

1 **SSB 6274 - H COMM AMD NOT ADOPTED 3-1-96**

2 By Committee on Corrections

3 On page 25, after line 3, insert:

4 "Sec. 6. RCW 9.94A.155 and 1994 c 129 s 3 and 1994 c 77 s 1  
5 are each reenacted and amended to read as follows:

6 (1) At the earliest possible date, and in no event later than  
7 thirty days before release except in the event of escape or  
8 emergency furloughs as defined in RCW 72.66.010, the department of  
9 corrections shall send written notice of parole, release, community  
10 placement, work release placement, furlough, or escape about a  
11 specific inmate convicted of a violent offense, a sex offense as  
12 defined by RCW 9.94A.030, or a felony harassment offense as defined  
13 by RCW 9A.46.060 or 9A.46.110, to the following:

14 (a) The chief of police of the city, if any, in which the  
15 inmate will reside or in which placement will be made in a work  
16 release program; and

17 (b) The sheriff of the county in which the inmate will reside  
18 or in which placement will be made in a work release program.

19 The sheriff of the county where the offender was convicted  
20 shall be notified if the department does not know where the  
21 offender will reside. The department shall notify the state patrol  
22 of the release of all sex offenders, and that information shall be  
23 placed in the Washington crime information center for dissemination  
24 to all law enforcement.

25 (2) The same notice as required by subsection (1) of this  
26 section shall be sent to the following if such notice has been  
27 requested in writing about a specific inmate convicted of a violent  
28 offense, a sex offense as defined by RCW 9.94A.030, or a felony  
29 harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

1 (a) The victim of the crime for which the inmate was convicted  
2 or the victim's next of kin if the crime was a homicide;

3 (b) Any witnesses who testified against the inmate in any  
4 court proceedings involving the violent offense; (~~and~~)

5 (c) Any person specified in writing by the prosecuting  
6 attorney; and

7 (d) Any person who requests such notice about a specific  
8 inmate convicted of a sex offense as defined by RCW 9.94A.030 from  
9 the department of corrections at least sixty days prior to the  
10 expected release date of the offender.

11 Information regarding victims, next of kin, or witnesses  
12 requesting the notice, information regarding any other person  
13 specified in writing by the prosecuting attorney to receive the  
14 notice, and the notice are confidential and shall not be available  
15 to the inmate. Whenever the department of corrections mails notice  
16 pursuant to this subsection and the notice is returned as  
17 undeliverable, the department shall attempt alternative methods of  
18 notification, including a telephone call to the person's last known  
19 telephone number.

20 (3) The existence of the notice requirements contained in  
21 subsections (1) and (2) of this section shall not require an  
22 extension of the release date in the event that the release plan  
23 changes after notification.

24 (4) If an inmate convicted of a violent offense, a sex offense  
25 as defined by RCW 9.94A.030, or a felony harassment offense as  
26 defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional  
27 facility, the department of corrections shall immediately notify,  
28 by the most reasonable and expedient means available, the chief of  
29 police of the city and the sheriff of the county in which the  
30 inmate resided immediately before the inmate's arrest and  
31 conviction. If previously requested, the department shall also  
32 notify the witnesses and the victim of the crime for which the  
33 inmate was convicted or the victim's next of kin if the crime was

1 a homicide. If the inmate is recaptured, the department shall send  
2 notice to the persons designated in this subsection as soon as  
3 possible but in no event later than two working days after the  
4 department learns of such recapture.

5 (5) If the victim, the victim's next of kin, or any witness is  
6 under the age of sixteen, the notice required by this section shall  
7 be sent to the parents or legal guardian of the child.

8 (6) The department of corrections shall send the notices  
9 required by this chapter to the last address provided to the  
10 department by the requesting party. The requesting party shall  
11 furnish the department with a current address.

12 (7) The department of corrections shall keep, for a minimum of  
13 two years following the release of an inmate, the following:

14 (a) A document signed by an individual as proof that that  
15 person is registered in the victim or witness notification program;  
16 and

17 (b) A receipt showing that an individual registered in the  
18 victim or witness notification program was mailed a notice, at the  
19 individual's last known address, upon the release or movement of an  
20 inmate.

21 (8) For purposes of this section the following terms have the  
22 following meanings:

23 (a) "Violent offense" means a violent offense under RCW  
24 9.94A.030;

25 (b) "Next of kin" means a person's spouse, parents, siblings  
26 and children.

27 (9) Nothing in this section shall impose any liability upon a  
28 chief of police of a city or sheriff of a county for failing to  
29 request in writing a notice as provided in subsection (1) of this  
30 section.

31 **Sec. 7.** RCW 72.09.340 and 1990 c 3 s 708 are each amended to  
32 read as follows:

1           (1) In making all discretionary decisions regarding release  
2 plans for and supervision of ((sexually violent)) sex offenders,  
3 the department ((of corrections)) shall set priorities and make  
4 decisions based on an assessment of public safety risks ((rather  
5 than the legal category of the sentences)).

6           (2) The department shall, no later than September 1, 1996,  
7 implement a policy governing the department's evaluation and  
8 approval of release plans for sex offenders. The policy shall  
9 include, at a minimum, a formal process by which victims,  
10 witnesses, and other interested people may provide information and  
11 comments to the department on potential safety risks to specific  
12 individuals or classes of individuals posed by a specific sex  
13 offender. The department shall make all reasonable efforts to  
14 publicize the availability of this process through currently  
15 existing mechanisms and shall seek the assistance of courts,  
16 prosecutors, law enforcement, and victims' advocacy groups in doing  
17 so. Notice of an offender's proposed residence shall be provided  
18 to all people registered to receive notice of an offender's release  
19 under RCW 9.94A.155(2), except that in no case may this  
20 notification requirement be construed to require an extension of an  
21 offender's release date.

22           (3) For any offender convicted of a felony sex offense against  
23 a minor victim after the effective date of this act, the department  
24 shall not approve a residence location if the proposed residence:  
25 (a) Includes a minor victim or child of similar age or circumstance  
26 as a previous victim who the department determines may be put at  
27 substantial risk of harm by the offender's residence in the  
28 household; or (b) is within close proximity of the current  
29 residence of a minor victim, unless the whereabouts of the minor  
30 victim cannot be determined or unless such a restriction would  
31 impede family reunification efforts ordered by the court or  
32 directed by the department of social and health services. The  
33 department is further authorized to reject a residence location if

1 the proposed residence is within close proximity to schools, child  
2 care centers, or other facilities where children of similar age or  
3 circumstance as a previous victim are present who the department  
4 determines may be put at substantial risk of harm by the sex  
5 offender's residence at that location.

6 **Sec. 8.** RCW 71.09.092 and 1995 c 216 s 10 are each amended to  
7 read as follows:

8 Before the court may enter an order directing conditional  
9 release to a less restrictive alternative, it must find the  
10 following: (1) The person will be treated by a treatment provider  
11 who is qualified to provide such treatment in the state of  
12 Washington under chapter 18.155 RCW; (2) the treatment provider has  
13 presented a specific course of treatment and has agreed to assume  
14 responsibility for such treatment and will report progress to the  
15 court on a regular basis, and will report violations immediately to  
16 the court, the prosecutor, the supervising community corrections  
17 officer, and the superintendent of the special commitment center;  
18 ~~(3) ((housing exists that is sufficiently secure to protect the~~  
19 ~~community, and the person or agency providing housing to the~~  
20 ~~conditionally released person has agreed in writing to accept the~~  
21 ~~person, to provide the level of security required by the court, and~~  
22 ~~immediately to report to the court, the prosecutor, the supervising~~  
23 ~~community corrections officer, and the superintendent of the~~  
24 ~~special commitment center if the person leaves the housing to which~~  
25 ~~he or she has been assigned without authorization))~~ the person or  
26 agency providing housing to the conditionally released person meets  
27 the qualifications established by the department of social and  
28 health services under section 4 of this act and agrees in writing  
29 to (a) accept the person; (b) provide the level of security  
30 required by the court; and (c) immediately report to the court, the  
31 prosecutor, the supervising community corrections officer, and the  
32 superintendent of the special commitment center if the person

1 leaves, without authorization, the housing to which he or she has  
2 been assigned; (4) the person is willing to comply with the  
3 treatment provider and all requirements imposed by the treatment  
4 provider and by the court; and (5) the person is willing to comply  
5 with supervision requirements imposed by the department of  
6 corrections.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.09  
8 RCW to read as follows:

9 The department of social and health services shall adopt rules  
10 establishing the qualifications for any person or agency seeking to  
11 provide housing to a person on conditional release pursuant to this  
12 chapter. The rules shall address, at a minimum, public safety  
13 concerns relating to (1) the proximity of the proposed housing to  
14 vulnerable populations; (2) the appropriate level of security at  
15 the facility, including physical requirements of the building or  
16 grounds and minimum staffing levels; and (3) the minimum education,  
17 training, and experience requirements of staff.

18 **Sec. 10.** RCW 71.09.096 and 1995 c 216 s 12 are each amended  
19 to read as follows:

20 (1) If the court or jury determines that conditional release  
21 to a less restrictive alternative is in the best interest of the  
22 person and will adequately protect the community, and the court  
23 determines that the minimum conditions set forth in (~~section 9 of~~  
24 ~~this act~~) RCW 71.09.092 are met, the court shall enter judgment  
25 and direct a conditional release.

26 (2) The court shall impose any additional conditions necessary  
27 to ensure compliance with treatment and to protect the community.  
28 If the court finds that conditions do not exist that will both  
29 ensure the person's compliance with treatment and protect the  
30 community, then the person shall be remanded to the custody of the

1 department of social and health services for control, care, and  
2 treatment in a secure facility as designated in RCW 71.09.060(1).

3 (3) If the service provider designated to provide inpatient or  
4 outpatient treatment or to monitor or supervise any other terms and  
5 conditions of a person's placement in a less restrictive  
6 alternative is other than the department of social and health  
7 services or the department of corrections, then the service  
8 provider so designated must agree in writing to provide such  
9 treatment.

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, including  
13 prohibiting the person from living within a specified distance of  
14 the current residence of any minor victimized by the person, unless  
15 the whereabouts of the minor victim cannot be determined. The  
16 court shall order the department of corrections to investigate the  
17 less restrictive alternative and recommend any additional  
18 conditions to the court. These conditions shall include, but are  
19 not limited to the following: Specification of residence,  
20 including proximity to prior victims, schools, child care centers,  
21 or other facilities with vulnerable populations; prohibition of  
22 contact with potential or past victims(( $\tau$ )); prohibition of alcohol  
23 and other drug use(( $\tau$ )); participation in a specific course of  
24 inpatient or outpatient treatment that may include monitoring by  
25 the use of polygraph and plethysmograph(( $\tau$ )); supervision by a  
26 department of corrections community corrections officer(( $\tau$ )); a  
27 requirement that the person remain within the state unless the  
28 person receives prior authorization by the court(( $\tau$ )); and any  
29 other conditions that the court determines are in the best interest  
30 of the person or others. A copy of the conditions of release shall  
31 be given to the person and to any designated service providers.

32 (5) Any service provider designated to provide inpatient or  
33 outpatient treatment shall monthly, or as otherwise directed by the

1 court, submit to the court, to the department of social and health  
2 services facility from which the person was released, to the  
3 prosecutor of the county in which the person was found to be a  
4 sexually violent predator, and to the supervising community  
5 corrections officer, a report stating whether the person is  
6 complying with the terms and conditions of the conditional release  
7 to a less restrictive alternative.

8 (6) Each person released to a less restrictive alternative  
9 shall have his or her case reviewed by the court that released him  
10 or her no later than one year after such release and annually  
11 thereafter until the person is unconditionally discharged. Review  
12 may occur in a shorter time or more frequently, if the court, in  
13 its discretion on its own motion, or on motion of the person, the  
14 secretary, or the prosecuting attorney so determines. The sole  
15 question to be determined by the court is whether the person shall  
16 continue to be conditionally released to a less restrictive  
17 alternative. The court in making its determination shall be aided  
18 by the periodic reports filed pursuant to subsection (5) of this  
19 section and the opinions of the secretary and other experts or  
20 professional persons."

21 Re-number remaining sections and correct the title accordingly.

**EFFECT:** The amendment makes several changes: (1) The Department of Corrections (DOC) must notify any person who formally requests notification of the proposed residential address for a sex offender; (2) DOC must adopt a formal process allowing for public input on the safety risks of particular offenders; (3) DOC must rely on assessments of public safety risks when making discretionary decisions regarding sex offender supervision or release plans; (4) Specification is provided for when DOC can approve or reject proposed release plans for sex offenders who offended against



a minor victim; (5) Additional criteria are provided for a judge to address before conditionally releasing a sexually violent predator; (6) The Department of Social and Health Services must adopt rules addressing the qualifications for any person or agency seeking to provide housing for a conditionally released sexually violent predator; and (7) DOC must investigate whether a conditionally released sexually violent predator should be restricted from living near prior victims, schools, child care centers, or other facilities with vulnerable populations.