

# FINAL BILL REPORT

## 2SSB 5088

---

C 216 L 95

Synopsis as Enacted

**Brief Description:** Revising the law relating to sexual predators.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senator Smith).

**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**  
**House Committee on Corrections**  
**House Committee on Appropriations**

**Background:** In 1990, the Legislature passed the Community Protection Act in order to address, in a comprehensive manner, the increasing danger posed by sex offenders.

One component of the act is a civil commitment procedure, which is created for a special category of sex offenders known as "sexually violent predators." A sexually violent predator is any person who has been convicted of or charged with a crime of sexual violence, and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence.

In 1993, the Washington State Supreme Court found the overall statutory scheme presented in the civil commitment section of the Community Protection Act to be constitutional. In Re Young, 122 Wn. 2d 1 (1993). However, the court did find that several aspects of the act required clarification.

**Summary:** Comprehensive revisions are made to the sexually violent predator statute to reflect concerns expressed in recent court decisions. In addition, the operation of the statute is clarified.

The definition of a sexual predator is modified to include a requirement that the person needs to be confined in a secure facility in order to prevent future predatory acts.

A person alleged to be a sexual predator is entitled to a probable cause hearing within 72 hours after he or she is taken into custody. The detained person has the right to be represented by an attorney, to present evidence, to cross-examine witnesses, and review all reports in the court file.

The detained person has the right to a 12-person verdict, and the jury determination that the person is a sex predator must be unanimous.

If the person is not totally confined at the time the petition is filed, the state must show a recent overt act.

Procedures are established to allow a sex predator to petition the court for a conditional release by showing that his disorder or abnormality is changed to the extent that he or she is not likely to engage in predatory acts of sexual violence. In addition, the person must show that: (1) a qualified treatment provider is going to provide treatment; (2) a specific course of treatment is established; (3) a secure facility is available; (4) he or she is going to comply with the treatment program approved by the department and the court; and (5) he or she is going to comply with the supervision requirements of the Department of Corrections (DOC).

A court must direct a conditional release if the less restrictive alternative is in the best interest of the person and adequately protects the community. The court may impose treatment conditions and other conditions to protect the public.

Procedures are established to revoke the less restrictive alternative if the person does not comply with the terms and conditions of release.

The Department of Social and Health Services is responsible for costs relating to evaluation and treatment of the person in a less restrictive alternative.

The crime of escape in the second degree is established for any person who intentionally leaves the state of Washington without prior court authorization after being found a sex predator. A violation is a class C felony.

DOC may allow an escorted leave for a confined person to visit a seriously ill family member or go to the funeral of a family member.

Various definitions are revised or created. Definitions are created for an "overt act" and "likely to engage in predatory acts of sexual violence."

**Votes on Final Passage:**

Senate	49	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** July 23, 1995