

# SENATE BILL REPORT

## E2SSB 6630

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As Passed Senate, February 13, 2006

**Title:** An act relating to establishing the community protection program for persons with developmental disabilities.

**Brief Description:** Establishing the community protection program for persons with developmental disabilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kline, Prentice, Keiser, Fairley, Regala, McAuliffe and Kohl-Welles).

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 1/26/06, 1/30/06 [DPS-WM].

Ways & Means: 2/6/06, 2/7/06 [DP2S].

Passed Senate: 2/13/06, 46-1.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** That Substitute Senate Bill No. 6630 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Thibaudeau, Vice Chair; Deccio, Ranking Minority Member; Benson, Brandland, Franklin, Johnson, Kastama, Kline, Parlette and Poulsen.

**Staff:** Sharon Swanson (786-7447)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6630 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

**Staff:** Chelsea Buchanan (786-7446)

**Background:** In 1996, the Legislature began providing funding to the Department of Social and Health Services (DSHS) to create and run a program for persons with developmental disabilities who have demonstrated violent or sexually violent behaviors. The program, known as the Community Protection Program, continues to exist through budget proviso and through Division of Developmental Disabilities policy.

Currently, there are approximately 390 persons placed in the Community Protection Program. Of the 390, approximately 80 percent demonstrate sexually aggressive behavior, with the remaining 20 percent demonstrating violent, assaultive, or arsonist behaviors. Approximately 100 participants are registered sex offenders.

The community protection program offers twenty-four hour per day supervision, treatment and counseling, and access to job training skills through day service programs.

DSHS contracts with private companies to provide the required supervision for persons in the Community Protection Program. Currently, eighteen companies are providing services. Of the eighteen companies, four are non-profit.

**Summary of Bill:** The bill places the Community Protection Program in statute.

It sets forth criteria that a person with developmental disabilities must meet for placement in the Community Protection Program. Entry criteria includes, but is not limited to: conviction of or charged with a crime of sexual violence, including rape and child molestation; the commission of one or more violent offenses, including any class A felony, assault in the second degree, arson in the second degree, or robbery in the second degree; and constituting a current risk to others.

Prior to placement in the program, a person must first receive an assessment from a qualified professional to determine appropriateness for placement in the program.

A person is entitled to an administrative hearing under the Administrative Procedures Act if the person wants to appeal termination of community protection waiver eligibility, assignment to the community protection waiver, and denial of a request for a less restrictive community residential placement. Final decisions made by an administrative law judge may be appealed to superior court.

The process by which a program participant may seek placement in a less restrictive environment is codified. The process, enumerated within the bill, includes: success in complying with reduced supervision; remaining free of offenses that may indicate relapse for at least twelve months; and written verification of the participant's treatment progress.

DSHS's authority to take action against contracted providers of residential services who fail or refuse to comply with the terms of their contract is codified. Sanctions include decertifying or refusing to renew the certification of a provider, imposing conditions on the certification, or imposing civil penalties of not more than three hundred dollars per day per violation.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For (Health & Long-Term Care):** The Community Protection program treats a very unusual population. The needs of the people in this program are difficult and challenging. It is very important that the program be placed in statute and have legislative oversight. The program has been operated with success by the department despite the portrait created by the media. Placing the program in statute and giving the long term care ombudsman oversight is a very positive response. The ombudsman program is a good step but the participants in the program need more protection. They need either guardians or attorneys appointed to represent their interests.

**Testimony Against (Health & Long-Term Care):** None.

**Who Testified (Health & Long-Term Care):** PRO: Kathy Leitch, Department of Social and Health Services - Aging and Disability Service Administration; Karen Ritter, Walsh and Associates; Donna Patrick, Developmental Disabilities Council; David Lord, Washington Protection and Advocacy System.

**Testimony For (Ways & Means):** This bill accomplishes an important purpose, codifying the community protection program. The costs are lower in the substitute than in the original, and additional work is being done to establish a low-cost budget proviso to deal with the ombudsman issue.

**Testimony Against (Ways & Means):** None.

**Who Testified (Ways & Means):** PRO: Senator Kline, prime sponsor.

**House Amendment(s):** The House amendment prohibits the availability of the Community Protection Program as a placement or treatment option available to a person if unconditionally released from detention on a sexually violent predator petition or as a less restrictive alternative for release.

The requirement that consideration be given to the safety and welfare of both the individual and the community when considering lessening Community Protection Program restrictions, reducing supervision, or terminating services is removed.

DSHS is permitted to impose sanctions for listed violations against the provider of any developmental disabilities residential services and support.

DSHS may impose fines not to exceed \$150.00 per violation, per day, against a provider only if DSHS has required a corrective action plan and the provider fails to comply with the plan or cooperate with monitoring.

The provider may request an informal review of the DSHS sanctions.