

SENATE BILL REPORT

SHB 2513

As Reported By Senate Committee On:
Human Services & Corrections, February 23, 2000

Title: An act relating to information concerning mental health services.

Brief Description: Providing for the release of mental health information under certain circumstances.

Sponsors: House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ballasiotes, O'Brien, Koster and Hurst; by request of Department of Social and Health Services and Department of Corrections).

Brief History:

Committee Activity: Human Services & Corrections: 2/17/2000, 2/23/2000 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, Patterson, Sheahan, Stevens and Zarelli.

Staff: Fara Daun (786-7459)

Background: Current law mandates cooperation between the Department of Corrections (DOC) and state mental health service providers. Part of the cooperation, with regard to the supervision of offenders in the community, is the sharing of mental health information between the departments and those responsible for assisting mentally ill offenders in the community.

Summary of Amended Bill: The Department of Social and Health Services (DSHS) Mental Health Division and mental health providers are permitted to share relevant mental health records with DOC employees for whom the information is necessary to their employment duties. Information under this act may be provided only for completing presentence investigations, risk assessment, supervising of incarcerated offenders, and planning for and supervising offenders in the community.

DOC may disclose mental health information to the Indeterminate Sentence Review Board, which is bound by the same provisions on redisclosure that DOC is bound by. DOC may disclose to state and local agencies as relevant to plan for and provide offenders transition, treatment, and supervision services or as relevant and necessary to protect the public and counteract the danger presented by a particular offender. State and local agencies may redisclose the information only as permitted by chapters 70.02, 71.05, and 71.34 to the extent that the information is to counteract the danger presented by a particular offender. DOC may provide all relevant and necessary information to law enforcement agencies, on request, in a crisis or emergent situation that poses a public safety risk.

DOC may disclose mental health information to the public as relevant and necessary for the public to take reasonable steps for self protection, but not to engage the public in a system of supervising, monitoring, and reporting offender behavior to DOC. Nothing prevents a member of the public from reporting behavior believed to create a public safety risk to either DOC or law enforcement.

In sentencing hearings or any other hearings in which DOC presents a risk assessment or makes a recommendation to the court, the court may close the hearing to the public, seal portions of the record, or grant other relief to prevent the inappropriate disclosure of mental health information to the public. Sealing a record under this provision does not prevent the subsequent release of the information as authorized in the act.

Amended Bill Compared to Substitute Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is joint request legislation from DOC and DSHS. It is vital for DOC to have mental health information on those mentally ill offenders who present a danger to the community and this bill permits DSHS to provide DOC with those needed records.

Testimony Against: There are constitutional concerns when we place provisions for closing access to the justice system into statute, even though the court already has the authority to close a courtroom under appropriate circumstances. A better solution would be to provide in camera review of the proposed records and testimony and only permit relevant information to be admitted into evidence.

Testified: Representative Al O'Brien, sponsor (pro); Pat Terry, Acting Director Mental Health Division, DSHS (pro); Kathy Stout, DOC (pro); Roland Thompson, Allied Newspapers (concerns).