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HOUSE BILL 1668

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Kilduff, Muri, Hurst, Fey, Stokesbary, Jinkins, Stambaugh, Kirby, Zeiger, and Sawyer

1 AN ACT Relating to restricting conditional releases of sexually  
2 violent predators outside their county of origin; and amending RCW  
3 71.09.096.

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

5 **Sec. 1.** RCW 71.09.096 and 2009 c 409 s 10 are each amended to  
6 read as follows:

7 (1) If the court or jury determines that conditional release to a  
8 less restrictive alternative is in the best interest of the person  
9 and includes conditions that would adequately protect the community,  
10 and the court determines that the minimum conditions set forth in RCW  
11 71.09.092 and in this section are met, the court shall enter judgment  
12 and direct a conditional release.

13 (2) The court shall impose any additional conditions necessary to  
14 ensure compliance with treatment and to protect the community. If the  
15 court finds that conditions do not exist that will both ensure the  
16 person's compliance with treatment and protect the community, then  
17 the person shall be remanded to the custody of the department of  
18 social and health services for control, care, and treatment in a  
19 secure facility as designated in RCW 71.09.060(1).

20 (3) If the service provider designated by the court to provide  
21 inpatient or outpatient treatment or to monitor or supervise any

1 other terms and conditions of a person's placement in a less  
2 restrictive alternative is other than the department of social and  
3 health services or the department of corrections, then the service  
4 provider so designated must agree in writing to provide such  
5 treatment, monitoring, or supervision in accord with this section.  
6 Any person providing or agreeing to provide treatment, monitoring, or  
7 supervision services pursuant to this chapter may be compelled to  
8 testify and any privilege with regard to such person's testimony is  
9 deemed waived.

10 (4) Prior to authorizing any release to a less restrictive  
11 alternative, the court shall impose such conditions upon the person  
12 as are necessary to ensure the safety of the community. The court  
13 shall order the department of corrections to investigate the less  
14 restrictive alternative and recommend any additional conditions to  
15 the court. These conditions shall include, but are not limited to the  
16 following: Specification of residence, prohibition of contact with  
17 potential or past victims, prohibition of alcohol and other drug use,  
18 participation in a specific course of inpatient or outpatient  
19 treatment that may include monitoring by the use of polygraph and  
20 plethysmograph, monitoring through the use of global positioning  
21 satellite technology, supervision by a department of corrections  
22 community corrections officer, a requirement that the person remain  
23 within the state unless the person receives prior authorization by  
24 the court, and any other conditions that the court determines are in  
25 the best interest of the person or others. A copy of the conditions  
26 of release shall be given to the person and to any designated service  
27 providers.

28 (5)(a) Prior to authorizing release to a less restrictive  
29 alternative, the court shall consider whether it is appropriate to  
30 release the person to the person's county of origin. To ensure  
31 equitable distribution of releases, and prevent the disproportionate  
32 grouping of persons subject to less restrictive orders in any one  
33 county, or in any one jurisdiction or community within a county, the  
34 legislature finds it is appropriate for releases to a less  
35 restrictive alternative to occur in the person's county of origin,  
36 unless the court determines that the person's return to his or her  
37 county of origin would be inappropriate considering any court-issued  
38 protection orders, victim safety concerns, the availability of  
39 appropriate treatment or facilities that would adequately protect the  
40 community, negative influences on the person, or the location of

1 family or other persons or organizations offering support to the  
2 person. When the department or court assists in developing a  
3 placement under this section which is outside of the county of  
4 origin, and there are two or more options for placement, it shall  
5 endeavor to develop the placement in a manner that does not have a  
6 disproportionate effect on a single county.

7 (b) If the committed person is not conditionally released to his  
8 or her county of origin, the department shall provide the law and  
9 justice council of the county in which the person is conditionally  
10 released with notice and a written explanation.

11 (c) For purposes of this section, the person's county of origin  
12 means the county of the court which ordered the person's commitment.

13 (d) This subsection (5) does not apply to releases to a secure  
14 community transition facility under RCW 71.09.250.

15 (6) Any service provider designated to provide inpatient or  
16 outpatient treatment shall monthly, or as otherwise directed by the  
17 court, submit to the court, to the department of social and health  
18 services facility from which the person was released, to the  
19 prosecuting agency, and to the supervising community corrections  
20 officer, a report stating whether the person is complying with the  
21 terms and conditions of the conditional release to a less restrictive  
22 alternative.

23 ~~((+6+))~~ (7) Each person released to a less restrictive  
24 alternative shall have his or her case reviewed by the court that  
25 released him or her no later than one year after such release and  
26 annually thereafter until the person is unconditionally discharged.  
27 Review may occur in a shorter time or more frequently, if the court,  
28 in its discretion on its own motion, or on motion of the person, the  
29 secretary, or the prosecuting agency so determines. The sole question  
30 to be determined by the court is whether the person shall continue to  
31 be conditionally released to a less restrictive alternative. The  
32 court in making its determination shall be aided by the periodic  
33 reports filed pursuant to subsection ~~((+5+))~~ (6) of this section and  
34 the opinions of the secretary and other experts or professional  
35 persons.

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