 and 2009 c 409 s 9 are each amended to  
8 read as follows:

9        Before the court may enter an order directing conditional release  
10 to a less restrictive alternative, it must find the following: (1)  
11 The person will be treated by a treatment provider who is qualified  
12 to provide such treatment in the state of Washington under chapter  
13 18.155 RCW; (2) the treatment provider has presented a specific  
14 course of treatment and has agreed to assume responsibility for such  
15 treatment and will report progress to the court on a regular basis,  
16 and will report violations immediately to the court, the prosecutor,  
17 the supervising community corrections officer, and the superintendent  
18 of the special commitment center; (3) housing exists in Washington  
19 that complies with distance restrictions, is sufficiently secure to  
20 protect the community, and the person or agency providing housing to  
21 the conditionally released person has agreed in writing to accept the  
22 person, to provide the level of security required by the court, and  
23 immediately to report to the court, the prosecutor, the supervising  
24 community corrections officer, and the superintendent of the special  
25 commitment center if the person leaves the housing to which he or she  
26 has been assigned without authorization; (4) if the department has  
27 proposed housing that is outside of the county of commitment, a  
28 documented effort was made by the department to ensure that placement  
29 is consistent with fair share principles of release; (5) the person  
30 is willing to comply with the treatment provider and all requirements  
31 imposed by the treatment provider and by the court; and ~~((+5+))~~ (6)  
32 the person will be under the supervision of the department of  
33 corrections and is willing to comply with supervision requirements  
34 imposed by the department of corrections.

35        **Sec. 6.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to  
36 read as follows:

37        (1) If the court or jury determines that conditional release to a  
38 less restrictive alternative is in the best interest of the person

1 and includes conditions that would adequately protect the community,  
2 and the court determines that the minimum conditions set forth in RCW  
3 71.09.092 and in this section are met, the court shall enter judgment  
4 and direct a conditional release.

5 (2) The court shall impose any additional conditions necessary to  
6 ensure compliance with treatment and to protect the community. If the  
7 court finds that conditions do not exist that will both ensure the  
8 person's compliance with treatment and protect the community, then  
9 the person shall be remanded to the custody of the department of  
10 social and health services for control, care, and treatment in a  
11 secure facility as designated in RCW 71.09.060(1).

12 (3) If the service provider designated by the court to provide  
13 inpatient or outpatient treatment or to monitor or supervise any  
14 other terms and conditions of a person's placement in a less  
15 restrictive alternative is other than the department of social and  
16 health services or the department of corrections, then the service  
17 provider so designated must agree in writing to provide such  
18 treatment, monitoring, or supervision in accord with this section.  
19 Any person providing or agreeing to provide treatment, monitoring, or  
20 supervision services pursuant to this chapter may be compelled to  
21 testify and any privilege with regard to such person's testimony is  
22 deemed waived.

23 (4) (a) Prior to authorizing any release to a less restrictive  
24 alternative, the court shall impose such conditions upon the person  
25 as are necessary to ensure the safety of the community. In imposing  
26 conditions, the court must impose a restriction on the proximity of  
27 the person's residence to public or private schools providing  
28 instruction to kindergarten or any grades one through 12 in  
29 accordance with RCW 72.09.340. Courts shall require a minimum  
30 distance restriction of 500 feet on the proximity of the person's  
31 residence to child care facilities and public or private schools  
32 providing instruction to kindergarten or any grades one through 12.  
33 The court shall order the department of corrections to investigate  
34 the less restrictive alternative and, within 60 days of the order to  
35 investigate, recommend any additional conditions to the court. These  
36 conditions shall be individualized to address the person's specific  
37 risk factors and criminogenic needs and may include, but are not  
38 limited to the following: Specification of residence or restrictions  
39 on residence including distance restrictions, specification of  
40 contact with a reasonable number of individuals upon the person's

1 request who are verified by the department of corrections to be  
2 appropriate social contacts, prohibition of contact with potential or  
3 past victims, prohibition of alcohol and other drug use,  
4 participation in a specific course of inpatient or outpatient  
5 treatment that may include monitoring by the use of polygraph and  
6 plethysmograph, monitoring through the use of global positioning  
7 (~~satellite [global positioning system]~~) system technology,  
8 supervision by a department of corrections community corrections  
9 officer, a requirement that the person remain within the state unless  
10 the person receives prior authorization by the court, and any other  
11 conditions that the court determines are in the best interest of the  
12 person or others. A copy of the conditions of release shall be given  
13 to the person and to any designated service providers.

14 (b) To the greatest extent possible, the person, person's  
15 counsel, prosecuting agency responsible for the initial commitment,  
16 treatment provider, supervising community corrections officer, and  
17 appropriate clinical staff of the special commitment center shall  
18 meet and collaborate to craft individualized, narrowly tailored, and  
19 empirically based conditions to present to the court to help  
20 facilitate the person's successful transition to the community.

21 (5) (a) Prior to authorizing release to a less restrictive  
22 alternative proposed by the department, the court shall consider  
23 whether (~~it is appropriate to release the person to the person's~~  
24 ~~county of commitment~~) the person's less restrictive alternative  
25 placement is in accordance with fair share principles. To ensure  
26 equitable distribution of releases, and prevent the disproportionate  
27 grouping of persons subject to less restrictive orders in any one  
28 county, or in any one jurisdiction or community within a county, the  
29 legislature finds it is appropriate for releases to a less  
30 restrictive alternative to occur in (~~the person's county of~~  
31 ~~commitment, unless~~) a manner that adheres to fair share principles.  
32 The legislature recognizes that there may be reasons why the  
33 department may not recommend that a person be released to his or her  
34 county of commitment, including availability of individualized  
35 resources, the person's support needs, or when the court determines  
36 that the person's return to his or her county of commitment would be  
37 inappropriate considering any court-issued protection orders, victim  
38 safety concerns that cannot be addressed through use of global  
39 positioning system technology, the (~~availability~~) unavailability of  
40 appropriate treatment or facilities that would adequately protect the

1 community, negative influences on the person, ~~((e))~~ and the location  
2 of family or other persons or organizations offering support to the  
3 person. If the court authorizes conditional release based on the  
4 department's proposal to a county other than the county of  
5 commitment, the court shall enter specific findings regarding its  
6 decision and identify whether the release remains in line with fair  
7 share principles.

8 (b)(i) When the department ~~((or court assists in developing a))~~  
9 develops a less restrictive alternative placement under this section  
10 ~~((which is outside of the county of commitment, and there are two or~~  
11 ~~more options for placement, it shall endeavor to develop the~~  
12 ~~placement in a manner that does not have a disproportionate effect on~~  
13 ~~a single county)), it shall attempt to identify a placement~~  
14 satisfying the requirements of RCW 71.09.092 that is aligned with  
15 fair share principles. The department shall document its rationale  
16 for the recommended placement.

17 (ii) If the department does not support or recommend conditional  
18 release to a less restrictive alternative due to a clinical  
19 determination, the department shall document its objection and  
20 certify that the department is developing the less restrictive  
21 alternative pursuant to a court order and not because of a clinical  
22 determination.

23 (iii) When the department develops or proposes a less restrictive  
24 alternative placement under this chapter, it shall be considered a  
25 predisposition recommendation.

26 (iv) In developing, modifying, and enforcing less restrictive  
27 alternatives, the department shall be deemed to be performing a  
28 quasi-judicial function.

29 ~~((b))~~ (c) If the committed person is not conditionally released  
30 to his or her county of commitment, the department shall provide the  
31 law and justice council of the county in which the person is  
32 conditionally released with notice and a written explanation,  
33 including whether the department remains in compliance with fair  
34 share principles regarding releases under this chapter.

35 ~~((e))~~ (d) For purposes of this section, the person's county of  
36 commitment means the county of the court which ordered the person's  
37 commitment.

38 ~~((d))~~ (e) This subsection (5) does not apply to releases to a  
39 secure community transition facility under RCW 71.09.250.



1       (6)(a) When ordered by the court, the department must provide  
2 less restrictive alternative treatment that includes, at a minimum:

3       (i) The services identified in the person's discharge plan as  
4 outlined in RCW 71.09.080(4);

5       (ii) The assignment of a community care coordinator;

6       (iii) Regular contacts with providers of court-ordered treatment  
7 services;

8       (iv) Community escorts, if needed;

9       (v) A transition plan that addresses the person's access to  
10 continued services upon unconditional discharge;

11       (vi) Financial support for necessary housing;

12       (vii) Life skills training and disability accommodations, if  
13 needed; and

14       (viii) Assistance in pursuing benefits, education, and  
15 employment.

16       (b) At the time the department of corrections is ordered to  
17 investigate a proposed less restrictive alternative placement,  
18 subject to the availability of amounts appropriated for this specific  
19 purpose, the department shall assign a social worker to assist the  
20 person with discharge planning, pursuing benefits, and coordination  
21 of care prior to release.

22       (i) The social worker shall assist the person with completing  
23 applications for benefits prior to the person's release from total  
24 confinement.

25       (ii) To promote continuity of care and the individual's success  
26 in the community, the department social worker shall be responsible  
27 for initiating a clinical transition of care between the last  
28 treating clinician at the special commitment center and the person's  
29 designated community treatment provider. This transition between one  
30 clinical setting to another shall occur no later than 15 days before  
31 an individual's release from the special commitment center.

32       (iii) If applicable, the social worker shall assist the person  
33 with locating any needed disability accommodations in the community  
34 and with obtaining resources to help address the person's identified  
35 life skills needs prior to release from total confinement.

36       (7) Any service provider designated to provide inpatient or  
37 outpatient treatment shall monthly, or as otherwise directed by the  
38 court, submit to the court, to the department of social and health  
39 services facility from which the person was released, to the  
40 prosecuting agency, and to the supervising community corrections

1 officer, a report stating whether the person is complying with the  
2 terms and conditions of the conditional release to a less restrictive  
3 alternative.

4 ~~((7))~~ (8) Each person released to a less restrictive  
5 alternative shall have his or her case reviewed by the court that  
6 released him or her no later than one year after such release and  
7 annually thereafter until the person is unconditionally discharged.  
8 Review may occur in a shorter time or more frequently, if the court,  
9 in its discretion on its own motion, or on motion of the person, the  
10 secretary, or the prosecuting agency so determines. The ~~((sole~~  
11 ~~question))~~ questions to be determined by the court ~~((is))~~ are whether  
12 the person shall continue to be conditionally released to a less  
13 restrictive alternative, and if so, whether a modification to the  
14 person's less restrictive alternative order is appropriate to ensure  
15 the conditional release remains in the best interest of the person  
16 and adequate to protect the community. The court in making its  
17 determination shall be aided by the periodic reports filed pursuant  
18 to subsection ~~((6))~~ (7) of this section and the opinions of the  
19 secretary and other experts or professional persons.

20 **Sec. 7.** RCW 71.09.130 and 1995 c 216 s 16 are each amended to  
21 read as follows:

22 (1) In the event of an escape by a person committed under this  
23 chapter from a state institution or the disappearance of such a  
24 person while on conditional release, the superintendent or community  
25 corrections officer shall notify the following as appropriate: Local  
26 law enforcement officers, other governmental agencies, the person's  
27 relatives, and any other appropriate persons about information  
28 necessary for the public safety or to assist in the apprehension of  
29 the person.

30 (2) If a person committed under this chapter disappears while on  
31 conditional release, the department of corrections may enter a  
32 warrant for the person's arrest for up to 72 hours pending entry of a  
33 bench warrant by the court.

34 (3) The department of corrections, its officers, agents, and  
35 employees are not liable for the acts of individuals on conditional  
36 release unless the department of corrections, its officers, agency,  
37 and employees acted with gross negligence.

1       **Sec. 8.** RCW 71.09.140 and 2012 c 257 s 12 are each amended to  
2 read as follows:

3       (1) ~~(a)~~ At the earliest possible date, and in no event later than  
4 ~~((thirty))~~ 30 days before conditional release, change of address for  
5 a person on conditional release, or unconditional discharge, except  
6 in the event of escape, the department of social and health services  
7 shall send written notice of conditional release, unconditional  
8 discharge, or escape, to the following:

9       ~~((a))~~ (i) The chief of police of the city, if any, in which the  
10 person will reside or in which placement will be made under a less  
11 restrictive alternative;

12       ~~((b))~~ (ii) The sheriff of the county in which the person will  
13 reside or in which placement will be made under a less restrictive  
14 alternative; and

15       ~~((c))~~ (iii) The sheriff of the county where the person was last  
16 convicted of a sexually violent offense, if the department does not  
17 know where the person will reside.

18       The department shall notify the state patrol of the release of  
19 all sexually violent predators and that information shall be placed  
20 in the Washington crime information center for dissemination to all  
21 law enforcement.

22       (b) A return to total confinement or to a secure community  
23 transition facility pending revocation or modification proceedings is  
24 not considered a change of address for purposes of (a) of this  
25 subsection, and an additional community notification process is not  
26 required, unless conditional release is revoked under RCW 71.09.098  
27 or the return lasts longer than 90 days.

28       (2) The same notice as required by subsection (1) of this section  
29 shall be sent to the following if such notice has been requested in  
30 writing about a specific person found to be a sexually violent  
31 predator under this chapter:

32       (a) The victim or victims of any sexually violent offenses for  
33 which the person was convicted in the past or the victim's next of  
34 kin if the crime was a homicide. "Next of kin" as used in this  
35 section means a person's spouse, parents, siblings, and children;

36       (b) Any witnesses who testified against the person in his or her  
37 commitment trial under RCW 71.09.060; and

38       (c) Any person specified in writing by the prosecuting agency.

39       Information regarding victims, next of kin, or witnesses  
40 requesting the notice, information regarding any other person

1 specified in writing by the prosecuting agency to receive the notice,  
2 and the notice are confidential and shall not be available to the  
3 committed person.

4 (3) If a person committed as a sexually violent predator under  
5 this chapter escapes from a department of social and health services  
6 facility, the department shall immediately notify, by the most  
7 reasonable and expedient means available, the chief of police of the  
8 city and the sheriff of the county in which the committed person  
9 resided immediately before his or her commitment as a sexually  
10 violent predator, or immediately before his or her incarceration for  
11 his or her most recent offense. If previously requested, the  
12 department shall also notify the witnesses and the victims of the  
13 sexually violent offenses for which the person was convicted in the  
14 past or the victim's next of kin if the crime was a homicide. If the  
15 person is recaptured, the department shall send notice to the persons  
16 designated in this subsection as soon as possible but in no event  
17 later than two working days after the department learns of such  
18 recapture.

19 (4) If the victim or victims of any sexually violent offenses for  
20 which the person was convicted in the past or the victim's next of  
21 kin, or any witness is under the age of (~~sixteen~~) 16, the notice  
22 required by this section shall be sent to the parents or legal  
23 guardian of the child.

24 (5) The department of social and health services shall send the  
25 notices required by this chapter to the last address provided to the  
26 department by the requesting party. The requesting party shall  
27 furnish the department with a current address.

28 (6) Nothing in this section shall impose any liability upon a  
29 chief of police of a city or sheriff of a county for failing to  
30 request in writing a notice as provided in subsection (1) of this  
31 section.

32 **Sec. 9.** RCW 71.09.250 and 2003 c 216 s 3 are each amended to  
33 read as follows:

34 (1)(a) The secretary is authorized to site, construct, occupy,  
35 and operate (i) a secure community transition facility on McNeil  
36 Island for persons authorized to petition for a less restrictive  
37 alternative under RCW 71.09.090(1) and who are conditionally  
38 released; and (ii) a special commitment center on McNeil Island with  
39 up to four hundred four beds as a total confinement facility under

1 this chapter, subject to appropriated funding for those purposes. The  
2 secure community transition facility shall be authorized for the  
3 number of beds needed to ensure compliance with the orders of the  
4 superior courts under this chapter and the federal district court for  
5 the western district of Washington. The total number of beds in the  
6 secure community transition facility shall be limited to (~~twenty-~~  
7 ~~four~~) 24, consisting of up to (~~fifteen~~) 15 transitional beds and  
8 up to nine pretransitional beds. The residents occupying the  
9 transitional beds shall be the only residents eligible for  
10 transitional services occurring in Pierce county. In no event shall  
11 more than (~~fifteen~~) 15 residents of the secure community transition  
12 facility be participating in off-island transitional, educational, or  
13 employment activity at the same time in Pierce county. The department  
14 shall provide the Pierce county sheriff, or his or her designee, with  
15 a list of the (~~fifteen~~) 15 residents so designated, along with  
16 their photographs and physical descriptions, and the list shall be  
17 immediately updated whenever a residential change occurs. The Pierce  
18 county sheriff, or his or her designee, shall be provided an  
19 opportunity to confirm the residential status of each resident  
20 leaving McNeil Island.

21 (b) For purposes of this subsection, "transitional beds" means  
22 beds only for residents who are judged by a qualified expert to be  
23 suitable to leave the island for treatment, education, and  
24 employment.

25 (2)(a) The secretary is authorized to site, either within the  
26 secure community transition facility established pursuant to  
27 subsection (1)(a)(i) of this section, or within the special  
28 commitment center, up to nine pretransitional beds.

29 (b) Residents assigned to pretransitional beds shall not be  
30 permitted to leave McNeil Island for education, employment,  
31 treatment, or community activities in Pierce county.

32 (c) For purposes of this subsection, "pretransitional beds" means  
33 beds for residents whose progress toward a less secure residential  
34 environment and transition into more complete community involvement  
35 is projected to take substantially longer than a typical resident of  
36 the special commitment center.

37 (3) Notwithstanding RCW 36.70A.103 or any other law, this statute  
38 preempts and supersedes local plans, development regulations,  
39 permitting requirements, inspection requirements, and all other laws  
40 as necessary to enable the secretary to site, construct, occupy, and

1 operate a secure community transition facility on McNeil Island and a  
2 total confinement facility on McNeil Island.

3 (4) To the greatest extent possible, until June 30, 2003, persons  
4 who were not civilly committed from the county in which the secure  
5 community transition facility established pursuant to subsection (1)  
6 of this section is located may not be conditionally released to a  
7 setting in that same county less restrictive than that facility.

8 (5) As of June 26, 2001, the state shall immediately cease any  
9 efforts in effect on such date to site secure community transition  
10 facilities, other than the facility authorized by subsection (1) of  
11 this section, and shall instead site such facilities in accordance  
12 with the provisions of this section.

13 (6) The department must:

14 (a) Identify the minimum and maximum number of secure community  
15 transition facility beds in addition to the facility established  
16 under subsection (1) of this section that may be necessary for the  
17 period of May 2004 through May 2007 and provide notice of these  
18 numbers to all counties by August 31, 2001; and

19 (b) Develop and publish policy guidelines for the siting and  
20 operation of secure community transition facilities.

21 (7)(a) The total number of secure community transition facility  
22 beds that may be required to be sited in a county between June 26,  
23 2001, and June 30, 2008, may be no greater than the total number of  
24 persons civilly committed from that county, or detained at the  
25 special commitment center under a pending civil commitment petition  
26 from that county where a finding of probable cause had been made on  
27 April 1, 2001. The total number of secure community transition  
28 facility beds required to be sited in each county between July 1,  
29 2008, and June 30, 2015, may be no greater than the total number of  
30 persons civilly committed from that county or detained at the special  
31 commitment center under a pending civil commitment petition from that  
32 county where a finding of probable cause had been made as of July 1,  
33 2008.

34 (b) Counties and cities that provide secure community transition  
35 facility beds above the maximum number that they could be required to  
36 site under this subsection are eligible for a bonus grant under the  
37 incentive provisions in RCW 71.09.255. The county where the special  
38 commitment center is located shall receive this bonus grant for the  
39 number of beds in the facility established in subsection (1) of this

1 section in excess of the maximum number established by this  
2 subsection.

3 (c) No secure community transition facilities in addition to the  
4 one established in subsection (1) of this section may be required to  
5 be sited in the county where the special commitment center is located  
6 until after June 30, 2008, provided however, that the county and its  
7 cities may elect to site additional secure community transition  
8 facilities and shall be eligible under the incentive provisions of  
9 RCW 71.09.255 for any additional facilities meeting the requirements  
10 of that section.

11 (8) After the department demonstrates the need for additional bed  
12 capacity to the appropriate committees of the legislature, and  
13 receives approval and funding from the appropriate committees of the  
14 legislature to build additional bed capacity, the state is authorized  
15 to site and operate secure community transition facilities and other  
16 conditional release and transitional facilities in any county in the  
17 state in accordance with RCW 71.09.315. In identifying potential  
18 counties and sites within a county for the location of a secure  
19 community transition facility or other conditional release and  
20 transitional facilities, the department shall work with and assist  
21 local governments to provide for the equitable distribution of such  
22 facilities. In coordinating and deciding upon the siting of secure  
23 community transition facilities or other conditional release and  
24 transitional facilities within a county, great weight shall be given  
25 by the county and cities within the county to:

26 (a) The number and location of existing residential facility beds  
27 operated by the department of corrections or the mental health  
28 division of the department of social and health services in each  
29 jurisdiction in the county; and

30 (b) The number of registered sex offenders classified as level II  
31 or level III and the number of sex offenders registered as homeless  
32 residing in each jurisdiction in the county.

33 (9) (a) "Equitable distribution" means siting or locating secure  
34 community transition facilities and other conditional release and  
35 transitional facilities in a manner that will not cause a  
36 disproportionate grouping of similar facilities either in any one  
37 county, or in any one jurisdiction or community within a county, as  
38 relevant; and

1 (b) "Jurisdiction" means a city, town, or geographic area of a  
2 county in which distinct political or judicial authority may be  
3 exercised.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 71.09  
5 RCW to read as follows:

6 To facilitate the primary role of the department in identifying  
7 less restrictive alternative placements under RCW 71.09.090 and  
8 discharge planning under RCW 71.09.080, subject to the availability  
9 of amounts appropriated for this specific purpose, the department  
10 shall conduct a study to explore the development of conditional  
11 release and transition facilities, which may include community-based  
12 state-operated living alternatives similar to the state-operated  
13 living alternative program operated by the developmental disabilities  
14 administration. Any facilities or placements developed under this  
15 section may be identified through a request for proposal process or  
16 through direct state acquisition and development. Any contracts with  
17 facilities or placements entered into under this section shall  
18 include a provision requiring oversight by the department to ensure  
19 the programs are operating appropriately.

20 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.09  
21 RCW to read as follows:

22 (1) In accordance with RCW 71.09.090 and 71.09.096, the  
23 department shall have the primary responsibility for developing a  
24 less restrictive alternative placement. To ensure the department has  
25 sufficient less restrictive alternative placements to choose from  
26 that satisfy the requirements of RCW 71.09.092, subject to the  
27 availability of amounts appropriated for this specific purpose, the  
28 department shall use a request for proposal process to solicit and  
29 contract with housing and treatment providers from across the state  
30 and facilitate fair share principles among the counties. In order to  
31 increase the number of housing options for individuals qualifying for  
32 a less restrictive alternative, the department shall have oversight  
33 of the vendors and providers who contract with the state, including  
34 the authority to inspect and ensure compliance, negotiate the rates  
35 charged for services, ensure adequate living conditions of housing  
36 locations, and terminate contracts. The department shall maintain a  
37 statewide accounting of the contracted community housing and  
38 treatment providers in each county and provide a biannual report to



1 the legislature and governor by December 1st on the availability and  
2 adequacy of less restrictive alternative placements and the  
3 department's compliance with fair share principles.

4 (2) To facilitate its duties required under this section, the  
5 department shall use the following housing matrix and considerations  
6 as a guide to planning and developing less restrictive alternative  
7 placements. The following considerations may not be used as a reason  
8 to deny a less restrictive alternative placement.

9 (a) Considerations for evaluating a proposed vendor's application  
10 for less restrictive alternative housing services shall include  
11 applicable state and local zoning and building codes, general housing  
12 requirements, availability of public services, and other  
13 considerations identified in accordance with RCW 71.09.315. The  
14 department shall require the housing provider to provide proof that  
15 the facility is in compliance with all local zoning and building  
16 codes.

17 (i) General housing requirements include running water,  
18 electricity, bedroom and living space of adequate size, and no mold  
19 or infestations.

20 (ii) Availability of public services include availability of  
21 chaperones and whether the placement is within a reasonable distance  
22 to a grocery store, bank, public transportation options, and offices  
23 for public services and benefits.

24 (iii) Other considerations include whether the placement is  
25 consistent with fair share principles across the counties, whether  
26 the placement is within reasonable distance to other current or  
27 planned components of the less restrictive alternative, whether the  
28 placement is within reasonable distance to employment opportunities,  
29 and the reliability of global positioning system technology.

30 (b) Factors for evaluating less restrictive alternative options  
31 for a specific individual include sex offender treatment  
32 considerations, criminogenic needs and risk factors, protective  
33 factors, and the specific needs of the client.

34 (i) Sex offender treatment considerations include whether the  
35 housing is within a reasonable distance from the treatment provider,  
36 whether the treatment provider is a good therapeutic match with the  
37 client, and whether the treatment provider has relevant experience  
38 and background to treat the client if the client has special needs.

1 (ii) Criminogenic needs and risk factors include consideration of  
2 the person's specific needs and risk factors in evaluating less  
3 restrictive alternative options.

4 (iii) Protective factors include whether housing is within a  
5 reasonable distance of family, friends, potential hobbies, potential  
6 employment, and educational opportunities.

7 (iv) Consideration of the client's specific needs includes  
8 assessing the availability of personal care assistance and in-home  
9 care assistance, and whether housing is within a reasonable distance  
10 of mental health, medical treatment options, and substance use  
11 disorder treatment options.

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.09  
13 RCW to read as follows:

14 (1) The department shall enter into a memorandum of understanding  
15 with the department of licensing to allow residents in total  
16 confinement at the special commitment center to obtain a state  
17 identification card through a written identification verification  
18 letter completed by the special commitment center and delivered to  
19 the department of licensing.

20 (2) The process shall occur upon the person's initial detention  
21 at the special commitment center. The process shall reoccur when the  
22 person's state identification card expires.

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

25 (1) Subject to the availability of amounts appropriated for this  
26 specific purpose, the department, the sex offender policy board, and  
27 department of health shall convene a work group to develop  
28 recommendations to increase the availability and quality of sex  
29 offender treatment providers to meet the growing number of persons  
30 qualifying for conditional release to a less restrictive alternative.  
31 The work group shall gather data on best practices in other states  
32 and make recommendations whether sex offender treatment providers  
33 should be required to contract with the department; whether annual or  
34 biannual trainings by the department should be mandatory for  
35 prospective and existing sex offender treatment providers; whether  
36 the department should provide competitive wages for services or pay  
37 that is commensurate with the years of experience or education level  
38 of the treatment provider; and whether the department should provide

1 other incentives such as a cost-of-living pay increase or  
2 compensating providers for the cost of mandated trainings associated  
3 with the sex offender treatment provider license under chapter 18.155  
4 RCW. A report shall be submitted to the legislature by December 1,  
5 2021.

6 (2) This section expires June 30, 2022.

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

9 (1) In accordance with RCW 9.94A.8673, the sex offender policy  
10 board shall meet quarterly during the 2021-2023 biennium to continue  
11 its review of sexually violent predators and less restrictive  
12 alternative policies and best practices, collaborate with  
13 stakeholders and the department, provide outreach to providers and  
14 stakeholders, and monitor implementation of this act. The board shall  
15 also explore and make recommendations whether to continue or remove  
16 the prohibition on a less restrictive alternative from including a  
17 placement in the community protection program pursuant to RCW  
18 71A.12.230. The board shall provide semiannual updates to the  
19 appropriate committees of the legislature during the 2021-2023  
20 biennium.

21 (2) This section expires June 30, 2023.

22 NEW SECTION. **Sec. 15.** A new section is added to chapter 9.94A  
23 RCW to read as follows:

24 (1) In accordance with section 14 of this act, the sex offender  
25 policy board shall meet quarterly during the 2021-2023 biennium to  
26 continue its review of sexually violent predators and less  
27 restrictive alternative policies and best practices, collaborate with  
28 stakeholders and the department, provide outreach to providers and  
29 stakeholders, and monitor implementation of this act. The board shall  
30 provide semiannual updates to the appropriate committees of the  
31 legislature during the 2021-2023 biennium.

32 (2) This section expires June 30, 2023.

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