

SENATE BILL REPORT

ESSB 6641

As Amended by House, March 11, 2020

Title: An act relating to increasing the availability of certified sex offender treatment providers.

Brief Description: Increasing the availability of certified sex offender treatment providers.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators O'Ban, Conway and Wilson, C.).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/05/20, 2/06/20 [DPS].

Floor Activity:

Passed Senate: 2/19/20, 48-0.

Passed House: 3/05/20, 96-1; 3/11/20, 96-1.

Brief Summary of Engrossed First Substitute Bill

- Requires the Department of Health (DOH) to certify sexual offender treatment providers who receive supervision from qualified supervisors who may not themselves be certified sexual offender treatment providers.
- Requires the DOH to certify sexual offender treatment providers with out-of-state qualifications if they meet a lifetime experience threshold or meet other requirements.
- Reestablishes the Sexual Offender Treatment Provider Advisory Committee to advise DOH and recommend regulatory and policy reform.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 6641 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kevin Black (786-7747)

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.

Background: DOH certifies sex offender treatment providers (SOTPs), who are registered health professionals certified to examine and treat sex offenders and sexually violent predators (SVPs). Only a certified SOTP or certified affiliate SOTP who is training under a certified SOTP and has completed at least 50 percent of their training hours may:

- conduct evaluations under the Special Sexual Offender Sentencing Alternative (SOSA) or the Special Sexual Offender Disposition Alternative (SSODA);
- perform treatment of Level III adult and juvenile sex offenders; or
- perform treatment of conditionally released SVPs.

An SOTP Advisory Committee was created in law in 1990 to develop SOTP certification standards and to provide ongoing advice to DOH in matters relating to SOTP certification. The statute establishing the SOTP Advisory Committee was repealed in 2009.

The SSOSA and SSODA are sentencing or disposition alternatives available to defendants who are willing to affirmatively admit guilt, who have no prior convictions of a sex offense, and who undergo an examination by a certified SOTP to determine if they are amenable to treatment. If accepted into a SSOSA, an adult must serve up to one year in custody and undergo up to five years of sex offender treatment. If accepted into a SSODA, a juvenile must serve up to 30 days of confinement and complete up to two years of sex offender treatment. Other eligibility requirements apply.

An SVP is a person who has been convicted of or charged with a sexually violent offense 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. When it appears a person may meet the criteria of an SVP, a prosecuting agency may file a petition to confine the person civilly based on the SVP allegation. An SVP must be confined in the least restrictive alternative setting that will protect their needs and the needs of the community, which may include community placement.

Summary of Engrossed First Substitute Bill: DOH must certify an affiliate SOTP if they have completed prescribed education and examination requirements and provide proof of supervision by a qualified supervisor, who does not need to be a certified SOTP.

A certified affiliate SOTP may perform SSOSA or SSODA evaluations without regard to the number of required hours of supervision they have completed. Employees of a state-run facility, treatment program, or education program may perform SSOSA or SSODA evaluations or provide treatment to level III sex offenders and persons committed as SVPs as part of their job duties.

A qualified supervisor is a person who:

- meets the requirements for certification as a certified SOTP;
- meets a lifetime experience threshold of having provided at least 2000 hours of direct sex offender specific treatment and assessment services and continues to maintain professional involvement in the field; or
- meets a lifetime experience threshold of at least two years of full time work in a state-run facility or state-run treatment program providing direct sex offender specific treatment and assessment services and continues to maintain professional involvement in the field.

A qualified supervisor may sign an attestation form stating under penalty of perjury that they have met requisite education, training, and experience requirements.

The SOTP Advisory Committee is reestablished as a permanent body with members appointed by DOH to include:

- one superior court judge;
- three certified SOTPs with a minimum of five years experience treating sex offenders, including at least one from the Washington Association for the Treatment of Sexual Abusers;
- one mental health practitioner with experience treating victims of sexual assault;
- one defense attorney with experience representing persons charged with sex offenses;
- one representative of the Washington Association of Prosecuting Attorneys;
- the secretary of the Department of Social and Health Services (DSHS) or their designee;
- the secretary of the Department of Children, Youth, and Families or their designee; and
- the secretary of the Department of Corrections (DOC) or their designee.

The Advisory Committee must provide advice to DOH concerning:

- SOTP certification procedures;
- maintaining a healthy workforce of SOTPs;
- reform of regulatory practices of DOH, DSHS, or DOC; and
- recommendations for statutory reform.

DOH must establish educational programs and alternate training requirements for certified SOTPs that consider credit for experience gained through work in institutional settings in Washington State or another state or territory of the United States. Applicants to become a certified SOTP who have a comparable certification in another jurisdiction must be allowed to receive consideration of certification by DOH if:

- they hold, or held in good standing within the past three years, a credential in good standing which DOH with advice from the SOTP Advisory Committee deems to be substantially equivalent to an SOTP certification in Washington;
- they meet a lifetime experience threshold of at least 2000 hours of direct sex offender specific treatment and assessment services and continue to maintain professional involvement in the field; or
- they meet a lifetime experience threshold of two years full-time experience working in a state-run facility, treatment program, or education program providing direct sex offender specific treatment and assessment services and continue to maintain professional involvement in the field.

An applicant to become a certified SOTP or certified affiliate SOTP may sign an attestation form under penalty of perjury that they have met the training requirements and would be able to substantiate that claim.

Appropriation: None.

Fiscal Note: Requested on January 29, 2020.

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 bill than what was heard.* PRO: Pierce and King County have been challenged with more than their fair share of releases from the Special Commitment Center (SCC) because there are so many therapists who are former employees of the SCC and Western State Hospital. The people go there on release because that is where the treatment is. We need to expand the availability of treatment around the state so that these people can return to their counties of origin. We also need more treatment in general. We are pleased to see this bill come forward. There is a lack of opportunity for SOTPs to get the required supervision hours to obtain certification to provide sex offender treatment in the community. This is a good bill and we have suggestions that will make it even stronger. This bill recognizes the barriers to certification which have historically stopped DOC professionals from obtaining certification. This will improve the recruitment and retention of qualified individuals by the state. The new community providers will be of high quality because at DOC we invest significant resources in developing the skills and ability of our employees. This bill will increase the number of providers in underserved counties because DOC facilities are located in those areas. The elimination of the SOTP Advisory Committee led to poor decision-making at DOH related to certification. We have some recommended tweaks. We are in support of expanding the existing base of people who provide this type of treatment so that people can move into the community when it is time. I have extensive experience but I am not able to be certified as an SOTP because of the rigid certification requirements. The SOTP Advisory Committee will be very helpful.

OTHER: We have some questions in the bill about attestation and what qualified supervisors are. The bill is good in that it increases the number of SOTPs and increases incentives for staff to remain on McNeil Island to get accreditation. We want to increase the quantity of SOTPs without reducing quality.

Persons Testifying: PRO: Melena Thompson, Department of Corrections; Corey McNally, Department of Corrections; Michael O'Connell, Washington Association for the Treatment of Sexual Abusers; Holly Coryell, citizen; Sean Murphy, Department of Social and Health Services Behavioral Health Administration; Brandon Duncan, Department of Corrections.

OTHER: Devon Gibbs, King County Department of Public Defense.

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

EFFECT OF HOUSE AMENDMENT(S):

- Requires a certified SOTP or affiliate SOTP to be licensed as a psychologist, marriage and family therapist, social worker, mental health counselor, or psychiatrist, instead of requiring them to be licensed, certified, or registered as a health professional.
- Allows individuals credentialed by DOH as a certified SOTP or certified affiliate SOTP as of the effective date of this act to meet the licensure requirement for certification as long as the license they have as of that date remains active and in good standing.

- Removes requirement for a qualified supervisor to meet lifetime experience threshold requirements at the time supervision is provided.
- Revises membership requirements and duties of the SOTP Advisory Committee.
- Requires DOH to waive certification fees for SOTPs in an underserved county where the Department of Social and Health Services determines there are insufficient SOTP resources to meet the demand for community supervision of persons committed as sexually violent predators.
- Makes additional technical revisions.