

---

## Public Safety Committee

---

### HB 1668

**Brief Description:** Restricting conditional releases of sexually violent predators outside their county of origin.

**Sponsors:** Representatives Kilduff, Muri, Hurst, Fey, Stokesbary, Jinkins, Stambaugh, Kirby, Zeiger and Sawyer.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Requires a court, when ordering release of a sexually violent predator to a less restrictive alternative, to consider release to the person's county of origin.</li></ul>
---



**Hearing Date:** 2/6/15

**Staff:** Cassie Jones (786-7303).

**Background:**

A sexually violent predator (SVP) is a person who has been convicted of, 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 in a secure facility. Once the prosecutor files a petition to civilly commit a person, the court first must determine whether there is probable cause to believe the person is a SVP. If there is probable cause, a full trial is held to determine whether the person is a SVP. At the trial, the burden is on the state to prove beyond a reasonable doubt that the person is a SVP. If the person requests a 12-person jury, the jury must be unanimous. If the person is found to be a SVP, he or she is committed to the custody of the Department of Social and Health Services (DSHS) for control, care, and treatment at the Special Commitment Center (SCC) on McNeil Island.

Every year, the DSHS shall conduct an examination of each committed person's mental condition and prepare a report as to whether the person continues to meet the definition of a SVP and whether conditional release to a less restrictive alternative (LRA) is in the person's best interest

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

and conditions can be imposed to adequately protect the community. The committed person can retain, or have appointed, if indigent, an evaluator to conduct an examination. If the DSHS determines after the annual examination that: (1) the person's condition has so changed that he or she no longer meets the definition of a SVP; or (2) conditional release to a LRA is in the person's best interest and conditions can be imposed to adequately protect the community, the DSHS must authorize the person to petition the court for a full trial to consider either unconditional discharge or conditional release to a LRA.

The committed person may also petition the court for release without the approval of the DSHS. The DSHS must send annual written notice of the right to petition the court, along with a waiver of rights. If the committed person does not waive the right, the court must set a show cause hearing to determine if probable cause exists to warrant a hearing on whether the person's condition has so changed. If, at the hearing, the committed person demonstrates probable cause to believe that his or her condition has so changed that he or she no longer meets the definition of a SVP or that release to a LRA would be in the person's best interest and conditions would adequately protect the community, the court will order a full trial, at which the burden is on the state. However, a trial may not be ordered unless there is current evidence from a licensed professional that: (1) the committed person has undergone a permanent physiological change, such as paralysis, stroke, or dementia, which renders him or her unable to commit a sexually violent act; or (2) treatment has brought about change in mental condition such that the person meets the standard for conditional release to a LRA or unconditional release.

Before releasing a person to a LRA, the court must make the following findings:

- the person will be treated by a qualified treatment provider;
- the treatment provider has presented a specific course of treatment and has agreed to assume responsibility for such treatment and will report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the Superintendent of the SCC;
- housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the Superintendent of the SCC if the person leaves the housing to which he or she has been assigned without authorization;
- the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and
- the person will be under the supervision of the Department of Corrections and is willing to comply with supervision.

### **Summary of Bill:**

Before authorizing release of a person to a LRA, the court must consider whether it is appropriate to release the person to the person's county of origin. A person's county of origin is the county of the court which ordered the person's commitment.

It is appropriate to release a person to the person's county of origin unless the court determines that the person's return to his or her county of origin would be inappropriate considering any court-issued protection orders, victim safety concerns, the availability of appropriate treatment or

facilities that would adequately protect the community, negative influences on the person, or the location of family or other persons or organizations offering support.

When the DSHS or the court assists in developing a placement of a person, effort must be made to avoid disproportionate effect on a single county.

If the person is not released to his or her county of origin, the DSHS shall provide written notice and an explanation to the law and justice council of the county of placement.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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