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SENATE BILL 6405

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State of Washington

52nd Legislature

1992 Regular Session

By Senators Nelson and Skratek

Read first time 01/29/92. Referred to Committee on Law & Justice.

1 AN ACT Relating to civil commitment of sexually violent predators;  
2 and amending RCW 71.09.090.

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

4 **Sec. 1.** RCW 71.09.090 and 1990 c 3 s 1009 are each amended to read  
5 as follows:

6 (1) If the secretary of the department of social and health  
7 services determines that the person's mental abnormality or personality  
8 disorder has so changed that the person is not likely to ~~((commit))~~  
9 engage in predatory acts of sexual violence if released, the secretary  
10 shall authorize the person to petition the court for release. The  
11 petition shall be served upon the court and the prosecuting attorney.  
12 The court, upon receipt of the petition for release, shall within  
13 forty-five days order a hearing. The prosecuting attorney or the  
14 attorney general, if requested by the county, shall represent the

1 state, and shall have the right to have the petitioner examined by an  
2 expert or professional person of his or her choice. The hearing shall  
3 be before a jury if demanded by either the petitioner or the  
4 prosecuting attorney or attorney general. The burden of proof shall be  
5 upon the prosecuting attorney or attorney general to show beyond a  
6 reasonable doubt that the petitioner's mental abnormality or  
7 personality disorder remains such that the petitioner is not safe to be  
8 at large and that if discharged is likely to (~~commit~~) engage in  
9 predatory acts of sexual violence.

10 (2) Nothing contained in this chapter shall prohibit the person  
11 from otherwise petitioning the court for discharge without the  
12 secretary's approval. The secretary shall provide the committed person  
13 with an annual written notice of the person's right to petition the  
14 court for release over the secretary's objection. The notice shall  
15 contain a waiver of rights. The secretary shall forward the notice and  
16 waiver form to the court with the annual report. If the person does  
17 not affirmatively waive the right to petition, the court shall set a  
18 show cause hearing to determine whether facts exist that warrant a  
19 hearing on whether the person's condition has so changed that he or she  
20 is safe to be at large. The committed person shall have a right to  
21 have an attorney represent him or her at the show cause hearing but the  
22 person is not entitled to be present at the show cause hearing. If the  
23 court at the show cause hearing determines that probable cause exists  
24 to believe that the person's mental abnormality or personality disorder  
25 has so changed that the person is safe to be at large and (~~will~~) is  
26 not likely to engage in predatory acts of sexual violence if  
27 discharged, then the court shall set a hearing on the issue. At the  
28 hearing, the committed person shall be entitled to be present and to  
29 the benefit of all constitutional protections that were afforded to the  
30 person at the initial commitment proceeding. The prosecuting attorney

1 or the attorney general if requested by the county shall represent the  
2 state and shall have a right to a jury trial and to have the committed  
3 person evaluated by experts chosen by the state. The committed person  
4 shall also have the right to have experts evaluate him or her on his or  
5 her behalf and the court shall appoint an expert if the person is  
6 indigent and requests an appointment. The burden of proof at the  
7 hearing shall be upon the state to prove beyond a reasonable doubt that  
8 the committed person's mental abnormality or personality disorder  
9 remains such that the person is not safe to be at large and if released  
10 (~~will~~) is likely to engage in predatory acts of sexual violence.