

**E2SSB 5163** - H COMM AMD

By Committee on Public Safety

**ADOPTED AS AMENDED 04/08/2021**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that in 2008, the  
4 sex offender policy board was established to provide a more  
5 coordinated and integrated response to sex offender management in  
6 Washington state. The legislature further finds that in March 2020,  
7 the board was convened to review policies and practices related to  
8 sexually violent predators. The legislature recognizes that the board  
9 released a report and a series of recommendations regarding  
10 improvement to the current practice in order to ensure a successful  
11 transition for individuals convicted of sex offenses from total  
12 confinement back into the community. The legislature resolves to  
13 increase community safety through successful transition by enacting  
14 the recommendations of the board and other related policies.

15 **Sec. 2.** RCW 71.09.020 and 2015 c 278 s 2 are each reenacted and  
16 amended to read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Department" means the department of social and health  
20 services.

21 (2) "Fair share principles" and "fair share principles of  
22 release" means that each county has adequate options for conditional  
23 release housing placements in a number generally equivalent to the  
24 number of residents from that county who are subject to total  
25 confinement pursuant to this chapter.

26 (3) "Health care facility" means any hospital, hospice care  
27 center, licensed or certified health care facility, health  
28 maintenance organization regulated under chapter 48.46 RCW, federally  
29 qualified health maintenance organization, federally approved renal  
30 dialysis center or facility, or federally approved blood bank.

1       ~~((3))~~ (4) "Health care practitioner" means an individual or  
2 firm licensed or certified to engage actively in a regulated health  
3 profession.

4       ~~((4))~~ (5) "Health care services" means those services provided  
5 by health professionals licensed pursuant to RCW 18.120.020(4).

6       ~~((5))~~ (6) "Health profession" means those licensed or regulated  
7 professions set forth in RCW 18.120.020(4).

8       ~~((6))~~ (7) "Less restrictive alternative" means court-ordered  
9 treatment in a setting less restrictive than total confinement which  
10 satisfies the conditions set forth in RCW 71.09.092. A less  
11 restrictive alternative may not include placement in the community  
12 protection program as pursuant to RCW 71A.12.230.

13       ~~((7))~~ (8) "Likely to engage in predatory acts of sexual  
14 violence if not confined in a secure facility" means that the person  
15 more probably than not will engage in such acts if released  
16 unconditionally from detention on the sexually violent predator  
17 petition. Such likelihood must be evidenced by a recent overt act if  
18 the person is not totally confined at the time the petition is filed  
19 under RCW 71.09.030.

20       ~~((8))~~ (9) "Mental abnormality" means a congenital or acquired  
21 condition affecting the emotional or volitional capacity which  
22 predisposes the person to the commission of criminal sexual acts in a  
23 degree constituting such person a menace to the health and safety of  
24 others.

25       ~~((9))~~ (10) "Personality disorder" means an enduring pattern of  
26 inner experience and behavior that deviates markedly from the  
27 expectations of the individual's culture, is pervasive and  
28 inflexible, has onset in adolescence or early adulthood, is stable  
29 over time and leads to distress or impairment. Purported evidence of  
30 a personality disorder must be supported by testimony of a licensed  
31 forensic psychologist or psychiatrist.

32       ~~((10))~~ (11) "Predatory" means acts directed towards: (a)  
33 Strangers; (b) individuals with whom a relationship has been  
34 established or promoted for the primary purpose of victimization; or  
35 (c) persons of casual acquaintance with whom no substantial personal  
36 relationship exists.

37       ~~((11))~~ (12) "Prosecuting agency" means the prosecuting attorney  
38 of the county where the person was convicted or charged or the  
39 attorney general if requested by the prosecuting attorney, as  
40 provided in RCW 71.09.030.

1       (~~(12)~~) (13) "Recent overt act" means any act, threat, or  
2 combination thereof that has either caused harm of a sexually violent  
3 nature or creates a reasonable apprehension of such harm in the mind  
4 of an objective person who knows of the history and mental condition  
5 of the person engaging in the act or behaviors.

6       (~~(13)~~) (14) "Risk potential activity" or "risk potential  
7 facility" means an activity or facility that provides a higher  
8 incidence of risk to the public from persons conditionally released  
9 from the special commitment center. Risk potential activities and  
10 facilities include: Public and private schools, school bus stops,  
11 licensed day care and licensed preschool facilities, public parks,  
12 publicly dedicated trails, sports fields, playgrounds, recreational  
13 and community centers, churches, synagogues, temples, mosques, public  
14 libraries, public and private youth camps, and others identified by  
15 the department following the hearings on a potential site required in  
16 RCW 71.09.315. For purposes of this chapter, "school bus stops" does  
17 not include bus stops established primarily for public transit.

18       (~~(14)~~) (15) "Secretary" means the secretary of social and  
19 health services or the secretary's designee.

20       (~~(15)~~) (16) "Secure community transition facility" means a  
21 residential facility for persons civilly committed and conditionally  
22 released to a less restrictive alternative under this chapter. A  
23 secure community transition facility has supervision and security,  
24 and either provides or ensures the provision of sex offender  
25 treatment services. Secure community transition facilities include  
26 but are not limited to the facility established pursuant to RCW  
27 71.09.250(1)(a)(i) and any community-based facilities established  
28 under this chapter and operated by the secretary or under contract  
29 with the secretary.

30       (~~(16)~~) (17) "Secure facility" means a residential facility for  
31 persons civilly confined under the provisions of this chapter that  
32 includes security measures sufficient to protect the community. Such  
33 facilities include total confinement facilities, secure community  
34 transition facilities, and any residence used as a court-ordered  
35 placement under RCW 71.09.096.

36       (~~(17)~~) (18) "Sexually violent offense" means an act committed  
37 on, before, or after July 1, 1990, that is: (a) An act defined in  
38 Title 9A RCW as rape in the first degree, rape in the second degree  
39 by forcible compulsion, rape of a child in the first or second  
40 degree, statutory rape in the first or second degree, indecent

1 liberties by forcible compulsion, indecent liberties against a child  
2 under age fourteen, incest against a child under age fourteen, or  
3 child molestation in the first or second degree; (b) a felony offense  
4 in effect at any time prior to July 1, 1990, that is comparable to a  
5 sexually violent offense as defined in (a) of this subsection, or any  
6 federal or out-of-state conviction for a felony offense that under  
7 the laws of this state would be a sexually violent offense as defined  
8 in this subsection; (c) an act of murder in the first or second  
9 degree, assault in the first or second degree, assault of a child in  
10 the first or second degree, kidnapping in the first or second degree,  
11 burglary in the first degree, residential burglary, or unlawful  
12 imprisonment, which act, either at the time of sentencing for the  
13 offense or subsequently during civil commitment proceedings pursuant  
14 to this chapter, has been determined beyond a reasonable doubt to  
15 have been sexually motivated, as that term is defined in RCW  
16 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is  
17 an attempt, criminal solicitation, or criminal conspiracy to commit  
18 one of the felonies designated in (a), (b), or (c) of this  
19 subsection.

20 ~~((18))~~ (19) "Sexually violent predator" means any person who  
21 has been convicted of or charged with a crime of sexual violence and  
22 who suffers from a mental abnormality or personality disorder which  
23 makes the person likely to engage in predatory acts of sexual  
24 violence if not confined in a secure facility.

25 ~~((19))~~ (20) "Total confinement facility" means a secure  
26 facility that provides supervision and sex offender treatment  
27 services in a total confinement setting. Total confinement facilities  
28 include the special commitment center and any similar facility  
29 designated as a total confinement facility by the secretary.

30 ~~((20))~~ (21) "Treatment" means the sex offender specific  
31 treatment program at the special commitment center or a specific  
32 course of sex offender treatment pursuant to RCW 71.09.092 (1) and  
33 (2).

34 **Sec. 3.** RCW 71.09.080 and 2012 c 257 s 6 are each amended to  
35 read as follows:

36 (1) Any person subjected to restricted liberty as a sexually  
37 violent predator pursuant to this chapter shall not forfeit any legal  
38 right or suffer any legal disability as a consequence of any actions

1 taken or orders made, other than as specifically provided in this  
2 chapter, or as otherwise authorized by law.

3 (2) (a) Any person committed or detained pursuant to this chapter  
4 shall be prohibited from possessing or accessing a personal computer  
5 if the resident's individualized treatment plan states that access to  
6 a computer is harmful to bringing about a positive response to a  
7 specific and certain phase or course of treatment.

8 (b) A person who is prohibited from possessing or accessing a  
9 personal computer under (a) of this subsection shall be permitted to  
10 access a limited functioning personal computer capable of word  
11 processing and limited data storage on the computer only that does  
12 not have: (i) Internet access capability; (ii) an optical drive,  
13 external drive, universal serial bus port, or similar drive  
14 capability; or (iii) the capability to display photographs, images,  
15 videos, or motion pictures, or similar display capability from any  
16 drive or port capability listed under (b) (ii) of this subsection.

17 (3) Any person committed pursuant to this chapter has the right  
18 to adequate care ~~((and)),~~ individualized treatment, and the  
19 development of an ongoing, clinically appropriate discharge plan as  
20 part of the treatment process. The department of social and health  
21 services shall keep records detailing all medical, expert, and  
22 professional care and treatment received by a committed person, and  
23 shall keep copies of all reports of periodic examinations made  
24 pursuant to this chapter. All such records and reports shall be made  
25 available upon request only to: The committed person, his or her  
26 attorney, the prosecuting agency, the court, the protection and  
27 advocacy agency, or another expert or professional person who, upon  
28 proper showing, demonstrates a need for access to such records.

29 (4) The right to the development of a discharge plan under  
30 subsection (3) of this section does not guarantee that any particular  
31 person will be determined appropriate for discharge at any particular  
32 time. Nothing in this section precludes the department from  
33 expressing professional judgment regarding the suitability of  
34 discharge for the protection of a resident's safety or community  
35 safety. Individualized and ongoing discharge planning requires, at a  
36 minimum, and as part of a person's treatment plan, the following are  
37 addressed based on information known to the department and in  
38 accordance with policies developed by the department to implement  
39 this subsection:

1 (a) The resident's known physical health, functioning, and any  
2 need for health aid devices;

3 (b) The resident's known intellectual or cognitive level of  
4 functioning and need for specialized programming;

5 (c) The resident's known history of substance use and abuse;

6 (d) The resident's known history of risky or impulsive behaviors,  
7 criminogenic needs, and treatment interventions to address them;

8 (e) The resident's known ability to perform life skills and  
9 activities of daily living independently and the resident's known  
10 need for any disability accommodations;

11 (f) A summary of the known community services and supports the  
12 resident needs for a safe life in the community and the type of  
13 providers of such services and support; and

14 (g) A plan to mitigate the needs identified in this subsection  
15 that also addresses ways to develop or increase social supports,  
16 recreation opportunities, gainful employment, and if applicable,  
17 spiritual opportunities.

18 (5) At the time a person is taken into custody or transferred  
19 into a facility pursuant to a petition under this chapter, the  
20 professional person in charge of such facility or his or her designee  
21 shall take reasonable precautions to inventory and safeguard the  
22 personal property of the persons detained or transferred. A copy of  
23 the inventory, signed by the staff member making it, shall be given  
24 to the person detained and shall, in addition, be open to inspection  
25 to any responsible relative, subject to limitations, if any,  
26 specifically imposed by the detained person. For purposes of this  
27 subsection, "responsible relative" includes the guardian,  
28 conservator, attorney, spouse, parent, adult child, or adult brother  
29 or sister of the person. The facility shall not disclose the contents  
30 of the inventory to any other person without consent of the patient  
31 or order of the court.

32 ~~((+5))~~ (6) Nothing in this chapter prohibits a person presently  
33 committed from exercising a right presently available to him or her  
34 for the purpose of obtaining release from confinement, including the  
35 right to petition for a writ of habeas corpus.

36 ~~((+6))~~ (7) No indigent person may be conditionally released or  
37 unconditionally discharged under this chapter without suitable  
38 clothing, and the secretary shall furnish the person with such sum of  
39 money as is required by RCW 72.02.100 for persons without ample funds  
40 who are released from correctional institutions. As funds are

1 available, the secretary may provide payment to the indigent persons  
2 conditionally released pursuant to this chapter consistent with the  
3 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt  
4 rules to do so.

5 ~~((7))~~ (8) If a civil commitment petition is dismissed, or a  
6 trier of fact determines that a person does not meet civil commitment  
7 criteria, the person shall be released within twenty-four hours of  
8 service of the release order on the superintendent of the special  
9 commitment center, or later by agreement of the person who is the  
10 subject of the petition.

11 **Sec. 4.** RCW 71.09.090 and 2018 c 131 s 2 are each amended to  
12 read as follows:

13 (1)(a) If the secretary determines that the person's condition  
14 has so changed that ~~((either: (a) The))~~ the person no longer meets  
15 the definition of a sexually violent predator ~~((; or (b) conditional~~  
16 ~~release to a less restrictive alternative is in the best interest of~~  
17 ~~the person and conditions can be imposed that adequately protect the~~  
18 ~~community)),~~ the secretary shall authorize the person to petition the  
19 court for ~~((conditional release to a less restrictive alternative~~  
20 ~~or))~~ unconditional discharge. The petition shall be filed with the  
21 court and served upon the prosecuting agency responsible for the  
22 initial commitment. The court, upon receipt of the petition for  
23 ~~((conditional release to a less restrictive alternative or))~~  
24 unconditional discharge, shall within ~~((forty-five))~~ 45 days order a  
25 hearing.

26 (b) If the secretary determines that the person's condition has  
27 so changed that conditional release to a less restrictive alternative  
28 is in the best interest of the person and conditions can be imposed  
29 that adequately protect the community, then the secretary shall  
30 authorize the person to petition the court for conditional release to  
31 a less restrictive alternative. Upon receipt of the petition, the  
32 court shall order the department to identify a less restrictive  
33 alternative placement that satisfies RCW 71.09.092 (1) through (4).  
34 Once identified, notice of the placement shall be filed with the  
35 court and served upon the prosecuting agency responsible for the  
36 initial commitment as well as the person and his or her counsel. If  
37 the department cannot identify a placement available to the person  
38 that satisfies RCW 71.09.092 (1) through (4) within 90 days, the  
39 department shall provide a written certification to the court, the

1 prosecuting agency responsible for the initial commitment, and the  
2 person and his or her counsel, detailing the efforts of the  
3 department to identify a qualifying placement. Upon the department's  
4 certification, the person may propose a placement that satisfies RCW  
5 71.09.092 (1) through (3). After a less restrictive placement has  
6 been proposed by either the department or the person, the court shall  
7 within 45 days order a hearing.

8 (2)(a) Nothing contained in this chapter shall prohibit the  
9 person from otherwise petitioning the court for conditional release  
10 to a less restrictive alternative or unconditional discharge without  
11 the secretary's approval. The secretary shall provide the committed  
12 person with an annual written notice of the person's right to  
13 petition the court for conditional release to a less restrictive  
14 alternative or unconditional discharge over the secretary's  
15 objection. The notice shall contain a waiver of rights. The secretary  
16 shall file the notice and waiver form and the annual report with the  
17 court. If the person does not affirmatively waive the right to  
18 petition, the court shall set a show cause hearing to determine  
19 whether probable cause exists to warrant a hearing on whether the  
20 person's condition has so changed that: (i) He or she no longer meets  
21 the definition of a sexually violent predator; or (ii) conditional  
22 release to a proposed less restrictive alternative would be in the  
23 best interest of the person and conditions can be imposed that would  
24 adequately protect the community.

25 (b)(i) The committed person shall have a right to have an  
26 attorney represent him or her at the show cause hearing, which may be  
27 conducted solely on the basis of affidavits or declarations, but the  
28 person is not entitled to be present at the show cause hearing. At  
29 the show cause hearing, the prosecuting agency shall present prima  
30 facie evidence establishing: (A) That the committed person continues  
31 to meet the definition of a sexually violent predator; and (B) that a  
32 less restrictive alternative is not in the best interest of the  
33 person and conditions cannot be imposed that adequately protect the  
34 community.

35 (ii)(A) If the state produces prima facie evidence that the  
36 committed person continues to be a sexually violent predator, then  
37 the state's burden under (b)(i)(A) of this subsection is met and an  
38 unconditional release trial may not be ordered unless the committed  
39 person produces evidence satisfying: Subsection (4)(a) of this  
40 section; and subsection (4)(b) (i) or (ii) of this section.

1 (B) If the state produces prima facie evidence that a less  
2 restrictive alternative is not appropriate for the committed person,  
3 then the state's burden under (b)(i)(B) of this subsection is met,  
4 and a conditional release trial may not be ordered unless the  
5 committed person:

6 (I) Produces evidence satisfying: Subsection (4)(a) of this  
7 section; and subsection (4)(b) (i) or (ii) of this section; and

8 (II) Presents the court with a specific placement satisfying the  
9 requirements of RCW 71.09.092.

10 (iii) In making the showing required under (b)(i) of this  
11 subsection, the state may rely exclusively upon the annual report  
12 prepared pursuant to RCW 71.09.070. The committed person may present  
13 responsive affidavits or declarations to which the state may reply.

14 (c) (i) If the court at the show cause hearing determines that  
15 either: ~~((+i))~~ (A) The state has failed to present prima facie  
16 evidence that the committed person continues to meet the definition  
17 of a sexually violent predator ~~((and that no proposed less  
18 restrictive alternative is in the best interest of the person and  
19 conditions cannot be imposed that would adequately protect the  
20 community))~~; or ~~((+ii))~~ (B) probable cause exists to believe that  
21 the person's condition has so changed that ~~((:-(A) The))~~ the person no  
22 longer meets the definition of a sexually violent predator ~~((;-or-(B)-  
23 release to a proposed less restrictive alternative would be in the  
24 best interest of the person and conditions can be imposed that would  
25 adequately protect the community))~~, then the court shall set a  
26 hearing on ~~((either or both issues))~~ the issue of unconditional  
27 discharge.

28 (ii) If the court at the show cause hearing determines that the  
29 state has failed to present prima facie evidence that no proposed  
30 less restrictive alternative is in the best interest of the person  
31 and conditions cannot be imposed that would adequately protect the  
32 community, the court shall enter an order directing the department to  
33 propose a less restrictive alternative that satisfies RCW 71.09.092  
34 (1) through (4). If the department cannot identify a placement  
35 available to the person that satisfies RCW 71.09.092 (1) through (4)  
36 within 90 days, the department shall provide a written certification  
37 to the court, the prosecuting agency responsible for the initial  
38 commitment, and the person and his or her counsel, detailing the  
39 efforts of the department to identify a qualifying placement. Upon  
40 the department's certification, the person may propose a placement

1 that satisfies RCW 71.09.092 (1) through (3). After a less  
2 restrictive placement has been proposed by either the department or  
3 the person, the court shall set a hearing on the issue of conditional  
4 release.

5 (iii) If the court at the show cause hearing determines, based on  
6 the evidence submitted by the person, that probable cause exists to  
7 believe that release to a less restrictive alternative would be in  
8 the best interest of the person and conditions can be imposed that  
9 would adequately protect the community, the court shall set a hearing  
10 on the issue of conditional release if the person presents the court  
11 with a specific placement that satisfies the requirements of RCW  
12 71.09.092.

13 (d) If the court has not previously considered the issue of  
14 release to a less restrictive alternative, either through a trial on  
15 the merits or through the procedures set forth in RCW 71.09.094(1),  
16 or if an immediately preceding less restrictive alternative was  
17 revoked due to the loss of adequate housing or treatment for reasons  
18 other than noncompliance with housing requirements, treatment, or  
19 other conditions of the less restrictive alternative, the court shall  
20 consider whether release to a less restrictive alternative would be  
21 in the best interests of the person and conditions can be imposed  
22 that would adequately protect the community, without considering  
23 whether the person's condition has changed. (~~The court may not find~~  
24 ~~probable cause for a trial addressing less restrictive alternatives~~  
25 ~~unless a proposed less restrictive alternative placement meeting the~~  
26 ~~conditions of RCW 71.09.092 is presented to the court at the show~~  
27 ~~cause hearing.))~~

28 (3)(a) At the hearing resulting from subsection (1) or (2) of  
29 this section, the committed person shall be entitled to be present  
30 and to the benefit of all constitutional protections that were  
31 afforded to the person at the initial commitment proceeding. The  
32 prosecuting agency shall represent the state and shall have a right  
33 to a jury trial and to have the committed person evaluated by experts  
34 chosen by the state. The prosecuting agency shall have a right to a  
35 current evaluation of the person by experts chosen by the state. The  
36 judge may require the person to complete any or all of the following  
37 procedures or tests if requested by the evaluator: (i) A clinical  
38 interview; (ii) psychological testing; (iii) plethysmograph testing;  
39 and (iv) polygraph testing. The judge may order the person to  
40 complete any other procedures and tests relevant to the evaluation.

1 The state is responsible for the costs of the evaluation. The  
2 committed person shall also have the right to a jury trial and the  
3 right to have experts evaluate him or her on his or her behalf and  
4 the court shall appoint an expert if the person is indigent and  
5 requests an appointment.

6 (b) Whenever any indigent person is subjected to an evaluation  
7 under (a) of this subsection, the office of public defense is  
8 responsible for the cost of one expert or professional person  
9 conducting an evaluation on the person's behalf. When the person  
10 wishes to be evaluated by a qualified expert or professional person  
11 of his or her own choice, such expert or professional person must be  
12 permitted to have reasonable access to the person for the purpose of  
13 such evaluation, as well as to all relevant medical and psychological  
14 records and reports. In the case of a person who is indigent, the  
15 court shall, upon the person's request, assist the person in  
16 obtaining an expert or professional person to perform an evaluation  
17 or participate in the hearing on the person's behalf. Nothing in this  
18 chapter precludes the person from paying for additional expert  
19 services at his or her own expense.

20 (c) If the issue at the hearing is whether the person should be  
21 unconditionally discharged, the burden of proof shall be upon the  
22 state to prove beyond a reasonable doubt that the committed person's  
23 condition remains such that the person continues to meet the  
24 definition of a sexually violent predator. Evidence of the prior  
25 commitment trial and disposition is admissible. The recommitment  
26 proceeding shall otherwise proceed as set forth in RCW 71.09.050 and  
27 71.09.060.

28 (d) If the issue at the hearing is whether the person should be  
29 conditionally released to a less restrictive alternative, the burden  
30 of proof at the hearing shall be upon the state to prove beyond a  
31 reasonable doubt that conditional release to any proposed less  
32 restrictive alternative either: (i) Is not in the best interest of  
33 the committed person; or (ii) does not include conditions that would  
34 adequately protect the community. Evidence of the prior commitment  
35 trial and disposition is admissible.

36 (4) (a) Probable cause exists to believe that a person's condition  
37 has "so changed," under subsection (2) of this section, only when  
38 evidence exists, since the person's last commitment trial, or less  
39 restrictive alternative revocation proceeding, of a substantial  
40 change in the person's physical or mental condition such that the

1 person either no longer meets the definition of a sexually violent  
2 predator or that a conditional release to a less restrictive  
3 alternative is in the person's best interest and conditions can be  
4 imposed to adequately protect the community.

5 (b) A new trial proceeding under subsection (3) of this section  
6 may be ordered, or a trial proceeding may be held, only when there is  
7 current evidence from a licensed professional of one of the following  
8 and the evidence presents a change in condition since the person's  
9 last commitment trial proceeding:

10 (i) An identified physiological change to the person, such as  
11 paralysis, stroke, or dementia, that renders the committed person  
12 unable to commit a sexually violent act and this change is permanent;  
13 or

14 (ii) A change in the person's mental condition brought about  
15 through positive response to continuing participation in treatment  
16 which indicates that the person meets the standard for conditional  
17 release to a less restrictive alternative or that the person would be  
18 safe to be at large if unconditionally released from commitment.

19 (c) For purposes of this section, a change in a single  
20 demographic factor, without more, does not establish probable cause  
21 for a new trial proceeding under subsection (3) of this section. As  
22 used in this section, a single demographic factor includes, but is  
23 not limited to, a change in the chronological age, marital status, or  
24 gender of the committed person.

25 (5) When the court enters an order for unconditional discharge of  
26 a person from an immediately preceding less restrictive placement,  
27 the court must direct the clerk to transmit a copy of the order to  
28 the department of corrections for discharge process and termination  
29 of cause.

30 (6) The jurisdiction of the court over a person civilly committed  
31 pursuant to this chapter continues until such time as the person is  
32 unconditionally discharged.

33 ((+6)) (7) During any period of confinement pursuant to a  
34 criminal conviction, or for any period of detention awaiting trial on  
35 criminal charges, this section is suspended.

36 **Sec. 5.** RCW 71.09.092 and 2009 c 409 s 9 are each amended to  
37 read as follows:

38 Before the court may enter an order directing conditional release  
39 to a less restrictive alternative, it must find the following: (1)

1 The person will be treated by a treatment provider who is qualified  
2 to provide such treatment in the state of Washington under chapter  
3 18.155 RCW; (2) the treatment provider has presented a specific  
4 course of treatment and has agreed to assume responsibility for such  
5 treatment and will report progress to the court on a regular basis,  
6 and will report violations immediately to the court, the prosecutor,  
7 the supervising community corrections officer, and the superintendent  
8 of the special commitment center; (3) housing exists in Washington  
9 that complies with distance restrictions, is sufficiently secure to  
10 protect the community, and the person or agency providing housing to  
11 the conditionally released person has agreed in writing to accept the  
12 person, to provide the level of security required by the court, and  
13 immediately to report to the court, the prosecutor, the supervising  
14 community corrections officer, and the superintendent of the special  
15 commitment center if the person leaves the housing to which he or she  
16 has been assigned without authorization; (4) if the department has  
17 proposed housing that is outside of the county of commitment, a  
18 documented effort was made by the department to ensure that placement  
19 is consistent with fair share principles of release; (5) the person  
20 is willing to comply with the treatment provider and all requirements  
21 imposed by the treatment provider and by the court; and ~~((+5+))~~ (6)  
22 the person will be under the supervision of the department of  
23 corrections and is willing to comply with supervision requirements  
24 imposed by the department of corrections.

25 **Sec. 6.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to  
26 read as follows:

27 (1) If the court or jury determines that conditional release to a  
28 less restrictive alternative is in the best interest of the person  
29 and includes conditions that would adequately protect the community,  
30 and the court determines that the minimum conditions set forth in RCW  
31 71.09.092 and in this section are met, the court shall enter judgment  
32 and direct a conditional release.

33 (2) The court shall impose any additional conditions necessary to  
34 ensure compliance with treatment and to protect the community. If the  
35 court finds that conditions do not exist that will both ensure the  
36 person's compliance with treatment and protect the community, then  
37 the person shall be remanded to the custody of the department of  
38 social and health services for control, care, and treatment in a  
39 secure facility as designated in RCW 71.09.060(1).

1 (3) If the service provider designated by the court to provide  
2 inpatient or outpatient treatment or to monitor or supervise any  
3 other terms and conditions of a person's placement in a less  
4 restrictive alternative is other than the department of social and  
5 health services or the department of corrections, then the service  
6 provider so designated must agree in writing to provide such  
7 treatment, monitoring, or supervision in accord with this section.  
8 Any person providing or agreeing to provide treatment, monitoring, or  
9 supervision services pursuant to this chapter may be compelled to  
10 testify and any privilege with regard to such person's testimony is  
11 deemed waived.

12 (4)(a) Prior to authorizing any release to a less restrictive  
13 alternative, the court shall impose such conditions upon the person  
14 as are necessary to ensure the safety of the community. In imposing  
15 conditions, the court must impose a restriction on the proximity of  
16 the person's residence to public or private schools providing  
17 instruction to kindergarten or any grades one through 12 in  
18 accordance with RCW 72.09.340. Courts shall require a minimum  
19 distance restriction of 500 feet on the proximity of the person's  
20 residence to child care facilities and public or private schools  
21 providing instruction to kindergarten or any grades one through 12.  
22 The court shall order the department of corrections to investigate  
23 the less restrictive alternative and, within 60 days of the order to  
24 investigate, recommend any additional conditions to the court. These  
25 conditions shall be individualized to address the person's specific  
26 risk factors and criminogenic needs and may include, but are not  
27 limited to the following: Specification of residence or restrictions  
28 on residence including distance restrictions, specification of  
29 contact with a reasonable number of individuals upon the person's  
30 request who are verified by the department of corrections to be  
31 appropriate social contacts, prohibition of contact with potential or  
32 past victims, prohibition of alcohol and other drug use,  
33 participation in a specific course of inpatient or outpatient  
34 treatment that may include monitoring by the use of polygraph and  
35 plethysmograph, monitoring through the use of global positioning  
36 ((satellite—[global—positioning—system])) system technology,  
37 supervision by a department of corrections community corrections  
38 officer, a requirement that the person remain within the state unless  
39 the person receives prior authorization by the court, and any other  
40 conditions that the court determines are in the best interest of the

1 person or others. A copy of the conditions of release shall be given  
2 to the person and to any designated service providers.

3 (b) To the greatest extent possible, the person, person's  
4 counsel, prosecuting agency responsible for the initial commitment,  
5 treatment provider, supervising community corrections officer, and  
6 appropriate clinical staff of the special commitment center shall  
7 meet and collaborate to craft individualized, narrowly tailored, and  
8 empirically based conditions to present to the court to help  
9 facilitate the person's successful transition to the community.

10 (5) (a) Prior to authorizing release to a less restrictive  
11 alternative proposed by the department, the court shall consider  
12 whether ~~((it is appropriate to release the person to the person's~~  
13 ~~county of commitment))~~ the person's less restrictive alternative  
14 placement is in accordance with fair share principles. To ensure  
15 equitable distribution of releases, and prevent the disproportionate  
16 grouping of persons subject to less restrictive orders in any one  
17 county, or in any one jurisdiction or community within a county, the  
18 legislature finds it is appropriate for releases to a less  
19 restrictive alternative to occur in ~~((the person's county of~~  
20 ~~commitment, unless))~~ a manner that adheres to fair share principles.  
21 The legislature recognizes that there may be reasons why the  
22 department may not recommend that a person be released to his or her  
23 county of commitment, including availability of individualized  
24 resources, the person's support needs, or when the court determines  
25 that the person's return to his or her county of commitment would be  
26 inappropriate considering any court-issued protection orders, victim  
27 safety concerns that cannot be addressed through use of global  
28 positioning system technology, the ((availability)) unavailability of  
29 appropriate treatment or facilities that would adequately protect the  
30 community, negative influences on the person, ((or)) and the location  
31 of family or other persons or organizations offering support to the  
32 person. If the court authorizes conditional release based on the  
33 department's proposal to a county other than the county of  
34 commitment, the court shall enter specific findings regarding its  
35 decision and identify whether the release remains in line with fair  
36 share principles.

37 (b) (i) When the department ((or court assists in developing a))  
38 develops a less restrictive alternative placement under this section  
39 ((which is outside of the county of commitment, and there are two or  
40 more options for placement, it shall endeavor to develop the

1 ~~placement in a manner that does not have a disproportionate effect on~~  
2 ~~a single county)), it shall attempt to identify a placement~~  
3 ~~satisfying the requirements of RCW 71.09.092 that is aligned with~~  
4 ~~fair share principles. The department shall document its rationale~~  
5 ~~for the recommended placement.~~

6 (ii) If the department does not support or recommend conditional  
7 release to a less restrictive alternative due to a clinical  
8 determination, the department shall document its objection and  
9 certify that the department is developing the less restrictive  
10 alternative pursuant to a court order and not because of a clinical  
11 determination.

12 (iii) When the department develops or proposes a less restrictive  
13 alternative placement under this chapter, it shall be considered a  
14 predisposition recommendation.

15 (iv) In developing, modifying, and enforcing less restrictive  
16 alternatives, the department shall be deemed to be performing a  
17 quasi-judicial function.

18 ~~((b))~~ (c) If the committed person is not conditionally released  
19 to his or her county of commitment, the department shall provide the  
20 law and justice council of the county in which the person is  
21 conditionally released with notice and a written explanation,  
22 including whether the department remains in compliance with fair  
23 share principles regarding releases under this chapter.

24 ~~((e))~~ (d) For purposes of this section, the person's county of  
25 commitment means the county of the court which ordered the person's  
26 commitment.

27 ~~((d))~~ (e) This subsection (5) does not apply to releases to a  
28 secure community transition facility under RCW 71.09.250.

29 (6)(a) When ordered by the court, the department must provide  
30 less restrictive alternative treatment that includes, at a minimum:

31 (i) The services identified in the person's discharge plan as  
32 outlined in RCW 71.09.080(4);

33 (ii) The assignment of a community care coordinator;

34 (iii) Regular contacts with providers of court-ordered treatment  
35 services;

36 (iv) Community escorts, if needed;

37 (v) A transition plan that addresses the person's access to  
38 continued services upon unconditional discharge;

39 (vi) Financial support for necessary housing;

1 (vii) Life skills training and disability accommodations, if  
2 needed; and

3 (viii) Assistance in pursuing benefits, education, and  
4 employment.

5 (b) At the time the department of corrections is ordered to  
6 investigate a proposed less restrictive alternative placement,  
7 subject to the availability of amounts appropriated for this specific  
8 purpose, the department shall assign a social worker to assist the  
9 person with discharge planning, pursuing benefits, and coordination  
10 of care prior to release.

11 (i) The social worker shall assist the person with completing  
12 applications for benefits prior to the person's release from total  
13 confinement.

14 (ii) To promote continuity of care and the individual's success  
15 in the community, the department social worker shall be responsible  
16 for initiating a clinical transition of care between the last  
17 treating clinician at the special commitment center and the person's  
18 designated community treatment provider. This transition between one  
19 clinical setting to another shall occur no later than 15 days before  
20 an individual's release from the special commitment center.

21 (iii) If applicable, the social worker shall assist the person  
22 with locating any needed disability accommodations in the community  
23 and with obtaining resources to help address the person's identified  
24 life skills needs prior to release from total confinement.

25 (7) Any service provider designated to provide inpatient or  
26 outpatient treatment shall monthly, or as otherwise directed by the  
27 court, submit to the court, to the department of social and health  
28 services facility from which the person was released, to the  
29 prosecuting agency, and to the supervising community corrections  
30 officer, a report stating whether the person is complying with the  
31 terms and conditions of the conditional release to a less restrictive  
32 alternative.

33 ~~((7))~~ (8) Each person released to a less restrictive  
34 alternative shall have his or her case reviewed by the court that  
35 released him or her no later than one year after such release and  
36 annually thereafter until the person is unconditionally discharged.  
37 Review may occur in a shorter time or more frequently, if the court,  
38 in its discretion on its own motion, or on motion of the person, the  
39 secretary, or the prosecuting agency so determines. The ~~((sole~~  
40 ~~question))~~ questions to be determined by the court ~~((is))~~ are whether

1 the person shall continue to be conditionally released to a less  
2 restrictive alternative, and if so, whether a modification to the  
3 person's less restrictive alternative order is appropriate to ensure  
4 the conditional release remains in the best interest of the person  
5 and adequate to protect the community. The court in making its  
6 determination shall be aided by the periodic reports filed pursuant  
7 to subsection ~~((+6))~~ (7) of this section and the opinions of the  
8 secretary and other experts or professional persons.

9 **Sec. 7.** RCW 71.09.130 and 1995 c 216 s 16 are each amended to  
10 read as follows:

11 (1) In the event of an escape by a person committed under this  
12 chapter from a state institution or the disappearance of such a  
13 person while on conditional release, the superintendent or community  
14 corrections officer shall notify the following as appropriate: Local  
15 law enforcement officers, other governmental agencies, the person's  
16 relatives, and any other appropriate persons about information  
17 necessary for the public safety or to assist in the apprehension of  
18 the person.

19 (2) If a person committed under this chapter disappears while on  
20 conditional release, the department of corrections may enter a  
21 warrant for the person's arrest for up to 72 hours pending entry of a  
22 bench warrant by the court.

23 (3) The department of corrections, its officers, agents, and  
24 employees are not liable for the acts of individuals on conditional  
25 release unless the department of corrections, its officers, agency,  
26 and employees acted with gross negligence.

27 (4) The department, its officers, agents, and employees are not  
28 liable for the acts of individuals on conditional release unless the  
29 department, its officers, agents, and employees acted with gross  
30 negligence.

31 **Sec. 8.** RCW 71.09.140 and 2012 c 257 s 12 are each amended to  
32 read as follows:

33 (1)(a) At the earliest possible date, and in no event later than  
34 ~~((thirty))~~ 30 days before conditional release, change of address for  
35 a person on conditional release, or unconditional discharge, except  
36 in the event of escape, the department of social and health services  
37 shall send written notice of conditional release, unconditional  
38 discharge, or escape, to the following:

1       (~~(a)~~) (i) The chief of police of the city, if any, in which the  
2 person will reside or in which placement will be made under a less  
3 restrictive alternative;

4       (~~(b)~~) (ii) The sheriff of the county in which the person will  
5 reside or in which placement will be made under a less restrictive  
6 alternative; and

7       (~~(c)~~) (iii) The sheriff of the county where the person was last  
8 convicted of a sexually violent offense, if the department does not  
9 know where the person will reside.

10       The department shall notify the state patrol of the release of  
11 all sexually violent predators and that information shall be placed  
12 in the Washington crime information center for dissemination to all  
13 law enforcement.

14       (b) A return to total confinement or to a secure community  
15 transition facility pending revocation or modification proceedings is  
16 not considered a change of address for purposes of (a) of this  
17 subsection, and an additional community notification process is not  
18 required, unless conditional release is revoked under RCW 71.09.098  
19 or the return lasts longer than 90 days.

20       (2) The same notice as required by subsection (1) of this section  
21 shall be sent to the following if such notice has been requested in  
22 writing about a specific person found to be a sexually violent  
23 predator under this chapter:

24       (a) The victim or victims of any sexually violent offenses for  
25 which the person was convicted in the past or the victim's next of  
26 kin if the crime was a homicide. "Next of kin" as used in this  
27 section means a person's spouse, parents, siblings, and children;

28       (b) Any witnesses who testified against the person in his or her  
29 commitment trial under RCW 71.09.060; and

30       (c) Any person specified in writing by the prosecuting agency.

31       Information regarding victims, next of kin, or witnesses  
32 requesting the notice, information regarding any other person  
33 specified in writing by the prosecuting agency to receive the notice,  
34 and the notice are confidential and shall not be available to the  
35 committed person.

36       (3) If a person committed as a sexually violent predator under  
37 this chapter escapes from a department of social and health services  
38 facility, the department shall immediately notify, by the most  
39 reasonable and expedient means available, the chief of police of the  
40 city and the sheriff of the county in which the committed person

1 resided immediately before his or her commitment as a sexually  
2 violent predator, or immediately before his or her incarceration for  
3 his or her most recent offense. If previously requested, the  
4 department shall also notify the witnesses and the victims of the  
5 sexually violent offenses for which the person was convicted in the  
6 past or the victim's next of kin if the crime was a homicide. If the  
7 person is recaptured, the department shall send notice to the persons  
8 designated in this subsection as soon as possible but in no event  
9 later than two working days after the department learns of such  
10 recapture.

11 (4) If the victim or victims of any sexually violent offenses for  
12 which the person was convicted in the past or the victim's next of  
13 kin, or any witness is under the age of (~~sixteen~~) 16, the notice  
14 required by this section shall be sent to the parents or legal  
15 guardian of the child.

16 (5) The department of social and health services shall send the  
17 notices required by this chapter to the last address provided to the  
18 department by the requesting party. The requesting party shall  
19 furnish the department with a current address.

20 (6) Nothing in this section shall impose any liability upon a  
21 chief of police of a city or sheriff of a county for failing to  
22 request in writing a notice as provided in subsection (1) of this  
23 section.

24 **Sec. 9.** RCW 71.09.250 and 2003 c 216 s 3 are each amended to  
25 read as follows:

26 (1)(a) The secretary is authorized to site, construct, occupy,  
27 and operate (i) a secure community transition facility on McNeil  
28 Island for persons authorized to petition for a less restrictive  
29 alternative under RCW 71.09.090(1) and who are conditionally  
30 released; and (ii) a special commitment center on McNeil Island with  
31 up to four hundred four beds as a total confinement facility under  
32 this chapter, subject to appropriated funding for those purposes. The  
33 secure community transition facility shall be authorized for the  
34 number of beds needed to ensure compliance with the orders of the  
35 superior courts under this chapter and the federal district court for  
36 the western district of Washington. The total number of beds in the  
37 secure community transition facility shall be limited to (~~twenty-~~  
38 ~~four~~) 24, consisting of up to (~~fifteen~~) 15 transitional beds and  
39 up to nine pretransitional beds. The residents occupying the

1 transitional beds shall be the only residents eligible for  
2 transitional services occurring in Pierce county. In no event shall  
3 more than (~~fifteen~~) 15 residents of the secure community transition  
4 facility be participating in off-island transitional, educational, or  
5 employment activity at the same time in Pierce county. The department  
6 shall provide the Pierce county sheriff, or his or her designee, with  
7 a list of the (~~fifteen~~) 15 residents so designated, along with  
8 their photographs and physical descriptions, and the list shall be  
9 immediately updated whenever a residential change occurs. The Pierce  
10 county sheriff, or his or her designee, shall be provided an  
11 opportunity to confirm the residential status of each resident  
12 leaving McNeil Island.

13 (b) For purposes of this subsection, "transitional beds" means  
14 beds only for residents who are judged by a qualified expert to be  
15 suitable to leave the island for treatment, education, and  
16 employment.

17 (2) (a) The secretary is authorized to site, either within the  
18 secure community transition facility established pursuant to  
19 subsection (1) (a) (i) of this section, or within the special  
20 commitment center, up to nine pretransitional beds.

21 (b) Residents assigned to pretransitional beds shall not be  
22 permitted to leave McNeil Island for education, employment,  
23 treatment, or community activities in Pierce county.

24 (c) For purposes of this subsection, "pretransitional beds" means  
25 beds for residents whose progress toward a less secure residential  
26 environment and transition into more complete community involvement  
27 is projected to take substantially longer than a typical resident of  
28 the special commitment center.

29 (3) Notwithstanding RCW 36.70A.103 or any other law, this statute  
30 preempts and supersedes local plans, development regulations,  
31 permitting requirements, inspection requirements, and all other laws  
32 as necessary to enable the secretary to site, construct, occupy, and  
33 operate a secure community transition facility on McNeil Island and a  
34 total confinement facility on McNeil Island.

35 (4) To the greatest extent possible, until June 30, 2003, persons  
36 who were not civilly committed from the county in which the secure  
37 community transition facility established pursuant to subsection (1)  
38 of this section is located may not be conditionally released to a  
39 setting in that same county less restrictive than that facility.

1 (5) As of June 26, 2001, the state shall immediately cease any  
2 efforts in effect on such date to site secure community transition  
3 facilities, other than the facility authorized by subsection (1) of  
4 this section, and shall instead site such facilities in accordance  
5 with the provisions of this section.

6 (6) The department must:

7 (a) Identify the minimum and maximum number of secure community  
8 transition facility beds in addition to the facility established  
9 under subsection (1) of this section that may be necessary for the  
10 period of May 2004 through May 2007 and provide notice of these  
11 numbers to all counties by August 31, 2001; and

12 (b) Develop and publish policy guidelines for the siting and  
13 operation of secure community transition facilities.

14 (7)(a) The total number of secure community transition facility  
15 beds that may be required to be sited in a county between June 26,  
16 2001, and June 30, 2008, may be no greater than the total number of  
17 persons civilly committed from that county, or detained at the  
18 special commitment center under a pending civil commitment petition  
19 from that county where a finding of probable cause had been made on  
20 April 1, 2001. The total number of secure community transition  
21 facility beds required to be sited in each county between July 1,  
22 2008, and June 30, 2015, may be no greater than the total number of  
23 persons civilly committed from that county or detained at the special  
24 commitment center under a pending civil commitment petition from that  
25 county where a finding of probable cause had been made as of July 1,  
26 2008.

27 (b) Counties and cities that provide secure community transition  
28 facility beds above the maximum number that they could be required to  
29 site under this subsection are eligible for a bonus grant under the  
30 incentive provisions in RCW 71.09.255. The county where the special  
31 commitment center is located shall receive this bonus grant for the  
32 number of beds in the facility established in subsection (1) of this  
33 section in excess of the maximum number established by this  
34 subsection.

35 (c) No secure community transition facilities in addition to the  
36 one established in subsection (1) of this section may be required to  
37 be sited in the county where the special commitment center is located  
38 until after June 30, 2008, provided however, that the county and its  
39 cities may elect to site additional secure community transition  
40 facilities and shall be eligible under the incentive provisions of

1 RCW 71.09.255 for any additional facilities meeting the requirements  
2 of that section.

3 (8) After the department demonstrates the need for additional bed  
4 capacity to the appropriate committees of the legislature, and  
5 receives approval and funding from the appropriate committees of the  
6 legislature to build additional bed capacity, the state is authorized  
7 to site and operate secure community transition facilities and other  
8 conditional release and transitional facilities in any county in the  
9 state in accordance with RCW 71.09.315. In identifying potential  
10 counties and sites within a county for the location of a secure  
11 community transition facility or other conditional release and  
12 transitional facilities, the department shall work with and assist  
13 local governments to provide for the equitable distribution of such  
14 facilities. In coordinating and deciding upon the siting of secure  
15 community transition facilities or other conditional release and  
16 transitional facilities within a county, great weight shall be given  
17 by the county and cities within the county to:

18 (a) The number and location of existing residential facility beds  
19 operated by the department of corrections or the mental health  
20 division of the department of social and health services in each  
21 jurisdiction in the county; and

22 (b) The number of registered sex offenders classified as level II  
23 or level III and the number of sex offenders registered as homeless  
24 residing in each jurisdiction in the county.

25 (9) (a) "Equitable distribution" means siting or locating secure  
26 community transition facilities and other conditional release and  
27 transitional facilities in a manner that will not cause a  
28 disproportionate grouping of similar facilities either in any one  
29 county, or in any one jurisdiction or community within a county, as  
30 relevant; and

31 (b) "Jurisdiction" means a city, town, or geographic area of a  
32 county in which distinct political or judicial authority may be  
33 exercised.

34 NEW SECTION. **Sec. 10.** A new section is added to chapter 71.09  
35 RCW to read as follows:

36 To facilitate the primary role of the department in identifying  
37 less restrictive alternative placements under RCW 71.09.090 and  
38 discharge planning under RCW 71.09.080, subject to the availability  
39 of amounts appropriated for this specific purpose, the department

1 shall conduct a study to explore the development of conditional  
2 release and transition facilities, which may include community-based  
3 state-operated living alternatives similar to the state-operated  
4 living alternative program operated by the developmental disabilities  
5 administration. Any facilities or placements developed under this  
6 section may be identified through a request for proposal process or  
7 through direct state acquisition and development. Any contracts with  
8 facilities or placements entered into under this section shall  
9 include a provision requiring oversight by the department to ensure  
10 the programs are operating appropriately.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.09  
12 RCW to read as follows:

13 (1) In accordance with RCW 71.09.090 and 71.09.096, the  
14 department shall have the primary responsibility for developing a  
15 less restrictive alternative placement. To ensure the department has  
16 sufficient less restrictive alternative placements to choose from  
17 that satisfy the requirements of RCW 71.09.092, subject to the  
18 availability of amounts appropriated for this specific purpose, the  
19 department shall use a request for proposal process to solicit and  
20 contract with housing and treatment providers from across the state  
21 and facilitate fair share principles among the counties. In order to  
22 increase the number of housing options for individuals qualifying for  
23 a less restrictive alternative, the department shall have oversight  
24 of the vendors and providers who contract with the state, including  
25 the authority to inspect and ensure compliance, negotiate the rates  
26 charged for services, ensure adequate living conditions of housing  
27 locations, and terminate contracts. The department shall maintain a  
28 statewide accounting of the contracted community housing and  
29 treatment providers in each county and provide a biannual report to  
30 the legislature and governor by December 1st on the availability and  
31 adequacy of less restrictive alternative placements and the  
32 department's compliance with fair share principles.

33 (2) To facilitate its duties required under this section, the  
34 department shall use the following housing matrix and considerations  
35 as a guide to planning and developing less restrictive alternative  
36 placements. The following considerations may not be used as a reason  
37 to deny a less restrictive alternative placement.

38 (a) Considerations for evaluating a proposed vendor's application  
39 for less restrictive alternative housing services shall include

1 applicable state and local zoning and building codes, general housing  
2 requirements, availability of public services, and other  
3 considerations identified in accordance with RCW 71.09.315. The  
4 department shall require the housing provider to provide proof that  
5 the facility is in compliance with all local zoning and building  
6 codes.

7 (i) General housing requirements include running water,  
8 electricity, bedroom and living space of adequate size, and no mold  
9 or infestations.

10 (ii) Availability of public services include availability of  
11 chaperones and whether the placement is within a reasonable distance  
12 to a grocery store, bank, public transportation options, and offices  
13 for public services and benefits.

14 (iii) Other considerations include whether the placement is  
15 consistent with fair share principles across the counties, whether  
16 the placement is within reasonable distance to other current or  
17 planned components of the less restrictive alternative, whether the  
18 placement is within reasonable distance to employment opportunities,  
19 and the reliability of global positioning system technology.

20 (b) Factors for evaluating less restrictive alternative options  
21 for a specific individual include sex offender treatment  
22 considerations, criminogenic needs and risk factors, protective  
23 factors, and the specific needs of the client.

24 (i) Sex offender treatment considerations include whether the  
25 housing is within a reasonable distance from the treatment provider,  
26 whether the treatment provider is a good therapeutic match with the  
27 client, and whether the treatment provider has relevant experience  
28 and background to treat the client if the client has special needs.

29 (ii) Criminogenic needs and risk factors include consideration of  
30 the person's specific needs and risk factors in evaluating less  
31 restrictive alternative options.

32 (iii) Protective factors include whether housing is within a  
33 reasonable distance of family, friends, potential hobbies, potential  
34 employment, and educational opportunities.

35 (iv) Consideration of the client's specific needs includes  
36 assessing the availability of personal care assistance and in-home  
37 care assistance, and whether housing is within a reasonable distance  
38 of mental health, medical treatment options, and substance use  
39 disorder treatment options.

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 71.09  
2    RCW to read as follows:

3        (1) The department shall enter into a memorandum of understanding  
4    with the department of licensing to allow residents in total  
5    confinement at the special commitment center to obtain a state  
6    identification card through a written identification verification  
7    letter completed by the special commitment center and delivered to  
8    the department of licensing.

9        (2) The process shall occur upon the person's initial detention  
10   at the special commitment center. The process shall reoccur when the  
11   person's state identification card expires.

12       NEW SECTION.    **Sec. 13.**    A new section is added to chapter 71.09  
13    RCW to read as follows:

14       (1) Subject to the availability of amounts appropriated for this  
15    specific purpose, the department, the sex offender policy board, and  
16    department of health shall convene a work group to develop  
17    recommendations to increase the availability and quality of sex  
18    offender treatment providers to meet the growing number of persons  
19    qualifying for conditional release to a less restrictive alternative.  
20    The work group shall gather data on best practices in other states  
21    and make recommendations whether sex offender treatment providers  
22    should be required to contract with the department; whether annual or  
23    biannual trainings by the department should be mandatory for  
24    prospective and existing sex offender treatment providers; whether  
25    the department should provide competitive wages for services or pay  
26    that is commensurate with the years of experience or education level  
27    of the treatment provider; and whether the department should provide  
28    other incentives such as a cost-of-living pay increase or  
29    compensating providers for the cost of mandated trainings associated  
30    with the sex offender treatment provider license under chapter 18.155  
31    RCW. A report shall be submitted to the legislature by December 1,  
32    2021.

33       (2) This section expires June 30, 2022.

34       NEW SECTION.    **Sec. 14.**    A new section is added to chapter 71.09  
35    RCW to read as follows:

36       (1) In accordance with RCW 9.94A.8673, the sex offender policy  
37    board shall meet quarterly during the 2021-2023 biennium to continue  
38    its review of sexually violent predators and less restrictive

1 alternative policies and best practices, collaborate with  
2 stakeholders and the department, provide outreach to providers and  
3 stakeholders, and monitor implementation of this act. The board shall  
4 also explore and make recommendations whether to continue or remove  
5 the prohibition on a less restrictive alternative from including a  
6 placement in the community protection program pursuant to RCW  
7 71A.12.230. The board shall provide semiannual updates to the  
8 appropriate committees of the legislature during the 2021-2023  
9 biennium.

10 (2) This section expires June 30, 2023.

11 NEW SECTION. **Sec. 15.** A new section is added to chapter 9.94A  
12 RCW to read as follows:

13 (1) In accordance with section 14 of this act, the sex offender  
14 policy board shall meet quarterly during the 2021-2023 biennium to  
15 continue its review of sexually violent predators and less  
16 restrictive alternative policies and best practices, collaborate with  
17 stakeholders and the department, provide outreach to providers and  
18 stakeholders, and monitor implementation of this act. The board shall  
19 provide semiannual updates to the appropriate committees of the  
20 legislature during the 2021-2023 biennium.

21 (2) This section expires June 30, 2023."

22 Correct the title.

EFFECT: Modifies discharge planning requirements to provide that it must be based on information that is known to the Department of Social and Health Services (DSHS). Provides that the requirement for the DSHS to conduct discharge planning does not preclude DSHS from expressing professional judgment about the suitability of an SVP's discharge from the Special Commitment Center. Specifies that the DSHS, its officers, agents, and employees are not liable for the acts of persons on conditional release unless the DSHS, its officers, agents, and employees acted with gross negligence.

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