

# HOUSE BILL REPORT

## HB 1258

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to civilly committing sexually violent predators who are involuntarily committed under chapter 10.77 RCW.

**Brief Description:** Committing sexually violent predators.

**Sponsors:** Representatives Carrell, Roach, Talcott, Kirby, Newhouse, Conway, McMahan, Kristiansen, Boldt, Flannigan, McDonald, Bush, Lantz, Cairnes, O'Brien, Shabro, Schindler, Ahern, Priest, Benson, Nixon, Chase and Anderson.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/4/03, 2/14/03 [DPS].

#### Brief Summary of Substitute Bill

- Requires notification to be given to the county prosecutor in a county where a person who may meet the definition of a sexually violent predator is about to be released, and allows that prosecutor to file a petition alleging that the person is a sexually violent predator.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Lovick and Pearson.

**Staff:** Jim Morishima (786-7191).

### Background:

Under the Community Protection Act of 1990, a sexually violent predator may be civilly committed upon the expiration of his or her criminal sentence. A sexually violent predator is a person who has been convicted of, charged with and found not guilty by reason of insanity of, or found to be incompetent to stand trial for a crime of sexual

violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) and confined at the Special Commitment Center (SCC) on McNeil Island for control, care, and individualized treatment.

When it appears that a person found incompetent to stand trial or not guilty by reason of insanity of a sexually violent offense is about to be released, the agency with jurisdiction must notify the prosecuting attorney in the county where the person was charged. That prosecutor or the Attorney General may file a petition alleging that the person is a sexually violent predator, which begins the civil commitment process.

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**Summary of Substitute Bill:**

When it appears that a person found incompetent to stand trial or not guilty by reason of insanity of a sexually violent offense is about to be released, the agency with jurisdiction must notify the prosecuting attorney in the county where the person is about to be released. That prosecutor may file a petition alleging that the person is a sexually violent predator.

**Substitute Bill Compared to Original Bill:**

The substitute: 1) removes the provisions allowing persons civilly committed after being found not guilty by reason of insanity or incompetent to stand trial to be civilly committed as sexually violent predators before their original term of civil commitment has been completed; and 2) clarifies that the provisions relating to notifying the prosecutor in the county where an offender is about to be released (and allowing that prosecutor to file a petition) only apply to situations where a person is about to be released after being found not guilty by reason of insanity or incompetent to stand trial for a sexually violent offense.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill will help ensure that we have appropriate placement for people who have been found not guilty by reason of insanity. People are released from mental hospitals into the surrounding community, but the only person who may file a petition alleging that the person is a sexually violent predator is the county prosecutor from the

county where that person was charged. If the county of release is different than the county where the person was charged, there may be less interest in filing a petition on the part of the charging county.

**Testimony Against:** (Original bill) Persons who are civilly committed after being found not guilty by reason of insanity or incompetent to stand trial need specialized treatment that is not available at the SCC.

**Testified:** (In support) Representative Carrell, prime sponsor.

(Opposed) (Original bill) Jack Morris, Department of Social and Health Services.