

SENATE BILL REPORT

SHB 1668

As of March 23, 2015

Title: An act relating to restricting conditional releases of sexually violent predators outside their county of origin.

Brief Description: Restricting conditional releases of sexually violent predators outside their county of origin.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Kilduff, Muri, Hurst, Fey, Stokesbary, Jinkins, Stambaugh, Kirby, Zeiger and Sawyer).

Brief History: Passed House: 3/06/15, 76-22.

Committee Activity: Human Services, Mental Health & Housing: 3/17/15.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Lindsay Erickson (786-7465)

Background: Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed to the Special Commitment Center (SCC). An SVP is a person who has been convicted of, or charged with, a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. When it appears that a person may meet the criteria of an SVP, the prosecuting agency may file a petition to confine the person alleged as an SVP. If a person is found at trial beyond a reasonable doubt to be an SVP, the state is authorized to involuntarily commit the person to the SCC for an indefinite period of time.

The individual is held in total confinement until: (1) the individual's condition has so changed that the individual no longer meets the definition of an SVP; or (2) the court orders the person's conditional release to a less-restrictive alternative placement.

Each individual has the right to an annual progress review by the court or a jury of the court. After reviewing evidence and hearing expert testimony, the court may order conditional release only if the release is in the best interest of the individual and conditions can be imposed that would adequately protect the community.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under current law, before the court may enter an order directing conditional release to a less-restrictive alternative, the court must find that:

- the person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington;
- the treatment provider presented a specific course of treatment, and agreed to assume responsibility for such treatment, report progress to the court on a regular basis, and report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the SCC;
- housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person 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 SCC if the person leaves the housing to which the person has been assigned without authorization;
- the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and
- the person will be under the supervision of the Department of Corrections and is willing to comply with those supervision requirements.

If the court does not find that the individual meets the conditions for release, the individual must remain in the total confinement facility.

Summary of Bill: Prior to authorizing the conditional release of a person who is committed as an SVP to a less-restrictive alternative, the court must consider whether it is appropriate for the conditional release to occur to the person's county of commitment. The person's county of commitment means the county of the court which ordered the person's commitment.

The Legislature finds that it is appropriate for conditional releases to occur in the person's county of commitment, to ensure equitable distribution of releases and prevent the disproportionate grouping of persons subject to less-restrictive orders in any one county or in any one jurisdiction or community within a county, unless the court determines that a return to the county of commitment would be inappropriate considering any of the following:

- court-issued protection orders;
- victim safety concerns;
- lack of availability of appropriate treatment or facilities that would adequately protect the community;
- negative influences on the person; or
- barriers to the location of family or other persons or organizations offering support to the person.

If the Department of Social and Health Services (DSHS) or court assists with developing a placement outside the county of commitment, and there are two or more options, it must attempt to develop a placement in a manner that does not have a disproportionate effect on a single county.

If a person is not released to the person's county of commitment, DSHS must provide notice and a written explanation to the law and justice council of the county in which the person is conditionally released.

These provisions do not apply to conditional releases directly to a secure community transition facility.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: There is a disproportionate number of releases from the SCC occurring in Pierce County, but it could happen in any county. This bill ensures a fair and equitable distribution of those released from the SCC and will keep all communities safe. There is a precedent to this idea known as fair share; for example, the county of origin is the default for Department of Corrections when they release someone from incarceration. This bill would also require DSHS to alert the law and justice counsel if someone is released from the SCC to a non-county of origin. This takes into consideration the victim, the needs of the community, and available treatment.

Persons Testifying: PRO: Representative Kilduff, prime sponsor; Mike Sommerfeld, Pierce County Prosecutor's Office.

Persons Signed in to Testify But Not Testifying: No one.