
HOUSE BILL 2579

State of Washington 65th Legislature 2018 Regular Session

By Representatives Kilduff, McDonald, Muri, Fey, and Stambaugh

1 AN ACT Relating to the placement and treatment of conditionally
2 released sexually violent predators; amending RCW 71.09.096; adding
3 new sections to chapter 71.09 RCW; and providing an expiration date.

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

5 **Sec. 1.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to
6 read as follows:

7 (1) If the court or jury determines that conditional release to a
8 less restrictive alternative is in the best interest of the person
9 and includes conditions that would adequately protect the community,
10 and the court determines that the minimum conditions set forth in RCW
11 71.09.092 and in this section are met, the court shall enter judgment
12 and direct a conditional release.

13 (2) The court shall impose any additional conditions necessary to
14 ensure compliance with treatment and to protect the community. If the
15 court finds that conditions do not exist that will both ensure the
16 person's compliance with treatment and protect the community, then
17 the person shall be remanded to the custody of the department of
18 social and health services for control, care, and treatment in a
19 secure facility as designated in RCW 71.09.060(1).

20 (3) If the service provider designated by the court to provide
21 inpatient or outpatient treatment or to monitor or supervise any

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

10 (4) Prior to authorizing any release to a less restrictive
11 alternative, the court shall impose such conditions upon the person
12 as are necessary to ensure the safety of the community. The court
13 shall order the department of corrections to investigate the less
14 restrictive alternative and recommend any additional conditions to
15 the court. These conditions shall include, but are not limited to the
16 following: Specification of residence, prohibition of contact with
17 potential or past victims, prohibition of alcohol and other drug use,
18 participation in a specific course of inpatient or outpatient
19 treatment that may include monitoring by the use of polygraph and
20 plethysmograph, monitoring through the use of global positioning
21 satellite technology, supervision by a department of corrections
22 community corrections officer, a requirement that the person remain
23 within the state unless the person receives prior authorization by
24 the court, and any other conditions that the court determines are in
25 the best interest of the person or others. A copy of the conditions
26 of release shall be given to the person and to any designated service
27 providers.

28 (5)(a) Prior to authorizing release to a less restrictive
29 alternative, the court shall consider whether it is appropriate to
30 release the person to the person's county of commitment. To ensure
31 equitable distribution of releases, and prevent the disproportionate
32 grouping of persons subject to less restrictive orders in any one
33 county, or in any one jurisdiction or community within a county, the
34 legislature finds it is appropriate for releases to a less
35 restrictive alternative to occur in the person's county of
36 commitment, unless the court determines at an evidentiary hearing
37 that the person's return to his or her county of commitment would be
38 ~~((inappropriate considering))~~ a threat to public safety, based on
39 consideration of: (i) Any court-issued protection orders((7)) and any
40 specific articulated threat to victim safety ((concerns7)) which

1 cannot be addressed by ordering the use of electronic monitoring with
2 global positioning satellite technology; and (ii) the
3 ((availability)) unavailability of appropriate treatment or
4 facilities that would adequately protect the community((, negative
5 influences on the person, or the location of family or other persons
6 or organizations offering support to the person)). When determining
7 the county of placement for a conditional release, the court shall
8 consider the statistical summary and other documentation provided
9 pursuant to (b) of this subsection and endeavor to equitably
10 distribute releases across the state. If the court authorizes
11 conditional release to a county other than the county of commitment,
12 the court shall enter specific findings concerning the decision.

13 (b) If a proposed placement plan includes a residence in a county
14 other than the county of commitment, the state shall file with the
15 court and serve upon the proposed county of placement at least sixty
16 days prior to the hearing in (a) of this subsection a statistical
17 summary showing the number of all conditional releases to a less
18 restrictive alternative for the preceding five years, including data
19 referencing and comparing county of commitment and county of
20 placement. The notice to the proposed county of placement must
21 include the case number and other appropriate information for the
22 present case so as to provide the county with information necessary
23 to determine whether to file a motion to intervene as a party under
24 this subsection. Notice must be sent to the county prosecuting
25 attorney and the law and justice council of the proposed county of
26 placement. The proposed county of placement may intervene as a party
27 in the proceeding, conduct discovery, and offer evidence and argument
28 at the hearing under (a) of this subsection.

29 (c) When the department ((or court)) assists in developing a
30 placement ((under this section which is)) plan, the department shall
31 consider a residential placement in the county of commitment. If the
32 department proposes a residential placement outside of the county of
33 commitment, ((and there are two or more options for placement,)) it
34 shall ((endeavor to)) develop the placement in a manner that does not
35 have a disproportionate effect on a single county and shall provide
36 written documentation to the court as to its rationale in this
37 regard. Regardless of whether the department assists with developing
38 a placement plan, if a proposed placement plan submitted to the court
39 pursuant to the requirements of RCW 71.09.090 and 71.09.092 includes
40 a residence outside the county of commitment, the proposal must

1 include an explanation as to why the county of commitment is not an
2 appropriate placement for the committed person. The proposal must
3 specifically describe efforts to seek treatment providers and
4 residential placement in the county of commitment, including whether
5 or not every treatment provider in the county of commitment posted on
6 the list under section 2 of this act was contacted.

7 ~~((b))~~ (d) If, after a hearing under (a) of this subsection, the
8 court authorizes the conditional release of the committed person ~~((is~~
9 ~~not conditionally released to))~~ to a placement in a county other than
10 his or her county of commitment, the department shall provide the law
11 and justice council of the county in which the person is
12 conditionally released with notice and a written explanation at least
13 sixty days prior to release.

14 ~~((e))~~ (e) For purposes of this section, the person's county of
15 commitment means the county of the court which ordered the person's
16 commitment.

17 ~~((d))~~ (f) This subsection (5) does not apply to releases to a
18 secure community transition facility under RCW 71.09.250.

19 (6) Any service provider designated to provide inpatient or
20 outpatient treatment shall monthly, or as otherwise directed by the
21 court, submit to the court, to the department of social and health
22 services facility from which the person was released, to the
23 prosecuting agency, to the law and justice council of the county in
24 which the person is released, and to the supervising community
25 corrections officer, a report stating whether the person is complying
26 with the terms and conditions of the conditional release to a less
27 restrictive alternative.

28 (7) Each person released to a less restrictive alternative shall
29 have his or her case reviewed by the court that released him or her
30 no later than one year after such release and annually thereafter
31 until the person is unconditionally discharged. Review may occur in a
32 shorter time or more frequently, if the court, in its discretion on
33 its own motion, or on motion of the person, the secretary, or the
34 prosecuting agency so determines. The sole question to be determined
35 by the court is whether the person shall continue to be conditionally
36 released to a less restrictive alternative. The court in making its
37 determination shall be aided by the periodic reports filed pursuant
38 to subsection (6) of this section and the opinions of the secretary
39 and other experts or professional persons.

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

3 (1) Beginning January 1, 2019, the department shall maintain a
4 list of certified sex offender treatment providers offering treatment
5 to conditionally released sexually violent predators under RCW
6 71.09.350, which must include information on the city and county
7 where providers are located and the type of treatment offered. The
8 list must be updated at least every six months and made available to
9 committed persons eligible or otherwise seeking conditional release
10 under RCW 71.09.090.

11 (2) The department shall encourage eligible professionals located
12 in underserved areas to seek certification under RCW 18.155.030 so as
13 to reduce the impact of conditionally releasing several sexually
14 violent predators to the same location. The department is authorized
15 to engage in outreach and other educational efforts to comply with
16 this section.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.09
18 RCW to read as follows:

19 (1) Subject to the availability of amounts appropriated for this
20 specific purpose, the department shall administer a grant program for
21 the purpose of expanding the availability of certified treatment
22 providers under chapter 18.155 RCW in underserved counties.
23 Underserved counties are counties where the department finds there
24 are an insufficient number of treatment providers, thereby preventing
25 residential placement of persons conditionally released under this
26 chapter in those counties.

27 (2) Grants shall be provided on an individual basis to eligible
28 grant applicants for the purpose of paying for the costs of the
29 training requirements and the costs of application, examination, and
30 certification under chapter 18.155 RCW. Grants may be awarded from
31 July 1, 2018, through June 30, 2021.

32 (3) Eligible grant applicants must:

33 (a) Be credentialed health professionals;

34 (b) Have completed the education requirements for certification,
35 as promulgated by department of health rules;

36 (c) Agree to practice for at least three years in an underserved
37 county; and

1 (d) Meet other requirements established by the department. In
2 developing eligibility criteria, the department shall consult with
3 the department of health.

4 (4) Grant recipients shall comply with policies and procedures
5 established by the department. Upon receiving certification under
6 chapter 18.155 RCW, a grant recipient must offer treatment services
7 to persons conditionally released under this chapter in at least one
8 underserved county, as designated by the department, for a minimum of
9 two years. If an applicant does not comply with this section, he or
10 she shall reimburse the department for the total amount of the grant
11 award.

12 (5) The department shall:

13 (a) Design and implement the grant program according to the
14 requirements of this section;

15 (b) Adopt necessary policies and procedures to administer the
16 program;

17 (c) Monitor the use of grant funds and compliance with the
18 requirements of the program; and

19 (d) Collect reimbursements for grants when a grant recipient
20 fails to meet the requirements of subsection (4) of this section.

21 (6) The department shall report to the appropriate committees of
22 the legislature and the governor by December 1st of each year on the
23 status of the grant program, including the number of grants awarded,
24 the number of certifications resulting from grant awards, the
25 counties where grant recipients are offering services, and any other
26 information deemed relevant by the department.

27 (7) This section expires June 30, 2024.

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