

# SENATE BILL REPORT

## SB 6515

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As Reported by Senate Committee On:  
Human Services & Corrections, January 30, 2018

**Title:** An act relating to the legal and geographical review requirements for the conditional release of sexually violent predators to a less restrictive alternative.

**Brief Description:** Concerning the legal and geographical review requirements for the conditional release of sexually violent predators to a less restrictive alternative.

**Sponsors:** Senators Conway, Darneille, O'Ban, Becker, Zeiger and Fortunato.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/24/18, 1/30/18 [DPS].

**Brief Summary of First Substitute Bill**

- Requires that a sexually violent predator (SVP) review group (Review Group) be established and be supported and overseen by the Washington State Sex Offender Policy Board (SOPB).
- Requires the Review Group to submit a report to the Legislature with findings and recommendations for addressing the disproportionate grouping of persons subject to less restrictive alternative (LRA) orders to one geographic area by December 1, 2018.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 6515 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Miloscia.

**Staff:** Keri Waterland (786-7490)

**Background:** An SVP is a person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility. The Department of Social and Health Services (DSHS) operates the Special

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Commitment Center (SCC) and two secure community transition facilities (SCTF's) to provide for persons committed to inpatient or facility-based LRA treatment as SVPs.

On an annual basis, DSHS must conduct an examination of the mental condition of a person committed as an SVP to determine whether:

- the person no longer meets the definition of an SVP; or
- if the person still meets this definition, whether a CR to an LRA is in the best interest of the person and conditions can be imposed to adequately protect the community.

If DSHS determines that either of the above are met, DSHS must allow the person to petition the court for a CR to an LRA or for an unconditional discharge. A committed person may also petition the court for a CR to an LRA or an unconditional discharge without the approval of DSHS.

During hearings to determine if a CR to an LRA should be granted, the burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the CR should not be granted, because the proposed LRA either:

- is not in the best interest of the committed person; or
- does not include conditions that would adequately protect the community.

Prior to authorizing release to an LRA, the court must consider whether it is appropriate to release the person to the person's county of commitment. A Legislative finding adopted in 2015, states that to ensure equitable distribution of releases, and prevent the disproportionate grouping of persons subject to LRAs in any one county or community, it is appropriate for LRAs to occur in the person's county of commitment.

**Summary of Bill (First Substitute):** The SOPB must establish and provide oversight, staff support, research, and consultation to the Review Group, which must be led by the SVP section chief in the attorney general's office. The Review Group must contain, at minimum:

- a representative of the Washington Association of Sheriffs and Police Chiefs;
- the chair or representative of the SVP unit in the King county prosecutor's office;
- a representative from the office of public defense;
- a representative of the Pierce County prosecutor's office;
- a representative of the Washington Association for the Treatment of Sex Abusers;
- a representative of the Department of Corrections unit SVPs, or the End of Sentence Review Committee;
- a retired Washington State superior court judge;
- a representative of the Washington State Association of Counties;
- a representative of the association of Washington cities; and
- the chief executive officer of the Special Commitment Center, or the chief executive officer's designee.

The Review Group shall consult with the Washington Institute for Public Policy and the Office of Financial Management's forecasting and research division, and shall meet with the SOPB on a quarterly basis to review progress and make requests for staff support, research, or consultation.

By December 1, 2018, the Review Group must submit a report to the Legislature with findings and recommendations which will:

- identify regional differences and challenges to developing appropriate treatment and facilities for persons released to less restrictive alternatives;
- recommend methods to promote and increase the development of appropriate treatment and facilities for persons released to a less restrictive alternative statewide, targeting counties that do not currently have appropriate services;
- review currently available data of all less restrictive alternative releases under this chapter both to county of commitment and to other than county of commitment by county of commitment, and by receiving county, and make recommendations accordingly;
- develop a statewide repository to identify all certified treatment providers under chapter 18.155 RCW by county;
- recommend improvement strategies to the process for granting releases to less restrictive alternatives;
- recommend the appropriate procedures and level of involvement for the Department of Social and Health Services and the Department of Corrections in discharge planning, community supervision, and developing appropriate treatment and facilities for persons released to LRAs; and
- recommend statutory changes related to commitments and releases under chapter 71.09 RCW.

This act expires on December 30, 2019.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (First Substitute):**

- Removes chapter 71.09 RCW amendments and adds that a SVP review group be established and overseen by the SOPB.
- Adds a report due to the Legislature by December 1, 2018, and an expiration date of December 30, 2019.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2018.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This is a good bill aimed at having people released to their county of commitment. Pierce County is frustrated with inaction for finding other placements outside of Pierce County for SVPs. Fair share legislation was enacted, but nothing has been done yet.

CON: It is true, there are problems with the LRA process. This bill will make the process harder. Especially because of the limitation on placement, which will make it hard to place

people with highly intensive needs for their disabilities. There is limited placement and treatment in the community, and this will slow those placements down. We have strong concerns, but are not in denial of this problem. The bill has erroneous assumptions about how LRAs are granted, and we are the only state in the nation doing it this way. I request you give this legislation to the sex offender policy board (SOPB) and a currently occurring workgroup for one year, with a mandate to come back to the legislature with a solution.

OTHER: Bigger issues are at play in the statute. A group is already working on these issues, they are not talking about geographical distribution at this time, but could. We would like to work on these issues and present these to the Legislature. SVPs cannot qualify for housing vouchers. There is interest in putting this into law, but we are not ready yet. This follows a SOPB recommendation from 2016.

**Persons Testifying:** PRO: Senator Steve Conway, Prime Sponsor.

CON: Rachael SeEVERS, Disability Rights Washington; Andrew Morrison, Washington Association of Criminal Defense Lawyers, WDA.

OTHER: Sophia Byrd McSherry, Washington State Office of Public Defense.

**Persons Signed In To Testify But Not Testifying:** No one.