

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1390

69th Legislature
2026 Regular Session

Passed by the House March 9, 2026
Yeas 51 Nays 44

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2026
Yeas 29 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1390** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1390

AS AMENDED BY THE SENATE

Passed Legislature - 2026 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Goodman, Farivar, Thai, Peterson, Reed, and Salahuddin; by request of Department of Social and Health Services)

READ FIRST TIME 02/11/25.

1 AN ACT Relating to repealing the community protection program;
2 amending RCW 71.09.020 and 71.09.060; creating new sections;
3 repealing RCW 71A.12.200, 71A.12.210, 71A.12.220, 71A.12.230,
4 71A.12.240, 71A.12.250, 71A.12.260, and 71A.12.280; providing an
5 effective date; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature intends to end the
8 community protection program to allow clients of the home and
9 community living administration to obtain less restrictive service
10 options. This act is not intended to reduce the supportive services
11 that clients of the home and community living administration receive.

12 NEW SECTION. **Sec. 2.** (1) By December 31, 2026, the department
13 of social and health services shall develop and implement a plan to
14 transition all individuals participating in the community protection
15 program into other services or programs.

16 (2) This section expires July 1, 2027.

17 **Sec. 3.** RCW 71.09.020 and 2021 c 236 s 2 are each amended to
18 read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Department" means the department of social and health
4 services.

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

10 (3) "Health care facility" means any hospital, hospice care
11 center, licensed or certified health care facility, health
12 maintenance organization regulated under chapter 48.46 RCW, federally
13 qualified health maintenance organization, federally approved renal
14 dialysis center or facility, or federally approved blood bank.

15 (4) "Health care practitioner" means an individual or firm
16 licensed or certified to engage actively in a regulated health
17 profession.

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

20 (6) "Health profession" means those licensed or regulated
21 professions set forth in RCW 18.120.020(4).

22 (7) "Less restrictive alternative" means court-ordered treatment
23 in a setting less restrictive than total confinement which satisfies
24 the conditions set forth in RCW 71.09.092. (~~(A less restrictive
25 alternative may not include placement in the community protection
26 program as pursuant to RCW 71A.12.230.)~~)

27 (8) "Likely to engage in predatory acts of sexual violence if not
28 confined in a secure facility" means that the person more probably
29 than not will engage in such acts if released unconditionally from
30 detention on the sexually violent predator petition. Such likelihood
31 must be evidenced by a recent overt act if the person is not totally
32 confined at the time the petition is filed under RCW 71.09.030.

33 (9) "Mental abnormality" means a congenital or acquired condition
34 affecting the emotional or volitional capacity which predisposes the
35 person to the commission of criminal sexual acts in a degree
36 constituting such person a menace to the health and safety of others.

37 (10) "Personality disorder" means an enduring pattern of inner
38 experience and behavior that deviates markedly from the expectations
39 of the individual's culture, is pervasive and inflexible, has onset
40 in adolescence or early adulthood, is stable over time and leads to

1 distress or impairment. Purported evidence of a personality disorder
2 must be supported by testimony of a licensed forensic psychologist or
3 psychiatrist.

4 (11) "Predatory" means acts directed towards: (a) Strangers; (b)
5 individuals with whom a relationship has been established or promoted
6 for the primary purpose of victimization; or (c) persons of casual
7 acquaintance with whom no substantial personal relationship exists.

8 (12) "Prosecuting agency" means the prosecuting attorney of the
9 county where the person was convicted or charged or the attorney
10 general if requested by the prosecuting attorney, as provided in RCW
11 71.09.030.

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

17 (14) "Risk potential activity" or "risk potential facility" means
18 an activity or facility that provides a higher incidence of risk to
19 the public from persons conditionally released from the special
20 commitment center. Risk potential activities and facilities include:
21 Public and private schools, school bus stops, licensed day care and
22 licensed preschool facilities, public parks, publicly dedicated
23 trails, sports fields, playgrounds, recreational and community
24 centers, churches, synagogues, temples, mosques, public libraries,
25 public and private youth camps, and others identified by the
26 department following the hearings on a potential site required in RCW
27 71.09.315. For purposes of this chapter, "school bus stops" does not
28 include bus stops established primarily for public transit.

29 (15) "Secretary" means the secretary of social and health
30 services or the secretary's designee.

31 (16) "Secure community transition facility" means a residential
32 facility for persons civilly committed and conditionally released to
33 a less restrictive alternative under this chapter. A secure community
34 transition facility has supervision and security, and either provides
35 or ensures the provision of sex offender treatment services. Secure
36 community transition facilities include but are not limited to the
37 facility established pursuant to RCW 71.09.250(1)(a)(i) and any
38 community-based facilities established under this chapter and
39 operated by the secretary or under contract with the secretary.

1 (17) "Secure facility" means a residential facility for persons
2 civilly confined under the provisions of this chapter that includes
3 security measures sufficient to protect the community. Such
4 facilities include total confinement facilities, secure community
5 transition facilities, and any residence used as a court-ordered
6 placement under RCW 71.09.096.

7 (18) "Sexually violent offense" means an act committed on,
8 before, or after July 1, 1990, that is: (a) An act defined in Title
9 9A RCW as rape in the first degree, rape in the second degree by
10 forcible compulsion, rape of a child in the first or second degree,
11 statutory rape in the first or second degree, indecent liberties by
12 forcible compulsion, indecent liberties against a child under age
13 fourteen, incest against a child under age fourteen, or child
14 molestation in the first or second degree; (b) a felony offense in
15 effect at any time prior to July 1, 1990, that is comparable to a
16 sexually violent offense as defined in (a) of this subsection, or any
17 federal or out-of-state conviction for a felony offense that under
18 the laws of this state would be a sexually violent offense as defined
19 in this subsection; (c) an act of murder in the first or second
20 degree, assault in the first or second degree, assault of a child in
21 the first or second degree, kidnapping in the first or second degree,
22 burglary in the first degree, residential burglary, or unlawful
23 imprisonment, which act, either at the time of sentencing for the
24 offense or subsequently during civil commitment proceedings pursuant
25 to this chapter, has been determined beyond a reasonable doubt to
26 have been sexually motivated, as that term is defined in RCW
27 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is
28 an attempt, criminal solicitation, or criminal conspiracy to commit
29 one of the felonies designated in (a), (b), or (c) of this
30 subsection.

31 (19) "Sexually violent predator" means any person who has been
32 convicted of or charged with a crime of sexual violence and who
33 suffers from a mental abnormality or personality disorder which makes
34 the person likely to engage in predatory acts of sexual violence if
35 not confined in a secure facility.

36 (20) "Total confinement facility" means a secure facility that
37 provides supervision and sex offender treatment services in a total
38 confinement setting. Total confinement facilities include the special
39 commitment center and any similar facility designated as a total
40 confinement facility by the secretary.

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

4 **Sec. 4.** RCW 71.09.060 and 2023 c 453 s 28 are each amended to
5 read as follows:

6 (1) The court or jury shall determine whether, beyond a
7 reasonable doubt, the person is a sexually violent predator. In
8 determining whether or not the person would be likely to engage in
9 predatory acts of sexual violence if not confined in a secure
10 facility, the fact finder may consider only placement conditions and
11 voluntary treatment options that would exist for the person if
12 unconditionally released from detention on the sexually violent
13 predator petition. (~~The community protection program under RCW
14 71A.12.230 may not be considered as a placement condition or
15 treatment option available to the person if unconditionally released
16 from detention on a sexually violent predator petition.~~) When the
17 determination is made by a jury, the verdict must be unanimous.

18 If, on the date that the petition is filed, the person was living
19 in the community after release from custody, the state must also
20 prove beyond a reasonable doubt that the person had committed a
21 recent overt act. If the state alleges that the prior sexually
22 violent offense that forms the basis for the petition for commitment
23 was an act that was sexually motivated as provided in RCW
24 71.09.020(18)(c), the state must prove beyond a reasonable doubt that
25 the alleged sexually violent act was sexually motivated as defined in
26 RCW 9.94A.030.

27 If the court or jury determines that the person is a sexually
28 violent predator, the person shall be committed to the custody of the
29 department of social and health services for placement in a secure
30 facility operated by the department of social and health services for
31 control, care, and treatment until such time as: (a) The person's
32 condition has so changed that the person no longer meets the
33 definition of a sexually violent predator; or (b) conditional release
34 to a less restrictive alternative as set forth in RCW 71.09.092 is in
35 the best interest of the person and conditions can be imposed that
36 would adequately protect the community.

37 If the court or unanimous jury decides that the state has not met
38 its burden of proving that the person is a sexually violent predator,
39 the court shall direct the person's release.

1 If the jury is unable to reach a unanimous verdict, the court
2 shall declare a mistrial and set a retrial within forty-five days of
3 the date of the mistrial unless the prosecuting agency earlier moves
4 to dismiss the petition. The retrial may be continued upon the
5 request of either party accompanied by a showing of good cause, or by
6 the court on its own motion in the due administration of justice
7 provided that the respondent will not be substantially prejudiced. In
8 no event may the person be released from confinement prior to retrial
9 or dismissal of the case.

10 (2) If the person charged with a sexually violent offense has
11 been found incompetent to stand trial, and is about to be or has been
12 released pursuant to RCW 10.77.086(7), and his or her commitment is
13 sought pursuant to subsection (1) of this section, the court shall
14 first hear evidence and determine whether the person did commit the
15 act or acts charged if the court did not enter a finding prior to
16 dismissal under RCW 10.77.086(7) that the person committed the act or
17 acts charged. The hearing on this issue must comply with all the
18 procedures specified in this section. In addition, the rules of
19 evidence applicable in criminal cases shall apply, and all
20 constitutional rights available to defendants at criminal trials,
21 other than the right not to be tried while incompetent, shall apply.
22 After hearing evidence on this issue, the court shall make specific
23 findings on whether the person did commit the act or acts charged,
24 the extent to which the person's incompetence or developmental
25 disability affected the outcome of the hearing, including its effect
26 on the person's ability to consult with and assist counsel and to
27 testify on his or her own behalf, the extent to which the evidence
28 could be reconstructed without the assistance of the person, and the
29 strength of the prosecution's case. If, after the conclusion of the
30 hearing on this issue, the court finds, beyond a reasonable doubt,
31 that the person did commit the act or acts charged, it shall enter a
32 final order, appealable by the person, on that issue, and may proceed
33 to consider whether the person should be committed pursuant to this
34 section.

35 (3) Except as otherwise provided in this chapter, the state shall
36 comply with RCW 10.77.220 while confining the person. During all
37 court proceedings where the person is present, the person shall be
38 detained in a secure facility. If the proceedings last more than one
39 day, the person may be held in the county jail for the duration of
40 the proceedings, except the person may be returned to the

1 department's custody on weekends and court holidays if the court
2 deems such a transfer feasible. The county shall be entitled to
3 reimbursement for the cost of housing and transporting the person
4 pursuant to rules adopted by the secretary. The department shall not
5 place the person, even temporarily, in a facility on the grounds of
6 any state mental facility or regional habilitation center because
7 these institutions are insufficiently secure for this population.

8 (4) A court has jurisdiction to order a less restrictive
9 alternative placement only after a hearing ordered pursuant to RCW
10 71.09.090 following initial commitment under this section and in
11 accord with the provisions of this chapter.

12 NEW SECTION. **Sec. 5.** The following acts or parts of acts are
13 each repealed:

14 (1) RCW 71A.12.200 (Community protection program—Legislative
15 approval) and 2006 c 303 s 1;

16 (2) RCW 71A.12.210 (Community protection program—Application) and
17 2025 c 58 s 2042 & 2006 c 303 s 2;

18 (3) RCW 71A.12.220 (Community protection program—Definitions) and
19 2025 c 58 s 2043 & 2006 c 303 s 3;

20 (4) RCW 71A.12.230 (Community protection program—Risk assessment
21 —Written notification—Written determination) and 2006 c 303 s 4;

22 (5) RCW 71A.12.240 (Community protection program—Appeals—Rules—
23 Notice) and 2006 c 303 s 5;

24 (6) RCW 71A.12.250 (Community protection program—Services—
25 Reviews—Rules) and 2006 c 303 s 6;

26 (7) RCW 71A.12.260 (Community protection program—Less restrictive
27 residential placement) and 2006 c 303 s 7; and

28 (8) RCW 71A.12.280 (Community protection program—Rules,
29 guidelines, and policy manuals) and 2006 c 303 s 9.

30 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act take
31 effect January 1, 2027.

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