
HOUSE BILL 2093

State of Washington

68th Legislature

2024 Regular Session

By Representatives Griffey, Leavitt, Bronoske, Couture, Robertson, Klicker, Sandlin, Stokesbary, Chambers, Eslick, Graham, Barnard, Jacobsen, Cheney, Caldier, and Hutchins

Prefiled 01/03/24. Read first time 01/08/24. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to improving community safety and justice in the
2 civil commitment of sexually violent predators; amending RCW
3 71.09.020, 71.09.020, 71.09.090, 71.09.092, 71.09.092, 71.09.096,
4 71.09.096, 71.09.097, 71.09.097, and 9.94A.717; adding new sections
5 to chapter 71.09 RCW; providing an effective date; and providing
6 expiration dates.

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

8 **Sec. 1.** RCW 71.09.020 and 2021 c 236 s 2 are each amended to
9 read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Department" means the department of social and health
13 services.

14 (2) "Fair share principles" and "fair share principles of
15 release" means that each county has adequate options for conditional
16 release housing placements in a number generally equivalent to the
17 number of residents from that county who are subject to total
18 confinement pursuant to this chapter.

19 (3) "Health care facility" means any hospital, hospice care
20 center, licensed or certified health care facility, health
21 maintenance organization regulated under chapter 48.46 RCW, federally

1 qualified health maintenance organization, federally approved renal
2 dialysis center or facility, or federally approved blood bank.

3 (4) "Health care practitioner" means an individual or firm
4 licensed or certified to engage actively in a regulated health
5 profession.

6 (5) "Health care services" means those services provided by
7 health professionals licensed pursuant to RCW 18.120.020(4).

8 (6) "Health profession" means those licensed or regulated
9 professions set forth in RCW 18.120.020(4).

10 (7) "Less restrictive alternative" means court-ordered treatment
11 in a setting less restrictive than total confinement which satisfies
12 the conditions set forth in RCW 71.09.092. A less restrictive
13 alternative may not include placement in the community protection
14 program as pursuant to RCW 71A.12.230.

15 (8) "Likely to engage in predatory acts of sexual violence if not
16 confined in a secure facility" means that the person more probably
17 than not will engage in such acts if released unconditionally from
18 detention on the sexually violent predator petition. Such likelihood
19 must be evidenced by a recent overt act if the person is not totally
20 confined at the time the petition is filed under RCW 71.09.030.

21 (9) "Mental abnormality" means a congenital or acquired condition
22 affecting the emotional or volitional capacity which predisposes the
23 person to the commission of criminal sexual acts in a degree
24 constituting such person a menace to the health and safety of others.

25 (10) "Personality disorder" means an enduring pattern of inner
26 experience and behavior that deviates markedly from the expectations
27 of the individual's culture, is pervasive and inflexible, has onset
28 in adolescence or early adulthood, is stable over time and leads to
29 distress or impairment. Purported evidence of a personality disorder
30 must be supported by testimony of a licensed forensic psychologist or
31 psychiatrist.

32 (11) "Predatory" means acts directed towards: (a) Strangers; (b)
33 individuals with whom a relationship has been established or promoted
34 for the primary purpose of victimization; or (c) persons of casual
35 acquaintance with whom no substantial personal relationship exists.

36 (12) "Prosecuting agency" means the prosecuting attorney of the
37 county where the person was convicted or charged or the attorney
38 general if requested by the prosecuting attorney, as provided in RCW
39 71.09.030.

1 (13) "Recent overt act" means any act, threat, or combination
2 thereof that has either caused harm of a sexually violent nature or
3 creates a reasonable apprehension of such harm in the mind of an
4 objective person who knows of the history and mental condition of the
5 person engaging in the act or behaviors.

6 (14) "Risk potential activity" or "risk potential facility" means
7 an activity or facility that provides a higher incidence of risk to
8 the public from persons conditionally released from the special
9 commitment center. Risk potential activities and facilities include:
10 Public and private schools, school bus stops, licensed day care and
11 licensed preschool facilities, public parks, publicly dedicated
12 trails, sports fields, playgrounds, recreational and community
13 centers, churches, synagogues, temples, mosques, public libraries,
14 public and private youth camps, and other((s)) locations where the
15 public is known to congregate identified by the department following
16 the hearings on a potential site required in RCW 71.09.315. For
17 purposes of this chapter, "school bus stops" does not include bus
18 stops established primarily for public transit.

19 (15) "Secretary" means the secretary of social and health
20 services or the secretary's designee.

21 (16) "Secure community transition facility" means a residential
22 facility for persons civilly committed and conditionally released to
23 a less restrictive alternative under this chapter. A secure community
24 transition facility has supervision and security, and either provides
25 or ensures the provision of sex offender treatment services. Secure
26 community transition facilities include but are not limited to the
27 facility established pursuant to RCW 71.09.250(1)(a)(i) and any
28 community-based facilities established under this chapter and
29 operated by the secretary or under contract with the secretary.

30 (17) "Secure facility" means a residential facility for persons
31 civilly confined under the provisions of this chapter that includes
32 security measures sufficient to protect the community. Such
33 facilities include total confinement facilities, secure community
34 transition facilities, and any residence used as a court-ordered
35 placement under RCW 71.09.096.

36 (18) "Sexually violent offense" means an act committed on,
37 before, or after July 1, 1990, that is: (a) An act defined in Title
38 9A RCW as rape in the first degree, rape in the second degree by
39 forcible compulsion, rape of a child in the first or second degree,
40 statutory rape in the first or second degree, indecent liberties by

1 forcible compulsion, indecent liberties against a child under age
2 fourteen, incest against a child under age fourteen, or child
3 molestation in the first or second degree; (b) a felony offense in
4 effect at any time prior to July 1, 1990, that is comparable to a
5 sexually violent offense as defined in (a) of this subsection, or any
6 federal or out-of-state conviction for a felony offense that under
7 the laws of this state would be a sexually violent offense as defined
8 in this subsection; (c) an act of murder in the first or second
9 degree, assault in the first or second degree, assault of a child in
10 the first or second degree, kidnapping in the first or second degree,
11 burglary in the first degree, residential burglary, or unlawful
12 imprisonment, which act, either at the time of sentencing for the
13 offense or subsequently during civil commitment proceedings pursuant
14 to this chapter, has been determined beyond a reasonable doubt to
15 have been sexually motivated, as that term is defined in RCW
16 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is
17 an attempt, criminal solicitation, or criminal conspiracy to commit
18 one of the felonies designated in (a), (b), or (c) of this
19 subsection.

20 (19) "Sexually violent predator" means any person who has been
21 convicted of or charged with a crime of sexual violence and who
22 suffers from a mental abnormality or personality disorder which makes
23 the person likely to engage in predatory acts of sexual violence if
24 not confined in a secure facility.

25 (20) "Total confinement facility" means a secure facility that
26 provides supervision and sex offender treatment services in a total
27 confinement setting. Total confinement facilities include the special
28 commitment center and any similar facility designated as a total
29 confinement facility by the secretary.

30 (21) "Treatment" means the sex offender specific treatment
31 program at the special commitment center or a specific course of sex
32 offender treatment pursuant to RCW 71.09.092 (1) and (2).

33 **Sec. 2.** RCW 71.09.020 and 2021 c 236 s 2 are each amended to
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

37 (1) "Department" means the department of social and health
38 services.

1 (2) "Fair share principles" and "fair share principles of
2 release" means that each ((~~county~~)) region within the state has
3 adequate options for conditional release housing placements in a
4 number generally equivalent to the number of residents from that
5 ((~~county~~)) region who are subject to total confinement pursuant to
6 this chapter.

7 (3) "Health care facility" means any hospital, hospice care
8 center, licensed or certified health care facility, health
9 maintenance organization regulated under chapter 48.46 RCW, federally
10 qualified health maintenance organization, federally approved renal
11 dialysis center or facility, or federally approved blood bank.

12 (4) "Health care practitioner" means an individual or firm
13 licensed or certified to engage actively in a regulated health
14 profession.

15 (5) "Health care services" means those services provided by
16 health professionals licensed pursuant to RCW 18.120.020(4).

17 (6) "Health profession" means those licensed or regulated
18 professions set forth in RCW 18.120.020(4).

19 (7) "Less restrictive alternative" means court-ordered treatment
20 in a setting less restrictive than total confinement which satisfies
21 the conditions set forth in RCW 71.09.092. A less restrictive
22 alternative may not include placement in the community protection
23 program as pursuant to RCW 71A.12.230. A less restrictive alternative
24 may only include a housing placement that is owned by the department,
25 operated by the department, or operated under contract with the
26 department.

27 (8) "Likely to engage in predatory acts of sexual violence if not
28 confined in a secure facility" means that the person more probably
29 than not will engage in such acts if released unconditionally from
30 detention on the sexually violent predator petition. Such likelihood
31 must be evidenced by a recent overt act if the person is not totally
32 confined at the time the petition is filed under RCW 71.09.030.

33 (9) "Mental abnormality" means a congenital or acquired condition
34 affecting the emotional or volitional capacity which predisposes the
35 person to the commission of criminal sexual acts in a degree
36 constituting such person a menace to the health and safety of others.

37 (10) "Personality disorder" means an enduring pattern of inner
38 experience and behavior that deviates markedly from the expectations
39 of the individual's culture, is pervasive and inflexible, has onset
40 in adolescence or early adulthood, is stable over time and leads to

1 distress or impairment. Purported evidence of a personality disorder
2 must be supported by testimony of a licensed forensic psychologist or
3 psychiatrist.

4 (11) "Predatory" means acts directed towards: (a) Strangers; (b)
5 individuals with whom a relationship has been established or promoted
6 for the primary purpose of victimization; or (c) persons of casual
7 acquaintance with whom no substantial personal relationship exists.

8 (12) "Prosecuting agency" means the prosecuting attorney of the
9 county where the person was convicted or charged or the attorney
10 general if requested by the prosecuting attorney, as provided in RCW
11 71.09.030.

12 (13) "Recent overt act" means any act, threat, or combination
13 thereof that has either caused harm of a sexually violent nature or
14 creates a reasonable apprehension of such harm in the mind of an
15 objective person who knows of the history and mental condition of the
16 person engaging in the act or behaviors.

17 (14) "Risk potential activity" or "risk potential facility" means
18 an activity or facility that provides a higher incidence of risk to
19 the public from persons conditionally released from the special
20 commitment center. Risk potential activities and facilities include:
21 Public and private schools, school bus stops, licensed day care and
22 licensed preschool facilities, public parks, publicly dedicated
23 trails, sports fields, playgrounds, recreational and community
24 centers, churches, synagogues, temples, mosques, public libraries,
25 public and private youth camps, and other((s)) locations where the
26 public is known to congregate identified by the department following
27 the hearings on a potential site required in RCW 71.09.315. For
28 purposes of this chapter, "school bus stops" does not include bus
29 stops established primarily for public transit.

30 (15) "Secretary" means the secretary of social and health
31 services or the secretary's designee.

32 (16) "Secure community transition facility" means a residential
33 facility for persons civilly committed and conditionally released to
34 a less restrictive alternative under this chapter. A secure community
35 transition facility has supervision and security, and either provides
36 or ensures the provision of sex offender treatment services. Secure
37 community transition facilities include but are not limited to the
38 facility established pursuant to RCW 71.09.250(1)(a)(i) and any
39 community-based facilities established under this chapter and
40 operated by the secretary or under contract with the secretary.

1 (17) "Secure facility" means a residential facility for persons
2 civilly confined under the provisions of this chapter that includes
3 security measures sufficient to protect the community. Such
4 facilities include total confinement facilities, secure community
5 transition facilities, and any residence used as a court-ordered
6 placement under RCW 71.09.096.

7 (18) "Sexually violent offense" means an act committed on,
8 before, or after July 1, 1990, that is: (a) An act defined in Title
9 9A RCW as rape in the first degree, rape in the second degree by
10 forcible compulsion, rape of a child in the first or second degree,
11 statutory rape in the first or second degree, indecent liberties by
12 forcible compulsion, indecent liberties against a child under age
13 fourteen, incest against a child under age fourteen, or child
14 molestation in the first or second degree; (b) a felony offense in
15 effect at any time prior to July 1, 1990, that is comparable to a
16 sexually violent offense as defined in (a) of this subsection, or any
17 federal or out-of-state conviction for a felony offense that under
18 the laws of this state would be a sexually violent offense as defined
19 in this subsection; (c) an act of murder in the first or second
20 degree, assault in the first or second degree, assault of a child in
21 the first or second degree, kidnapping in the first or second degree,
22 burglary in the first degree, residential burglary, or unlawful
23 imprisonment, which act, either at the time of sentencing for the
24 offense or subsequently during civil commitment proceedings pursuant
25 to this chapter, has been determined beyond a reasonable doubt to
26 have been sexually motivated, as that term is defined in RCW
27 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is
28 an attempt, criminal solicitation, or criminal conspiracy to commit
29 one of the felonies designated in (a), (b), or (c) of this
30 subsection.

31 (19) "Sexually violent predator" means any person who has been
32 convicted of or charged with a crime of sexual violence and who
33 suffers from a mental abnormality or personality disorder which makes
34 the person likely to engage in predatory acts of sexual violence if
35 not confined in a secure facility.

36 (20) "Total confinement facility" means a secure facility that
37 provides supervision and sex offender treatment services in a total
38 confinement setting. Total confinement facilities include the special
39 commitment center and any similar facility designated as a total
40 confinement facility by the secretary.

1 (21) "Treatment" means the sex offender specific treatment
2 program at the special commitment center or a specific course of sex
3 offender treatment pursuant to RCW 71.09.092 (1) and (2).

4 **Sec. 3.** RCW 71.09.090 and 2021 c 236 s 4 are each amended to
5 read as follows:

6 (1)(a) If the secretary determines that the person's condition
7 has so changed that the person no longer meets the definition of a
8 sexually violent predator, the secretary shall authorize the person
9 to petition the court for unconditional discharge. The petition shall
10 be filed with the court and served upon the prosecuting agency
11 responsible for the initial commitment. The court, upon receipt of
12 the petition for unconditional discharge, shall within 45 days order
13 a hearing.

14 (b) If the secretary determines that the person's condition has
15 so changed that conditional release to a less restrictive alternative
16 is in the best interest of the person and conditions can be imposed
17 that adequately protect the community, then the secretary shall
18 authorize the person to petition the court for conditional release to
19 a less restrictive alternative. Upon receipt of the petition, the
20 court shall order the department to identify a less restrictive
21 alternative placement that satisfies RCW 71.09.092 (1) through (4).
22 Once identified, notice of the placement shall be filed with the
23 court and served upon: The prosecuting agency responsible for the
24 initial commitment; the prosecuting agency of the county where the
25 person will be conditionally released to; any person or persons
26 identified in RCW 71.09.140(2)(a) who have opted to receive
27 notifications under this chapter; and the person and his or her
28 counsel. If the department cannot identify a placement available to
29 the person that satisfies RCW 71.09.092 (1) through (4) within 90
30 days, the department shall provide a written certification to the
31 court, the prosecuting agency responsible for the initial commitment,
32 the prosecuting agency of the county where the person will be
33 conditionally released to, and the person and his or her counsel,
34 detailing the efforts of the department to identify a qualifying
35 placement. Upon the department's certification, the person may
36 propose a placement that satisfies RCW 71.09.092 (1) through (3).
37 After a less restrictive placement has been proposed by either the
38 department or the person, the court shall within 45 days order a
39 hearing.

1 (2)(a) Nothing contained in this chapter shall prohibit the
2 person from otherwise petitioning the court for conditional release
3 to a less restrictive alternative or unconditional discharge without
4 the secretary's approval. The secretary shall provide the committed
5 person with an annual written notice of the person's right to
6 petition the court for conditional release to a less restrictive
7 alternative or unconditional discharge over the secretary's
8 objection. The notice shall contain a waiver of rights. The secretary
9 shall file the notice and waiver form and the annual report with the
10 court. If the person does not affirmatively waive the right to
11 petition, the court shall set a show cause hearing to determine
12 whether probable cause exists to warrant a hearing on whether the
13 person's condition has so changed that: (i) He or she no longer meets
14 the definition of a sexually violent predator; or (ii) conditional
15 release to a proposed less restrictive alternative would be in the
16 best interest of the person and conditions can be imposed that would
17 adequately protect the community.

18 (b)(i) The committed person shall have a right to have an
19 attorney represent him or her at the show cause hearing, which may be
20 conducted solely on the basis of affidavits or declarations, but the
21 person is not entitled to be present at the show cause hearing. At
22 the show cause hearing, the prosecuting agency shall present prima
23 facie evidence establishing: (A) That the committed person continues
24 to meet the definition of a sexually violent predator; and (B) that a
25 less restrictive alternative is not in the best interest of the
26 person and conditions cannot be imposed that adequately protect the
27 community.

28 (ii)(A) If the state produces prima facie evidence that the
29 committed person continues to be a sexually violent predator, then
30 the state's burden under (b)(i)(A) of this subsection is met and an
31 unconditional release trial may not be ordered unless the committed
32 person produces evidence satisfying: Subsection (4)(a) of this
33 section; and subsection (4)(b) (i) or (ii) of this section.

34 (B) If the state produces prima facie evidence that a less
35 restrictive alternative is not appropriate for the committed person,
36 then the state's burden under (b)(i)(B) of this subsection is met,
37 and a conditional release trial may not be ordered unless the
38 committed person:

39 (I) Produces evidence satisfying: Subsection (4)(a) of this
40 section; and subsection (4)(b) (i) or (ii) of this section; and

1 (II) Presents the court with a specific placement satisfying the
2 requirements of RCW 71.09.092.

3 (iii) In making the showing required under (b)(i) of this
4 subsection, the state may rely exclusively upon the annual report
5 prepared pursuant to RCW 71.09.070. The committed person may present
6 responsive affidavits or declarations to which the state may reply.

7 (c)(i) If the court at the show cause hearing determines that
8 either: (A) The state has failed to present prima facie evidence that
9 the committed person continues to meet the definition of a sexually
10 violent predator; or (B) probable cause exists to believe that the
11 person's condition has so changed that the person no longer meets the
12 definition of a sexually violent predator, then the court shall set a
13 hearing on the issue of unconditional discharge.

14 (ii) If the court at the show cause hearing determines that the
15 state has failed to present prima facie evidence that no proposed
16 less restrictive alternative is in the best interest of the person
17 and conditions cannot be imposed that would adequately protect the
18 community, the court shall enter an order directing the department to
19 propose a less restrictive alternative that satisfies RCW 71.09.092
20 (1) through (4). If the department cannot identify a placement
21 available to the person that satisfies RCW 71.09.092 (1) through (4)
22 within 90 days, the department shall provide a written certification
23 to the court, the prosecuting agency responsible for the initial
24 commitment, and the person and his or her counsel, detailing the
25 efforts of the department to identify a qualifying placement. Upon
26 the department's certification, the person may propose a placement
27 that satisfies RCW 71.09.092 (1) through (3). After a less
28 restrictive placement has been proposed by either the department or
29 the person, the court shall set a hearing on the issue of conditional
30 release.

31 (iii) If the court at the show cause hearing determines, based on
32 the evidence submitted by the person, that probable cause exists to
33 believe that release to a less restrictive alternative would be in
34 the best interest of the person and conditions can be imposed that
35 would adequately protect the community, the court shall set a hearing
36 on the issue of conditional release if the person presents the court
37 with a specific placement that satisfies the requirements of RCW
38 71.09.092.

39 (d) If the court has not previously considered the issue of
40 release to a less restrictive alternative, either through a trial on

1 the merits or through the procedures set forth in RCW 71.09.094(1),
2 or if an immediately preceding less restrictive alternative was
3 revoked due to the loss of adequate housing or treatment for reasons
4 other than noncompliance with housing requirements, treatment, or
5 other conditions of the less restrictive alternative, the court shall
6 consider whether release to a less restrictive alternative would be
7 in the best interests of the person and conditions can be imposed
8 that would adequately protect the community, without considering
9 whether the person's condition has changed.

10 (3)(a) At the hearing resulting from subsection (1) or (2) of
11 this section, the committed person shall be entitled to be present
12 and to the benefit of all constitutional protections that were
13 afforded to the person at the initial commitment proceeding. The
14 prosecuting agency shall represent the state and shall have a right
15 to a jury trial and to have the committed person evaluated by experts
16 chosen by the state. The prosecuting agency shall have a right to a
17 current evaluation of the person by experts chosen by the state. The
18 judge may require the person to complete any or all of the following
19 procedures or tests if requested by the evaluator: (i) A clinical
20 interview; (ii) psychological testing; (iii) plethysmograph testing;
21 and (iv) polygraph testing. The judge may order the person to
22 complete any other procedures and tests relevant to the evaluation.
23 The state is responsible for the costs of the evaluation. The
24 committed person shall also have the right to a jury trial and the
25 right to have experts evaluate him or her on his or her behalf and
26 the court shall appoint an expert if the person is indigent and
27 requests an appointment.

28 (b) Whenever any indigent person is subjected to an evaluation
29 under (a) of this subsection, the office of public defense is
30 responsible for the cost of one expert or professional person
31 conducting an evaluation on the person's behalf. When the person
32 wishes to be evaluated by a qualified expert or professional person
33 of his or her own choice, such expert or professional person must be
34 permitted to have reasonable access to the person for the purpose of
35 such evaluation, as well as to all relevant medical and psychological
36 records and reports. In the case of a person who is indigent, the
37 court shall, upon the person's request, assist the person in
38 obtaining an expert or professional person to perform an evaluation
39 or participate in the hearing on the person's behalf. Nothing in this

1 chapter precludes the person from paying for additional expert
2 services at his or her own expense.

3 (c) If the issue at the hearing is whether the person should be
4 unconditionally discharged, the burden of proof shall be upon the
5 state to prove beyond a reasonable doubt that the committed person's
6 condition remains such that the person continues to meet the
7 definition of a sexually violent predator. Evidence of the prior
8 commitment trial and disposition is admissible. The recommitment
9 proceeding shall otherwise proceed as set forth in RCW 71.09.050 and
10 71.09.060.

11 (d) If the issue at the hearing is whether the person should be
12 conditionally released to a less restrictive alternative, the burden
13 of proof at the hearing shall be upon the state to prove beyond a
14 reasonable doubt that conditional release to any proposed less
15 restrictive alternative either: (i) Is not in the best interest of
16 the committed person; or (ii) does not include conditions that would
17 adequately protect the community. Evidence of the prior commitment
18 trial and disposition is admissible.

19 (4) (a) Probable cause exists to believe that a person's condition
20 has "so changed," under subsection (2) of this section, only when
21 evidence exists, since the person's last commitment trial, or less
22 restrictive alternative revocation proceeding, of a substantial
23 change in the person's physical or mental condition such that the
24 person either no longer meets the definition of a sexually violent
25 predator or that a conditional release to a less restrictive
26 alternative is in the person's best interest and conditions can be
27 imposed to adequately protect the community.

28 (b) A new trial proceeding under subsection (3) of this section
29 may be ordered, or a trial proceeding may be held, only when there is
30 current evidence from a licensed professional of one of the following
31 and the evidence presents a change in condition since the person's
32 last commitment trial proceeding:

33 (i) An identified physiological change to the person, such as
34 paralysis, stroke, or dementia, that renders the committed person
35 unable to commit a sexually violent act and this change is permanent;
36 or

37 (ii) A change in the person's mental condition brought about
38 through positive response to continuing participation in treatment
39 which indicates that the person meets the standard for conditional

1 release to a less restrictive alternative or that the person would be
2 safe to be at large if unconditionally released from commitment.

3 (c) For purposes of this section, a change in a single
4 demographic factor, without more, does not establish probable cause
5 for a new trial proceeding under subsection (3) of this section. As
6 used in this section, a single demographic factor includes, but is
7 not limited to, a change in the chronological age, marital status, or
8 gender of the committed person.

9 (5) Whenever the person petitions the court for conditional
10 release to a less restrictive alternative, regardless of whether the
11 petition is authorized by the secretary, the person may not propose a
12 specific less restrictive alternative placement unless:

13 (a) The court orders the department to identify a less
14 restrictive alternative placement available to the person pursuant to
15 subsection (1)(b) or (2)(c)(ii) of this section; the department does
16 not identify a qualifying placement within 90 days; and the
17 department provides a written certification to the court, the
18 prosecuting agency responsible for the initial commitment, and the
19 person and his or her counsel, detailing the efforts of the
20 department to identify a qualifying placement; or

21 (b) The person provides notice to the court and the prosecuting
22 agency responsible for the initial commitment of his or her intent to
23 propose a specific less restrictive alternative placement; the court
24 provides the department a specified time frame to identify a less
25 restrictive alternative placement available to the person that
26 satisfies RCW 71.09.092 (1) through (4); and the department either:

27 (i) Identifies a qualifying placement within the specified time
28 frame; or

29 (ii) Does not identify a qualifying placement, and instead
30 provides a written certification to the court, the prosecuting agency
31 responsible for the initial commitment, and the person and his or her
32 counsel, detailing the efforts of the department to identify a
33 qualifying placement.

34 (6) When the court enters an order for unconditional discharge of
35 a person from an immediately preceding less restrictive placement,
36 the court must direct the clerk to transmit a copy of the order to
37 the department of corrections for discharge process and termination
38 of cause.

1 (~~(6)~~) (7) The jurisdiction of the court over a person civilly
2 committed pursuant to this chapter continues until such time as the
3 person is unconditionally discharged.

4 (~~(7)~~) (8) During any period of confinement pursuant to a
5 criminal conviction, or for any period of detention awaiting trial on
6 criminal charges, this section is suspended.

7 **Sec. 4.** RCW 71.09.092 and 2021 c 236 s 5 are each amended to
8 read as follows:

9 Before the court may enter an order directing conditional release
10 to a less restrictive alternative, it must find the following: (1)
11 The person will be treated by a treatment provider who is qualified
12 to provide such treatment in the state of Washington under chapter
13 18.155 RCW; (2) the treatment provider has presented a specific
14 course of treatment and has agreed to assume responsibility for such
15 treatment and will report progress to the court on a regular basis,
16 and will report violations immediately to the court, the prosecutor,
17 the supervising community corrections officer, and the superintendent
18 of the special commitment center; (3) housing exists in Washington
19 that complies with distance restrictions pursuant to RCW
20 71.09.096(4)(a), is sufficiently secure to protect the community, and
21 the person or agency providing housing to the conditionally released
22 person has agreed in writing to accept the person, to provide the
23 level of security required by the court, and immediately to report to
24 the court, the prosecutor, the supervising community corrections
25 officer, and the superintendent of the special commitment center if
26 the person leaves the housing to which he or she has been assigned
27 without authorization; (4) if the department has proposed housing
28 that is outside of the county of commitment, a documented effort was
29 made by the department to ensure that placement is consistent with
30 fair share principles of release; (5) the person is willing to comply
31 with the treatment provider and all requirements imposed by the
32 treatment provider and by the court; and (6) the person will be under
33 the supervision of the department of corrections and is willing to
34 comply with supervision requirements imposed by the department of
35 corrections.

36 **Sec. 5.** RCW 71.09.092 and 2021 c 236 s 5 are each amended to
37 read as follows:

1 Before the court may enter an order directing conditional release
2 to a less restrictive alternative, it must find the following: (1)
3 The person will be treated by a treatment provider who is qualified
4 to provide such treatment in the state of Washington under chapter
5 18.155 RCW; (2) the treatment provider has presented a specific
6 course of treatment and has agreed to assume responsibility for such
7 treatment and will report progress to the court on a regular basis,
8 and will report violations immediately to the court, the prosecutor,
9 the supervising community corrections officer, and the superintendent
10 of the special commitment center; (3) housing exists in Washington
11 that complies with distance restrictions pursuant to RCW
12 71.09.096(4)(a), is sufficiently secure to protect the community, is
13 owned by the department, operated by the department, or operated
14 under contract with the department, and the person or agency
15 providing housing to the conditionally released person has agreed in
16 writing to accept the person, to provide the level of security
17 required by the court, and immediately to report to the court, the
18 prosecutor, the supervising community corrections officer, and the
19 superintendent of the special commitment center if the person leaves
20 the housing to which he or she has been assigned without
21 authorization; (4) if the department has proposed housing that is
22 outside of the county of commitment, a documented effort was made by
23 the department to ensure that placement is consistent with fair share
24 principles of release; (5) the person is willing to comply with the
25 treatment provider and all requirements imposed by the treatment
26 provider and by the court; and (6) the person will be under the
27 supervision of the department of corrections and is willing to comply
28 with supervision requirements imposed by the department of
29 corrections.

30 **Sec. 6.** RCW 71.09.096 and 2021 c 236 s 6 are each amended to
31 read as follows:

32 (1) If the court or jury determines that conditional release to a
33 less restrictive alternative is in the best interest of the person
34 and includes conditions that would adequately protect the community,
35 and the court determines that the minimum conditions set forth in RCW
36 71.09.092 and in this section are met, the court shall enter judgment
37 and direct a conditional release.

38 (2) The court shall impose any additional conditions necessary to
39 ensure compliance with treatment and to protect the community. If the

1 court finds that conditions do not exist that will both ensure the
2 person's compliance with treatment and protect the community, then
3 the person shall be remanded to the custody of the department of
4 social and health services for control, care, and treatment in a
5 secure facility as designated in RCW 71.09.060(1).

6 (3) If the service provider designated by the court to provide
7 inpatient or outpatient treatment or to monitor or supervise any
8 other terms and conditions of a person's placement in a less
9 restrictive alternative is other than the department of social and
10 health services or the department of corrections, then the service
11 provider so designated must agree in writing to provide such
12 treatment, monitoring, or supervision in accord with this section.
13 Any person providing or agreeing to provide treatment, monitoring, or
14 supervision services pursuant to this chapter may be compelled to
15 testify and any privilege with regard to such person's testimony is
16 deemed waived.

17 (4) (a) Prior to authorizing any release to a less restrictive
18 alternative, the court shall impose such conditions upon the person
19 as are necessary to ensure the safety of the community. In imposing
20 conditions, the court must impose a restriction on the proximity of
21 the person's residence to public or private schools providing
22 instruction to kindergarten or any grades one through 12 in
23 accordance with RCW 72.09.340. In no case shall the person's
24 residence be located adjacent to, immediately across a street or
25 parking lot from, or within the line of sight of a risk potential
26 activity or facility. Courts shall require a minimum distance
27 restriction of 500 feet on the proximity of the person's residence to
28 child care facilities ~~((and))~~, bus stops, academic or educational
29 programs, public or private schools providing instruction to
30 kindergarten or any grades one through 12, and other locations that
31 may trigger risk behavior. The court shall order the department of
32 corrections to investigate the less restrictive alternative and,
33 within 60 days of the order to investigate, recommend any additional
34 conditions to the court. These conditions shall be individualized to
35 address the person's specific risk factors and criminogenic needs and
36 may include, but are not limited to ~~((+))~~, the following:
37 Specification of residence or restrictions on residence including
38 distance restrictions, specification of contact with a reasonable
39 number of individuals upon the person's request who are verified by
40 the department of corrections to be appropriate social contacts,

1 prohibition of contact with potential or past victims, prohibition of
2 alcohol and other drug use, participation in a specific course of
3 inpatient or outpatient treatment that may include monitoring by the
4 use of polygraph and plethysmograph, monitoring through the use of
5 global positioning system technology, supervision by a department of
6 corrections community corrections officer, a requirement that the
7 person remain within the state unless the person receives prior
8 authorization by the court, and any other conditions that the court
9 determines are in the best interest of the person or others. A copy
10 of the conditions of release shall be given to the person and to any
11 designated service providers.

12 (b) To the greatest extent possible, the person, person's
13 counsel, prosecuting agency responsible for the initial commitment,
14 the prosecuting agency of the county where the person will be
15 conditionally released to, treatment provider, supervising community
16 corrections officer, and appropriate clinical staff of the special
17 commitment center shall meet and collaborate to craft individualized,
18 narrowly tailored, and empirically based conditions to present to the
19 court to help facilitate the person's successful transition to the
20 community.

21 (5) (a) Prior to authorizing release to a less restrictive
22 alternative proposed by the department, the court shall consider
23 whether the person's less restrictive alternative placement is in
24 accordance with fair share principles. To ensure equitable
25 distribution of releases, and prevent the disproportionate grouping
26 of persons subject to less restrictive orders in any one county, or
27 in any one jurisdiction or community within a county, the legislature
28 finds it is appropriate for releases to a less restrictive
29 alternative to occur in a manner that adheres to fair share
30 principles. The legislature recognizes that there may be reasons why
31 the department may not recommend that a person be released to his or
32 her county of commitment, including availability of individualized
33 resources, the person's support needs, or when the court determines
34 that the person's return to his or her county of commitment would be
35 inappropriate considering any court-issued protection orders, victim
36 safety concerns that cannot be addressed through use of global
37 positioning system technology, the unavailability of appropriate
38 treatment or facilities that would adequately protect the community,
39 negative influences on the person, and the location of family or
40 other persons or organizations offering support to the person. If the

1 court authorizes conditional release based on the department's
2 proposal to a county other than the county of commitment, the court
3 shall enter specific findings regarding its decision and identify
4 whether the release remains in line with fair share principles.

5 (b) (i) When the department develops a less restrictive
6 alternative placement under this section, it shall attempt to
7 identify a placement satisfying the requirements of RCW 71.09.092
8 that is aligned with fair share principles. The department shall
9 document its rationale for the recommended placement.

10 (ii) If the department does not support or recommend conditional
11 release to a less restrictive alternative due to a clinical
12 determination, the department shall document its objection and
13 certify that the department is developing the less restrictive
14 alternative pursuant to a court order and not because of a clinical
15 determination.

16 (iii) When the department develops or proposes a less restrictive
17 alternative placement under this chapter, it shall be considered a
18 predisposition recommendation.

19 (iv) In developing, modifying, and enforcing less restrictive
20 alternatives, the department shall be deemed to be performing a
21 quasi-judicial function.

22 (c) If the committed person is not conditionally released to his
23 or her county of commitment, the department shall provide the law and
24 justice council of the county in which the person is conditionally
25 released with notice and a written explanation, including whether the
26 department remains in compliance with fair share principles regarding
27 releases under this chapter.

28 (d) For purposes of this section, the person's county of
29 commitment means the county of the court which ordered the person's
30 commitment.

31 (e) This subsection (5) does not apply to releases to a secure
32 community transition facility under RCW 71.09.250.

33 (6) (a) When ordered by the court, the department must provide
34 less restrictive alternative treatment that includes, at a minimum:

35 (i) The services identified in the person's discharge plan as
36 outlined in RCW 71.09.080(4);

37 (ii) The assignment of a community care coordinator;

38 (iii) Regular contacts with providers of court-ordered treatment
39 services;

40 (iv) Community escorts, if needed;

1 (v) A transition plan that addresses the person's access to
2 continued services upon unconditional discharge;

3 (vi) Financial support for necessary housing;

4 (vii) Life skills training and disability accommodations, if
5 needed; and

6 (viii) Assistance in pursuing benefits, education, and
7 employment.

8 (b) At the time the department of corrections is ordered to
9 investigate a proposed less restrictive alternative placement,
10 subject to the availability of amounts appropriated for this specific
11 purpose, the department shall assign a social worker to assist the
12 person with discharge planning, pursuing benefits, and coordination
13 of care prior to release.

14 (i) The social worker shall assist the person with completing
15 applications for benefits prior to the person's release from total
16 confinement.

17 (ii) To promote continuity of care and the individual's success
18 in the community, the department social worker shall be responsible
19 for initiating a clinical transition of care between the last
20 treating clinician at the special commitment center and the person's
21 designated community treatment provider. This transition between one
22 clinical setting to another shall occur no later than 15 days before
23 an individual's release from the special commitment center.

24 (iii) If applicable, the social worker shall assist the person
25 with locating any needed disability accommodations in the community
26 and with obtaining resources to help address the person's identified
27 life skills needs prior to release from total confinement.

28 (7) Any service provider designated to provide inpatient or
29 outpatient treatment shall monthly, or as otherwise directed by the
30 court, submit to the court, to the department of social and health
31 services facility from which the person was released, to the
32 prosecuting agency, and to the supervising community corrections
33 officer, a report stating whether the person is complying with the
34 terms and conditions of the conditional release to a less restrictive
35 alternative.

36 (8) Each person released to a less restrictive alternative shall
37 have his or her case reviewed by the court that released him or her
38 no later than one year after such release and annually thereafter
39 until the person is unconditionally discharged. Review may occur in a
40 shorter time or more frequently, if the court, in its discretion on

1 its own motion, or on motion of the person, the secretary, or the
2 prosecuting ~~((agency))~~ agencies so ~~((determines))~~ determine. The
3 questions to be determined by the court are whether the person shall
4 continue to be conditionally released to a less restrictive
5 alternative, and if so, whether a modification to the person's less
6 restrictive alternative order is appropriate to ensure the
7 conditional release remains in the best interest of the person and
8 adequate to protect the victim and the community. The court in making
9 its determination shall be aided by the periodic reports filed
10 pursuant to subsection (7) of this section and the opinions of the
11 secretary and other experts or professional persons.

12 **Sec. 7.** RCW 71.09.096 and 2021 c 236 s 6 are each amended to
13 read as follows:

14 (1) If the court or jury determines that conditional release to a
15 less restrictive alternative is in the best interest of the person
16 and includes conditions that would adequately protect the community,
17 and the court determines that the minimum conditions set forth in RCW
18 71.09.092 and in this section are met, the court shall enter judgment
19 and direct a conditional release.

20 (2) The court shall impose any additional conditions necessary to
21 ensure compliance with treatment and to protect the community. If the
22 court finds that conditions do not exist that will both ensure the
23 person's compliance with treatment and protect the community, then
24 the person shall be remanded to the custody of the department of
25 social and health services for control, care, and treatment in a
26 secure facility as designated in RCW 71.09.060(1).

27 (3) If the service provider designated by the court to provide
28 inpatient or outpatient treatment or to monitor or supervise any
29 other terms and conditions of a person's placement in a less
30 restrictive alternative is other than the department of social and
31 health services or the department of corrections, then the service
32 provider so designated must agree in writing to provide such
33 treatment, monitoring, or supervision in accord with this section.
34 Any person providing or agreeing to provide treatment, monitoring, or
35 supervision services pursuant to this chapter may be compelled to
36 testify and any privilege with regard to such person's testimony is
37 deemed waived.

38 (4)(a) Prior to authorizing any release to a less restrictive
39 alternative, the court shall impose such conditions upon the person

1 as are necessary to ensure the safety of the community. In imposing
2 conditions, the court must impose a restriction on the proximity of
3 the person's residence to public or private schools providing
4 instruction to kindergarten or any grades one through 12 in
5 accordance with RCW 72.09.340. In no case shall the person's
6 residence be located adjacent to, immediately across a street or
7 parking lot from, or within the line of sight of a risk potential
8 activity or facility. Courts shall require a minimum distance
9 restriction of 500 feet on the proximity of the person's residence to
10 child care facilities ~~((and))~~, bus stops, academic or educational
11 programs, public or private schools providing instruction to
12 kindergarten or any grades one through 12, and other locations that
13 may trigger risk behavior. The court shall order the department of
14 corrections to investigate the less restrictive alternative and,
15 within 60 days of the order to investigate, recommend any additional
16 conditions to the court. These conditions shall be individualized to
17 address the person's specific risk factors and criminogenic needs and
18 may include, but are not limited to ~~((+))~~, the following:
19 Specification of residence or restrictions on residence including
20 distance restrictions, specification of contact with a reasonable
21 number of individuals upon the person's request who are verified by
22 the department of corrections to be appropriate social contacts,
23 prohibition of contact with potential or past victims, prohibition of
24 alcohol and other drug use, participation in a specific course of
25 inpatient or outpatient treatment that may include monitoring by the
26 use of polygraph and plethysmograph, monitoring through the use of
27 global positioning system technology, supervision by a department of
28 corrections community corrections officer, a requirement that the
29 person remain within the state unless the person receives prior
30 authorization by the court, and any other conditions that the court
31 determines are in the best interest of the person or others. A copy
32 of the conditions of release shall be given to the person and to any
33 designated service providers.

34 (b) To the greatest extent possible, the person, person's
35 counsel, prosecuting agency responsible for the initial commitment,
36 the prosecuting agency of the county where the person will be
37 conditionally released to, treatment provider, supervising community
38 corrections officer, and appropriate clinical staff of the special
39 commitment center shall meet and collaborate to craft individualized,
40 narrowly tailored, and empirically based conditions to present to the

1 court to help facilitate the person's successful transition to the
2 community.

3 (5) (a) Prior to authorizing release to a less restrictive
4 alternative proposed by the department, the court shall consider
5 whether the person's less restrictive alternative placement is in
6 accordance with fair share principles. To ensure equitable
7 distribution of releases, and prevent the disproportionate grouping
8 of persons subject to less restrictive orders in any one ((~~county~~))
9 region within the state, or in any one jurisdiction or community
10 within a ((~~county~~)) region, the legislature finds it is appropriate
11 for releases to a less restrictive alternative to occur in a manner
12 that adheres to fair share principles. The legislature recognizes
13 that there may be reasons why the department may not recommend that a
14 person be released to his or her county of commitment, including
15 availability of individualized resources, the person's support needs,
16 or when the court determines that the person's return to his or her
17 county of commitment would be inappropriate considering any court-
18 issued protection orders, victim safety concerns that cannot be
19 addressed through use of global positioning system technology, the
20 unavailability of appropriate treatment or facilities that would
21 adequately protect the community, negative influences on the person,
22 and the location of family or other persons or organizations offering
23 support to the person. If the court authorizes conditional release
24 based on the department's proposal to a county in a region within the
25 state other than the region that includes the person's county of
26 commitment, the court shall enter specific findings regarding its
27 decision and identify whether the release remains in line with fair
28 share principles.

29 (b) (i) When the department develops a less restrictive
30 alternative placement under this section, it shall attempt to
31 identify a placement satisfying the requirements of RCW 71.09.092
32 that is aligned with fair share principles. The department shall
33 document its rationale for the recommended placement.

34 (ii) If the department does not support or recommend conditional
35 release to a less restrictive alternative due to a clinical
36 determination, the department shall document its objection and
37 certify that the department is developing the less restrictive
38 alternative pursuant to a court order and not because of a clinical
39 determination.

1 (iii) When the department develops or proposes a less restrictive
2 alternative placement under this chapter, it shall be considered a
3 predisposition recommendation.

4 (iv) In developing, modifying, and enforcing less restrictive
5 alternatives, the department shall be deemed to be performing a
6 quasi-judicial function.

7 (c) If the committed person is not conditionally released to the
8 region within the state that includes his or her county of
9 commitment, the department shall provide the law and justice council
10 of the county in which the person is conditionally released with
11 notice and a written explanation, including whether the department
12 remains in compliance with fair share principles regarding releases
13 under this chapter.

14 (d) For purposes of this section, the person's county of
15 commitment means the county of the court which ordered the person's
16 commitment.

17 (e) This subsection (5) does not apply to releases to a secure
18 community transition facility under RCW 71.09.250.

19 (6)(a) When ordered by the court, the department must provide
20 less restrictive alternative treatment that includes, at a minimum:

21 (i) The services identified in the person's discharge plan as
22 outlined in RCW 71.09.080(4);

23 (ii) The assignment of a community care coordinator;

24 (iii) Regular contacts with providers of court-ordered treatment
25 services;

26 (iv) Community escorts, if needed;

27 (v) A transition plan that addresses the person's access to
28 continued services upon unconditional discharge;

29 (vi) Financial support for necessary housing;

30 (vii) Life skills training and disability accommodations, if
31 needed; and

32 (viii) Assistance in pursuing benefits, education, and
33 employment.

34 (b) At the time the department of corrections is ordered to
35 investigate a proposed less restrictive alternative placement,
36 subject to the availability of amounts appropriated for this specific
37 purpose, the department shall assign a social worker to assist the
38 person with discharge planning, pursuing benefits, and coordination
39 of care prior to release.

1 (i) The social worker shall assist the person with completing
2 applications for benefits prior to the person's release from total
3 confinement.

4 (ii) To promote continuity of care and the individual's success
5 in the community, the department social worker shall be responsible
6 for initiating a clinical transition of care between the last
7 treating clinician at the special commitment center and the person's
8 designated community treatment provider. This transition between one
9 clinical setting to another shall occur no later than 15 days before
10 an individual's release from the special commitment center.

11 (iii) If applicable, the social worker shall assist the person
12 with locating any needed disability accommodations in the community
13 and with obtaining resources to help address the person's identified
14 life skills needs prior to release from total confinement.

15 (7) 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 (8) Each person released to a less restrictive alternative shall
24 have his or her case reviewed by the court that released him or her
25 no later than one year after such release and annually thereafter
26 until the person is unconditionally discharged. Review may occur in a
27 shorter time or more frequently, if the court, in its discretion on
28 its own motion, or on motion of the person, the secretary, or the
29 prosecuting ~~((agency))~~ agencies so ~~((determines))~~ determine. The
30 questions to be determined by the court are whether the person shall
31 continue to be conditionally released to a less restrictive
32 alternative, and if so, whether a modification to the person's less
33 restrictive alternative order is appropriate to ensure the
34 conditional release remains in the best interest of the person and
35 adequate to protect the victim and the community. The court in making
36 its determination shall be aided by the periodic reports filed
37 pursuant to subsection (7) of this section and the opinions of the
38 secretary and other experts or professional persons.

1 **Sec. 8.** RCW 71.09.097 and 2021 c 236 s 11 are each amended to
2 read as follows:

3 (1) (a) In accordance with RCW 71.09.090 and 71.09.096, the
4 department shall have the primary responsibility for developing a
5 less restrictive alternative placement. To ensure the department has
6 sufficient less restrictive alternative placements to choose from
7 that satisfy the requirements of RCW 71.09.092, subject to the
8 availability of amounts appropriated for this specific purpose, the
9 department shall use a request for proposal process to solicit and
10 contract with housing and treatment providers from across the state
11 and facilitate fair share principles among the counties. In order to
12 increase the number of housing options for individuals qualifying for
13 a less restrictive alternative, the department shall have oversight
14 of the vendors and providers who contract with the state, including
15 the authority to inspect and ensure compliance, negotiate the rates
16 charged for services, ensure adequate living conditions of housing
17 locations, and terminate contracts. The department shall maintain a
18 statewide accounting of the contracted community housing and
19 treatment providers in each county and provide a biannual report to
20 the legislature and governor by December 1st on the availability and
21 adequacy of less restrictive alternative placements and the
22 department's compliance with fair share principles.

23 (b) The department may not enter into a contract with a housing
24 provider until the following conditions have been met:

25 (i) Upon identifying a county for possible housing, the
26 department and housing provider must contact the county legislative
27 authority and inform them of the intent to create a facility in their
28 jurisdiction;

29 (ii) The department must contact the local government planning
30 agencies and consult with any federally recognized tribes and
31 academic or educational programs in the local communities affected,
32 and coordinate with local government agencies to ensure opportunities
33 are provided for effective citizen input and to reduce duplication of
34 notice and meetings;

35 (iii) The department must create strategies to effectively engage
36 the public, including a way to allow community members to easily
37 submit written and oral comments;

38 (iv) The department must specifically solicit feedback from any
39 federally recognized tribes and privately licensed educational

1 organizations in the local communities located within 500 feet of the
2 proposed location of the less restrictive alternative housing; and

3 (v) The department, in partnership with the potential housing
4 provider, the department of corrections, county leadership, and the
5 county sheriff's office, must plan and host a minimum of one public
6 meeting in the local communities affected.

7 (c) The department shall also consider whether the proposed
8 housing would be adjacent to, or immediately across the street or
9 parking lot from, a risk potential activity or facility in existence
10 at the time the site is listed for consideration.

11 (2) To facilitate its duties required under this section, the
12 department shall use the following housing matrix and considerations
13 as a guide to planning and developing less restrictive alternative
14 placements. The following considerations may not be used as a reason
15 to deny a less restrictive alternative placement.

16 (a) Considerations for evaluating a proposed vendor's application
17 for less restrictive alternative housing services shall include
18 applicable state and local zoning, health, and building codes,
19 general housing requirements, availability of public services, and
20 other considerations identified in accordance with RCW 71.09.315. The
21 department shall require the housing provider to provide proof that
22 the facility is in compliance with all local zoning, health, and
23 building codes.

24 (i) General housing requirements include running water,
25 electricity, bedroom and living space of adequate size, and no mold
26 or infestations.

27 (ii) Availability of public services include availability of
28 chaperones and whether the placement is within a reasonable distance
29 to a grocery store, bank, public transportation options, and offices
30 for public services and benefits.

31 (iii) Other considerations include whether the placement is
32 consistent with fair share principles across the counties, whether
33 the placement is within reasonable distance to other current or
34 planned components of the less restrictive alternative, whether the
35 placement is within reasonable distance to employment opportunities,
36 and the reliability of global positioning system technology.

37 (b) Factors for evaluating less restrictive alternative options
38 for a specific individual include sex offender treatment
39 considerations, criminogenic needs and risk factors, protective
40 factors, and the specific needs of the client.

1 (i) Sex offender treatment considerations include whether the
2 housing is within a reasonable distance from the treatment provider,
3 whether the treatment provider is a good therapeutic match with the
4 client, and whether the treatment provider has relevant experience
5 and background to treat the client if the client has special needs.

6 (ii) Criminogenic needs and risk factors include consideration of
7 the person's specific needs and risk factors in evaluating less
8 restrictive alternative options.

9 (iii) Protective factors include whether housing is within a
10 reasonable distance of family, friends, potential hobbies, potential
11 employment, and educational opportunities.

12 (iv) Consideration of the client's specific needs includes
13 assessing the availability of personal care assistance and in-home
14 care assistance, and whether housing is within a reasonable distance
15 of mental health, medical treatment options, and substance use
16 disorder treatment options.

17 **Sec. 9.** RCW 71.09.097 and 2021 c 236 s 11 are each amended to
18 read as follows:

19 (1)(a) In accordance with RCW 71.09.090, 71.09.092, and
20 71.09.096, the department shall have the primary responsibility for
21 developing a less restrictive alternative placement, and the
22 exclusive authority to operate or contract with providers to operate
23 housing options for individuals qualifying for a less restrictive
24 alternative. To ensure the department has sufficient less restrictive
25 alternative placements to choose from that satisfy the requirements
26 of RCW 71.09.092, subject to the availability of amounts appropriated
27 for this specific purpose, the department shall use a request for
28 proposal process to solicit and contract with housing and treatment
29 providers from across the state and facilitate fair share principles
30 among the ((counties)) regions within the state. In order to increase
31 the number of housing options for individuals qualifying for a less
32 restrictive alternative and ensure the quality and compliance of such
33 housing, the department shall have oversight of the vendors and
34 providers who contract with the state, including the authority to
35 inspect and ensure compliance, ((negotiate)) adopt rules to establish
36 and periodically adjust a fee schedule for the rates charged for
37 services, ensure adequate living conditions of housing locations, and
38 terminate contracts. The department shall maintain a statewide
39 accounting of the contracted community housing and treatment

1 providers in each region within the state and in each county and
2 provide a biannual report to the legislature and governor by December
3 1st on the availability and adequacy of less restrictive alternative
4 placements and the department's compliance with fair share
5 principles.

6 (b) The department may not enter into a contract with a housing
7 provider until the following conditions have been met:

8 (i) Upon identifying a county for possible housing, the
9 department and housing provider must contact the county legislative
10 authority and inform them of the intent to create a facility in their
11 jurisdiction;

12 (ii) The department must contact the local government planning
13 agencies in the local communities affected and coordinate with local
14 government agencies and consult with any federally recognized tribes
15 and academic or educational programs to ensure opportunities are
16 provided for effective citizen input and to reduce duplication of
17 notice and meetings;

18 (iii) The department must create strategies to effectively engage
19 the public, including a way to allow community members to easily
20 submit written and oral comments;

21 (iv) The department must specifically solicit feedback from any
22 federally recognized tribes and privately licensed educational
23 organizations in the local communities located within 500 feet of the
24 proposed location of the less restrictive alternative housing; and

25 (v) The department, in partnership with the potential housing
26 provider, the department of corrections, county leadership, and the
27 county sheriff's office, must plan and host a minimum of one public
28 meeting in the local communities affected.

29 (c) The department shall also consider whether the proposed
30 housing would be adjacent to, or immediately across the street or
31 parking lot from, a risk potential activity or facility in existence
32 at the time the site is listed for consideration.

33 (2) To facilitate its duties required under this section, the
34 department shall use the following housing matrix and considerations
35 as a guide to planning and developing less restrictive alternative
36 placements. The following considerations may not be used as a reason
37 to deny a less restrictive alternative placement.

38 (a) Considerations for evaluating a proposed vendor's application
39 for less restrictive alternative housing services shall include
40 applicable state and local zoning, health, and building codes,

1 general housing requirements, availability of public services, and
2 other considerations identified in accordance with RCW 71.09.315. The
3 department shall require the housing provider to provide proof that
4 the facility is in compliance with all local zoning, health, and
5 building codes.

6 (i) General housing requirements include running water,
7 electricity, bedroom and living space of adequate size, and no mold
8 or infestations.

9 (ii) Availability of public services include availability of
10 chaperones and whether the placement is within a reasonable distance
11 to a grocery store, bank, public transportation options, and offices
12 for public services and benefits.

13 (iii) Other considerations include whether the placement is
14 consistent with fair share principles across the (~~counties~~) regions
15 within the state, whether the placement is within reasonable distance
16 to other current or planned components of the less restrictive
17 alternative, whether the placement is within reasonable distance to
18 employment opportunities, and the reliability of global positioning
19 system technology.

20 (b) Factors for evaluating less restrictive alternative options
21 for a specific individual include sex offender treatment
22 considerations, criminogenic needs and risk factors, protective
23 factors, and the specific needs of the client.

24 (i) Sex offender treatment considerations include whether the
25 housing is within a reasonable distance from the treatment provider,
26 whether the treatment provider is a good therapeutic match with the
27 client, and whether the treatment provider has relevant experience
28 and background to treat the client if the client has special needs.

29 (ii) Criminogenic needs and risk factors include consideration of
30 the person's specific needs and risk factors in evaluating less
31 restrictive alternative options.

32 (iii) Protective factors include whether housing is within a
33 reasonable distance of family, friends, potential hobbies, potential
34 employment, and educational opportunities.

35 (iv) Consideration of the client's specific needs includes
36 assessing the availability of personal care assistance and in-home
37 care assistance, and whether housing is within a reasonable distance
38 of mental health, medical treatment options, and substance use
39 disorder treatment options.

1 **Sec. 10.** RCW 9.94A.717 and 2020 c 275 s 2 are each amended to
2 read as follows:

3 (1) If an offender sentenced under this chapter or chapter 9.94B
4 RCW is supervised by the department, the offender may earn
5 supervision compliance credit in accordance with procedures that are
6 developed and adopted by the department.

7 (a) The supervision compliance credit shall be awarded to
8 offenders who are in compliance with supervision terms and are making
9 progress towards the goals of their individualized supervision case
10 plan, including: Participation in specific targeted interventions,
11 risk-related programming, or treatment; or completing steps towards
12 specific targeted goals that enhance protective factors and
13 stability, as determined by the department.

14 (b) For each month in compliance with community custody
15 conditions in accordance with (a) of this subsection, an offender may
16 earn supervision compliance credit of ten days.

17 (c) Supervision compliance credit is accrued monthly and time
18 shall not be applied to an offender's term of supervision prior to
19 the earning of the time.

20 (2) An offender is not eligible to earn supervision compliance
21 credit if he or she:

22 (a) Was sentenced under RCW 9.94A.507 or 10.95.030;

23 (b) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
24 9.94A.670;

25 (c) Is subject to supervision pursuant to RCW 9.94A.745;

26 (d) Has an indeterminate sentence and is subject to parole
27 pursuant to RCW 9.95.017; or

28 (e) Is serving community custody pursuant to early release under
29 RCW 9.94A.730; or

30 (f) Is subject to supervision pursuant to RCW 71.09.092.

31 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.09
32 RCW to read as follows:

33 (1) The department of social and health services shall review its
34 statewide accounting of the contracted community housing and
35 treatment providers in each county and develop:

36 (a) Recommendations for revising fair share principles to target
37 an adequate regional distribution of options for conditional release
38 housing placements, rather than a county-by-county distribution of
39 such options; and

1 (b) A proposed regional map of the state to reflect the revised
2 fair share principles.

3 (2) In developing its recommendations for revising fair share
4 principles and its proposed regional map, the department of social
5 and health services shall consider:

6 (a) Existing and future availability of public services in each
7 region, including availability of chaperones in each region and
8 whether each region is able to provide an adequate number of
9 placement options within a reasonable distance from grocery stores,
10 banks, public transportation options, and offices for public services
11 and benefits;

12 (b) Existing and future availability of sex offender treatment
13 options in each region, including whether each region is able to
14 provide an adequate number of placement options within a reasonable
15 distance from treatment providers that have relevant experience and
16 background to treat clients with acute needs;

17 (c) Existing and future availability of personal care assistance
18 and in-home care assistance in each region, including whether each
19 region is able to provide an adequate number of placement options
20 within a reasonable distance from mental health, medical treatment,
21 and substance use disorder treatment options;

22 (d) Community safety factors, including whether each region is
23 able to provide an adequate number of placement options away from
24 risk potential activities or risk potential facilities, such as
25 schools, playgrounds, and youth camps; and

26 (e) Protective factors, including whether each region is able to
27 provide an adequate number of placement options a reasonable distance
28 from potential hobbies, employment, and educational opportunities.

29 (3) By December 1, 2024, the department shall submit a report
30 with its recommendations and proposed regional map to the governor
31 and the appropriate committees of the legislature.

32 (4) This section expires August 1, 2025.

33 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.09
34 RCW to read as follows:

35 (1) Subject to the availability of funds appropriated for this
36 purpose, the department shall establish one position for a special
37 commitment center communications manager. The special commitment
38 center communications manager shall be responsible for:

1 (a) Receiving and answering questions from the public about
2 persons who are civilly committed pursuant to this chapter;
3 (b) Communicating with and offering support to the counties and
4 local communities affected when a person is being transitioned or
5 released from total confinement;
6 (c) Facilitating timely notification of public meetings,
7 including but not limited to those required pursuant to RCW 71.09.097
8 and 71.09.315; and
9 (d) Any other duties as determined by the department.
10 (2) The department shall fix the salary for the special
11 commitment center communications manager.

12 NEW SECTION. **Sec. 13.** Sections 1, 4, 6, and 8 of this act
13 expire August 1, 2025.

14 NEW SECTION. **Sec. 14.** Sections 2, 5, 7, and 9 of this act take
15 effect August 1, 2025.

16 NEW SECTION. **Sec. 15.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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