

# HOUSE BILL REPORT

## ESHB 2262

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*As Passed Legislature*

**Title:** An act relating to refinements of the community protection act of 1990.

**Brief Description:** Refining the community protection act of 1990.

**Sponsor(s):** By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Padden, Wineberry, Riley, Tate, Wang, Roland, Winsley, Paris, May, Bowman, Orr and Van Luven; by request of Department of Corrections, Dept. of Social and Health Services and Indeterminate Sentence Review Board).

**Brief History:**

Reported by House Committee on:  
Judiciary, January 15, 1992, DPS;  
Passed House, February 17, 1992, 98-0;  
Amended by Senate;  
Passed Legislature.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; Riley; Scott; D. Sommers; Tate; and Vance.

**Staff:** Pat Shelledy (786-7149).

**Background:** In 1990, the Legislature passed a comprehensive act concerning sex offenders which was termed the community protection act of 1990.

The act created a civil commitment scheme for civil commitment of sexually violent predators. Three months before a sex offender is released, the Department of Corrections must notify the county prosecutor of the offender's upcoming release. The department must also provide a narrative to the prosecutor describing the offender's conduct in prison, and advise the prosecutor

whether the department recommends that the prosecutor file a civil commitment petition. The requirement to notify the county prosecutors only applies to the release of sex offenders who committed their crimes between June 30, 1984 and July 1, 1988.

In addition to convicted adult sex offenders, several other sex offenders are eligible for civil commitment, including juveniles, insane people who were found not guilty by reason of insanity, and persons acquitted of sex offenses due to incompetence to stand trial. The Department of Social and Health Services has jurisdiction over those offenders. Further, the indeterminate sentence review board, not the Department of Corrections, has jurisdiction over convicted adult sex offenders who committed their crimes before July 1, 1984. No specific statute exists requiring those agencies to notify the prosecutor about the person's release.

An adult offender who has been convicted of a sexually violent offense becomes eligible for civil commitment when the offender's sentence is about to expire or has expired. Some confusion has existed whether the term "sentence" means that an offender on parole is eligible for civil commitment or whether the offender must be revoked on parole and serve his or her remaining sentence before becoming eligible for civil commitment.

An offender may be civilly committed if the person "is likely to" engage in predatory acts of sexual violence. The criteria for release provides that the state must prove the person "will engage" in predatory acts of violence or if the committed person bears the burden of proof, that he or she "will not" engage in predatory acts of sexual violence, arguably a higher standard.

The Community Protection Act also requires that therapists who treat adult and juvenile sex offenders be certified by the state Department of Health. Some sex offenders may have moved out of state before discovery or may want to move out of state. No exception exists to allow offenders that would otherwise be eligible for treatment to be treated by a non-certified sex therapist.

The Department of Corrections must notify various parties no later than 10 days before a sex or violent offender is paroled, placed in community placement or work release, or furloughed. The statute does not expressly state that the department must notify those parties when the offender is released.

**Summary of Bill:** Three months before the anticipated release of a person who may be eligible for civil commitment, the agency that has jurisdiction over the person must refer the person to the appropriate county prosecuting attorney. "Agency" means the Department of Corrections, the Indeterminate Sentence Review Board, or the Department of Social and Health Services as appropriate. The agency must document the person's institutional adjustment and any treatment received. The agency does not have to prepare a narrative description.

The eligibility criteria for civil commitment are amended to indicate a person is eligible for civil commitment when the person's term of total confinement is about to expire or has expired.

The criteria for release of committed sexually violent predators is changed to be consistent with the criteria for commitment so that the state will have to provide that the person "is likely to engage" rather than "will engage" in acts of sexual violence if released. When the committed person is moving for release the committed person will have to prove that he or she "is not likely to engage" rather than "will not engage" in sexually violent acts.

Sex offenders who have moved or are going to move out of state may, under certain circumstances, be treated by therapists who are not certified in the state of Washington.

The Department of Corrections must provide notice of a sex offender's release at least 10 days before the offender's release. If the department does not know where the sex offender will reside, the department must send notice to the county sheriff and the chief of police in the city and county where the offender was convicted. The department must also notify the State Patrol which shall put the information into the crime information center for dissemination to law enforcement.

**Fiscal Note:** Available.

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

**Testimony For:** The bill will clarify the eligibility and referral requirements under the civil commitment statute.

**Testimony Against:** None.

**Witnesses:** Ruben Cede/o, Department of Corrections (in favor); Jeanne Taylor, Department of Social and Health Services (in favor); and Dennis Marsh, Indeterminate

Sentence Review Board (in favor).