

2SSB 5304 - S AMD 401
By Senator Wagoner

OUT OF ORDER 03/05/2021

1 Beginning on page 5, line 11, strike all of sections 6 through 11
2 and insert the following:

3 **"Sec. 6.** RCW 72.09.370 and 2019 c 325 s 5025 are each amended to
4 read as follows:

5 (1) The ~~((offender reentry community safety))~~ safe reentry
6 program is established to provide intensive services to offenders
7 identified under this subsection and to thereby promote successful
8 reentry, public safety, and recovery. The secretary shall identify
9 offenders in confinement or partial confinement who: (a) Are
10 reasonably believed to ~~((be dangerous))~~ present a danger to
11 themselves or others if released to the community without supportive
12 services; and (b) have a mental disorder. In ~~((determining an~~
13 ~~offender's dangerousness))~~ evaluating these criteria, the secretary
14 shall consider behavior known to the department and factors, based on
15 research, that are linked to ~~((an increased))~~ risk ~~((for))~~ of
16 dangerousness of offenders with mental illnesses within the criminal
17 justice system and shall include consideration of an offender's
18 history of substance use disorder or abuse.

19 (2) Prior to release of an offender identified under this
20 section, a team consisting of representatives of the department of
21 corrections, the health care authority, and, as necessary, the
22 indeterminate sentence review board, divisions or administrations
23 within the department of social and health services, specifically
24 including the division of developmental disabilities, the appropriate
25 managed care organization ~~((contracted with the health care~~
26 ~~authority, the appropriate))~~ or behavioral health administrative
27 services organization, and the providers, as appropriate, shall
28 develop a plan, as determined necessary by the team, for delivery of
29 treatment and support services to the offender upon release. In
30 developing the plan, the offender shall be offered assistance in
31 executing a mental health advance directive under chapter 71.32 RCW,
32 after being fully informed of the benefits, scope, and purposes of

1 such directive. The team may include a school district representative
2 for offenders under the age of (~~twenty-one~~) 21. The team shall
3 consult with the offender's counsel, if any, and, as appropriate, the
4 offender's family and community. The team shall notify the crime
5 victim/witness program, which shall provide notice to all people
6 registered to receive notice under RCW 72.09.712 of the proposed
7 release plan developed by the team. Victims, witnesses, and other
8 interested people notified by the department may provide information
9 and comments to the department on potential safety risk to specific
10 individuals or classes of individuals posed by the specific offender.
11 The team may recommend: (a) That the offender be evaluated by (~~the~~)
12 a designated crisis responder, as defined in chapter 71.05 RCW; (b)
13 department-supervised community treatment; or (c) voluntary community
14 mental health or substance use disorder or abuse treatment.

15 (3) Prior to release of an offender identified under this
16 section, the team shall determine whether or not an evaluation by a
17 designated crisis responder is needed. If an evaluation is
18 recommended, the supporting documentation shall be immediately
19 forwarded to the appropriate designated crisis responder. The
20 supporting documentation shall include the offender's criminal
21 history, history of judicially required or administratively ordered
22 involuntary antipsychotic medication while in confinement, and any
23 known history of involuntary civil commitment.

24 (4) If an evaluation by a designated crisis responder is
25 recommended by the team, such evaluation shall occur not more than
26 ten days, nor less than five days, prior to release.

27 (5) A second evaluation by a designated crisis responder shall
28 occur on the day of release if requested by the team, based upon new
29 information or a change in the offender's mental condition, and the
30 initial evaluation did not result in an emergency detention or a
31 summons under chapter 71.05 RCW.

32 (6) If the designated crisis responder determines an emergency
33 detention under chapter 71.05 RCW is necessary, the department shall
34 release the offender only to a state hospital or to a consenting
35 evaluation and treatment facility or secure withdrawal management and
36 stabilization facility. The department shall arrange transportation
37 of the offender to the hospital or facility.

38 (7) If the designated crisis responder believes that a less
39 restrictive alternative treatment is appropriate, he or she shall
40 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to

1 require the offender to appear at an evaluation and treatment
2 facility or secure withdrawal management and stabilization facility.
3 If a summons is issued, the offender shall remain within the
4 corrections facility until completion of his or her term of
5 confinement and be transported, by corrections personnel on the day
6 of completion, directly to the identified (~~evaluation and~~
7 ~~treatment~~) facility.

8 (8) The secretary shall adopt rules to implement this section.

9 **Sec. 7.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to
10 read as follows:

11 (1) The director shall contract, to the extent that funds are
12 appropriated for this purpose, for case management services and such
13 other services as the director deems necessary to assist offenders
14 identified under RCW 72.09.370 for participation in the (~~offender~~
15 ~~reentry community safety~~) safe reentry program. The contracts may be
16 with any qualified and appropriate entities. The director shall
17 ensure the authority has coverage in all counties of the state for
18 the purposes of providing safe reentry program services.

19 (2) The case manager has the authority to assist these offenders
20 in obtaining the services, as set forth in the plan created under RCW
21 72.09.370(2), for up to five years. The services may include
22 coordination of mental health services, assistance with unfunded
23 medical expenses, assistance obtaining substance use disorder
24 treatment, housing, employment services, educational or vocational
25 training, independent living skills, parenting education, anger
26 management services, peer services, and such other services as the
27 case manager deems necessary.

28 (3) The legislature intends that funds appropriated for the
29 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section
30 are to supplement and not to supplant general funding. Funds
31 appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212,
32 and this section are not to be considered available resources as
33 defined in RCW 71.24.025 and are not subject to the priorities,
34 terms, or conditions in the appropriations act established pursuant
35 to RCW 71.24.035.

36 (4) The (~~offender reentry community safety~~) safe reentry
37 program was formerly known as the community integration assistance
38 program.

1 **Sec. 8.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to
2 read as follows:

3 (1) A licensed or certified behavioral health agency acting in
4 the course of the (~~provider's~~) agency's duties under this
5 chapter(~~, is~~) and its individual employees are not liable for civil
6 damages resulting from the injury or death of another caused by a
7 participant in the (~~offender reentry community safety~~) safe reentry
8 program who is a client of the (~~provider or organization~~) agency,
9 unless the act or omission of the (~~provider or organization~~) agency
10 or employee constitutes:

11 (a) Gross negligence;

12 (b) Willful or wanton misconduct; or

13 (c) A breach of the duty to warn of and protect from a client's
14 threatened violent behavior if the client has communicated a serious
15 threat of physical violence against a reasonably ascertainable victim
16 or victims.

17 (2) In addition to any other requirements to report violations,
18 the licensed or certified behavioral health agency shall report an
19 offender's expressions of intent to harm or other predatory behavior,
20 regardless of whether there is an ascertainable victim, in progress
21 reports and other established processes that enable courts and
22 supervising entities to assess and address the progress and
23 appropriateness of treatment.

24 (3) A licensed or certified behavioral health agency's mere act
25 of treating a participant in the (~~offender reentry community~~
26 ~~safety~~) safe reentry program is not negligence. Nothing in this
27 subsection alters the licensed or certified behavioral health
28 agency's normal duty of care with regard to the client.

29 (4) The limited liability provided by this section applies only
30 to the conduct of licensed or certified behavioral health agencies
31 and their employees and does not apply to conduct of the state.

32 (5) For purposes of this section, "participant in the (~~offender~~
33 ~~reentry community safety~~) safe reentry program" means a person who
34 has been identified under RCW 72.09.370 as an offender who: (a) Is
35 reasonably believed to (~~be dangerous~~) present a danger to himself
36 or herself or others if released to the community without supportive
37 services; and (b) has a mental disorder.

38 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.24
39 RCW to read as follows:

1 (1) The authority shall convene a reentry services work group to
2 consider ways to improve reentry services for persons with an
3 identified behavioral health services need. The work group shall:

4 (a) Advise the authority on its waiver application under section
5 6 of this act;

6 (b) Develop a plan to assure notifications of the person's
7 release date, current location, and other appropriate information are
8 provided to the person's managed care organization at least 30 days
9 before the person's scheduled release from confinement, or as soon as
10 practicable thereafter, in accordance with RCW 74.09.555;

11 (c) Consider the value of expanding, replicating, or adapting the
12 essential elements of the safe reentry program under RCW 72.09.370
13 and 71.24.470 to benefit new populations, such as:

14 (i) A larger group of incarcerated persons in the department of
15 corrections than those who currently have the opportunity to
16 participate;

17 (ii) State hospital patients committed under criminal insanity
18 laws under chapter 10.77 RCW;

19 (iii) Involuntary treatment patients committed under chapter
20 71.05 RCW;

21 (iv) Persons committed to juvenile rehabilitation;

22 (v) Persons confined in jail; and

23 (vi) Other populations recommended by the work group;

24 (d) Consider whether modifications should be made to the safe
25 reentry program;

26 (e) Identify potential costs and savings for the state and local
27 governments which could be realized through the use of telehealth
28 technology to provide mental and behavioral health services,
29 expansion or replication of the safe reentry program, or other
30 reentry programs which are supported by evidence;

31 (f) Consider the sustainability of reentry or diversion services
32 provided by pilot programs funded by contempt fines in *Trueblood, et*
33 *al., v. Washington State DSHS*, No. 15-35462;

34 (g) Recommend a means of funding expanded reentry services; and

35 (h) Consider incorporation of peer services into the safe reentry
36 program.

37 (2) The authority shall invite participation in the work group by
38 stakeholders including but not limited to representatives from:
39 Disability rights Washington; behavioral health advocacy
40 organizations; behavioral health peers; reentry community services

1 providers; community behavioral health agencies; advocates for
2 persons with developmental disabilities; the department of
3 corrections; the department of children, youth, and families; the
4 Washington association of sheriffs and police chiefs; prosecutors;
5 defense attorneys; the Washington state association of counties; King
6 county behavioral health and recovery division; the department of
7 social and health services; state hospital employees who serve
8 patients committed under chapters 10.77 and 71.05 RCW; the public
9 safety review panel under RCW 10.77.270; managed care organizations;
10 behavioral health administrative services organizations; the
11 Washington statewide reentry council; the Washington state senate;
12 the Washington state house of representatives; and the Washington
13 state institute for public policy.

14 (3) The work group must provide a progress report to the governor
15 and appropriate committees of the legislature by December 1, 2021,
16 and a final report by December 1, 2022.

17 NEW SECTION. **Sec. 10.** The Washington state institute for public
18 policy shall update its previous evaluations of the safe reentry
19 program under RCW 72.09.370 and 71.24.470, and broaden its cost-
20 benefit analysis to include impacts on the use of public services,
21 and other factors. The institute shall collaborate with the work
22 group established under section 9 of this act to determine research
23 parameters and help the work group answer additional research
24 questions including, but not limited to, the potential cost, benefit,
25 and risks involved in expanding or replicating the safe reentry
26 program; and what modifications to the program are most likely to
27 prove advantageous based on the current state of knowledge about
28 evidence-based, research-based, and promising programs. The
29 department of corrections, health care authority, administrative
30 office of the courts, King county, and department of social and
31 health services must cooperate with the institute to facilitate
32 access to data or other resources necessary to complete this work.
33 The institute must provide a preliminary report by December 1, 2021,
34 and a final report by November 1, 2022, to the governor and relevant
35 committees of the legislature.

36 **Sec. 11.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to
37 read as follows:

1 (1) The department of corrections shall develop an individual
2 reentry plan as defined in RCW 72.09.015 for every offender who is
3 committed to the jurisdiction of the department except:

4 (a) Offenders who are sentenced to life without the possibility
5 of release or sentenced to death under chapter 10.95 RCW; and

6 (b) Offenders who are subject to the provisions of 8 U.S.C. Sec.
7 1227.

8 (2) The individual reentry plan may be one document, or may be a
9 series of individual plans that combine to meet the requirements of
10 this section.

11 (3) In developing individual reentry plans, the department shall
12 assess all offenders using standardized and comprehensive tools to
13 identify the criminogenic risks, programmatic needs, and educational
14 and vocational skill levels for each offender. The assessment tool
15 should take into account demographic biases, such as culture, age,
16 and gender, as well as the needs of the offender, including any
17 learning disabilities, substance abuse or mental health issues, and
18 social or behavior deficits.

19 (4)(a) The initial assessment shall be conducted as early as
20 sentencing, but, whenever possible, no later than (~~forty-five~~) 45
21 days of being sentenced to the jurisdiction of the department of
22 corrections.

23 (b) The offender's individual reentry plan shall be developed as
24 soon as possible after the initial assessment is conducted, but,
25 whenever possible, no later than (~~sixty~~) 60 days after completion
26 of the assessment, and shall be periodically reviewed and updated as
27 appropriate.

28 (5) The individual reentry plan shall, at a minimum, include:

29 (a) A plan to maintain contact with the inmate's children and
30 family, if appropriate. The plan should determine whether parenting
31 classes, or other services, are appropriate to facilitate successful
32 reunification with the offender's children and family;

33 (b) An individualized portfolio for each offender that includes
34 the offender's education achievements, certifications, employment,
35 work experience, skills, and any training received prior to and
36 during incarceration; and

37 (c) A plan for the offender during the period of incarceration
38 through reentry into the community that addresses the needs of the
39 offender including education, employment, substance abuse treatment,
40 mental health treatment, family reunification, and other areas which

1 are needed to facilitate a successful reintegration into the
2 community.

3 (6) (a) Prior to discharge of any offender, the department shall:

4 (i) Evaluate the offender's needs and, to the extent possible,
5 connect the offender with existing services and resources that meet
6 those needs; and

7 (ii) Connect the offender with a community justice center and/or
8 community transition coordination network in the area in which the
9 offender will be residing once released from the correctional system
10 if one exists.

11 (b) If the department recommends partial confinement in an
12 offender's individual reentry plan, the department shall maximize the
13 period of partial confinement for the offender as allowed pursuant to
14 RCW 9.94A.728 to facilitate the offender's transition to the
15 community.

16 (7) The department shall establish mechanisms for sharing
17 information from individual reentry plans to those persons involved
18 with the offender's treatment, programming, and reentry, when deemed
19 appropriate. When feasible, this information shall be shared
20 electronically.

21 (8) (a) In determining the county of discharge for an offender
22 released to community custody, the department may (~~not~~) approve a
23 residence location that is not in the offender's county of origin
24 (~~(unless it is determined by the)~~) if the department determines that
25 the ((offender's return to his or her county of origin would be
26 inappropriate considering)) residence location would be appropriate
27 based on any court-ordered condition of the offender's sentence,
28 victim safety concerns, (~~(negative influences on the offender in the~~
29 ~~community, or the)) and factors that increase opportunities for
30 successful reentry and long-term support including, but not limited
31 to, location of family or other sponsoring persons or organizations
32 that will support the offender, availability of appropriate
33 programming or treatment, and access to housing, employment, and
34 prosocial influences on the offender in the community.~~

35 (b) In implementing the provisions of this subsection, the
36 department shall approve residence locations in a manner that will
37 not cause any one county to be disproportionately impacted.

38 (c) If the offender is not returned to his or her county of
39 origin, the department shall provide the law and justice council of

1 the county in which the offender is placed with a written
2 explanation.

3 ~~((e))~~ (d)(i) For purposes of this section, except as provided
4 in (d)(ii) of this subsection, the offender's county of origin means
5 the county of the offender's residence at the time of the offender's
6 first felony conviction in Washington state.

7 (ii) If the offender is a homeless person as defined in RCW
8 43.185C.010, or the offender's residence is unknown, then the
9 offender's county of origin means the county of the offender's first
10 felony conviction in Washington state.

11 (9) Nothing in this section creates a vested right in
12 programming, education, or other services."

EFFECT: Changes the name of the Offender Reentry Community Safety Program to the Safe Reentry Program and restores references to offender throughout the bill. Makes technical changes so that terminology and references are consistent.

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