
SENATE BILL 6493

State of Washington 62nd Legislature 2012 Regular Session

By Senators Regala, Hargrove, Stevens, Harper, Kline, Carrell, and Shin

Read first time 01/26/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to sexually violent predator civil commitment
2 cases; amending RCW 2.70.020, 71.09.040, 71.09.050, 71.09.080,
3 71.09.090, 71.09.120, and 71.09.140; adding a new section to chapter
4 2.70 RCW; creating a new section; providing an effective date; and
5 declaring an emergency.

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

7 **Sec. 1.** RCW 2.70.020 and 2008 c 313 s 4 are each amended to read
8 as follows:

9 The director shall:

10 (1) Administer all state-funded services in the following program
11 areas:

12 (a) Trial court criminal indigent defense, as provided in chapter
13 10.101 RCW;

14 (b) Appellate indigent defense, as provided in this chapter;

15 (c) Representation of indigent parents qualified for appointed
16 counsel in dependency and termination cases, as provided in RCW
17 13.34.090 and 13.34.092;

18 (d) Extraordinary criminal justice cost petitions, as provided in
19 RCW 43.330.190;

1 (e) Compilation of copies of DNA test requests by persons convicted
2 of felonies, as provided in RCW 10.73.170;

3 (f) Representation of indigent respondents qualified for appointed
4 counsel in sexually violent predator civil commitment cases, as
5 provided in chapter 71.09 RCW;

6 (2) Submit a biennial budget for all costs related to the office's
7 program areas;

8 (3) Establish administrative procedures, standards, and guidelines
9 for the office's program areas, including cost-efficient systems that
10 provide for authorized recovery of costs;

11 (4) Provide oversight and technical assistance to ensure the
12 effective and efficient delivery of services in the office's program
13 areas;

14 (5) Recommend criteria and standards for determining and verifying
15 indigency. In recommending criteria for determining indigency, the
16 director shall compile and review the indigency standards used by other
17 state agencies and shall periodically submit the compilation and report
18 to the legislature on the appropriateness and consistency of such
19 standards;

20 (6) Collect information regarding indigent defense services funded
21 by the state and report annually to the advisory committee, the
22 legislature, and the supreme court;

23 (7) Coordinate with the supreme court and the judges of each
24 division of the court of appeals to determine how appellate attorney
25 services should be provided.

26 The office of public defense shall not provide direct
27 representation of clients.

28 NEW SECTION. Sec. 2. A new section is added to chapter 2.70 RCW
29 to read as follows:

30 In providing indigent defense services for sexually violent
31 predator civil commitment cases under chapter 71.09 RCW, the director
32 shall:

33 (1) In accordance with state contracting laws, contract with
34 persons admitted to practice law in this state and organizations
35 employing persons admitted to practice law in this state for the
36 provision of legal services to indigent persons;

1 (2) Establish annual contract fees for defense legal services
2 within amounts appropriated based on Washington state bar association
3 standards, attorney rules of professional conduct, court rules, court
4 orders, data gathered regarding current prosecution and defense
5 practices around the state, and the director's experience in providing
6 defense services in other types of cases;

7 (3) Consistent with Washington state bar association standards,
8 attorney rules of professional conduct, court rules, and court orders,
9 establish procedures for the reimbursement of expert witness and other
10 professional and investigative costs;

11 (4) Review and analyze existing caseload standards and make
12 recommendations for updating caseload standards to the Washington state
13 bar association as appropriate;

14 (5) Annually, prior to December 1st of each year, submit a report
15 to the chief justice of the supreme court, the governor, and the
16 legislature, with all pertinent data on the operation of indigent
17 defense services for commitment proceedings under this section,
18 including:

19 (a) The costs and projected needs for maintaining adequate indigent
20 defense services;

21 (b) The time to trial for all commitment trial proceedings
22 including a list of the number of continuances granted, the party that
23 requested the continuance, and the reason the continuance was granted;

24 (c) Recommendations for policy changes, including changes in
25 statutes and changes in court rules, which may be appropriate for the
26 improvement of the sexually violent predator civil commitment system,
27 the rehabilitation of committed persons, and other related objectives.

28 NEW SECTION. Sec. 3. (1) All powers, duties, and functions of the
29 department of social and health services pertaining to indigent defense
30 under chapter 71.09 RCW are transferred to the office of public
31 defense.

32 (2)(a) All reports, documents, surveys, books, records, files,
33 papers, or written material in the possession of the department of
34 social and health services and the special commitment center pertaining
35 to the powers, functions, and duties transferred shall be delivered to
36 the custody of the office of public defense. Materials may be
37 transferred electronically and/or in hard copy, as agreed by the

1 agencies. All funds, credits, or other assets held in connection with
2 the powers, functions, and duties transferred shall be assigned to the
3 office of public defense.

4 (b) Any appropriations made to the department of social and health
5 services for carrying out the powers, functions, and duties transferred
6 shall, on July 1, 2012, be transferred and credited to the office of
7 public defense.

8 (3) Notwithstanding the effective date of this section, if
9 implementation of office of public defense contracts would result in
10 the substitution of counsel within one hundred eighty days of a
11 scheduled trial date, the director of the office of public defense may
12 continue defense services with existing counsel to facilitate
13 continuity of effective representation and avoid further continuance of
14 a trial. When existing counsel is maintained, payment to complete the
15 trial shall be prorated based on standard contract fees established by
16 the office of public defense under section 2 of this act and, at the
17 director's discretion, may include extraordinary compensation based on
18 attorney documentation and consistent with Washington state bar
19 association standards and attorney rules of professional conduct.

20 **Sec. 4.** RCW 71.09.040 and 2009 c 409 s 4 are each amended to read
21 as follows:

22 (1) Upon the filing of a petition under RCW 71.09.030, the judge
23 shall determine whether probable cause exists to believe that the
24 person named in the petition is a sexually violent predator. If such
25 determination is made the judge shall direct that the person be taken
26 into custody.

27 (2) Within seventy-two hours after a person is taken into custody
28 pursuant to subsection (1) of this section, the court shall provide the
29 person with notice of, and an opportunity to appear in person at, a
30 hearing to contest probable cause as to whether the person is a
31 sexually violent predator. In order to assist the person at the
32 hearing, within twenty-four hours of service of the petition, the
33 prosecuting agency shall provide to the person or his or her counsel a
34 copy of all materials provided to the prosecuting agency by the
35 referring agency pursuant to RCW 71.09.025, or obtained by the
36 prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d). At this
37 hearing, the court shall (a) verify the person's identity, and (b)

1 determine whether probable cause exists to believe that the person is
2 a sexually violent predator. At the probable cause hearing, the state
3 may rely upon the petition and certification for determination of
4 probable cause filed pursuant to RCW 71.09.030. The state may
5 supplement this with additional documentary evidence or live testimony.
6 The person may be held in total confinement at the county jail until
7 the trial court renders a decision after the conclusion of the seventy-
8 two hour probable cause hearing. The county shall be entitled to
9 reimbursement for the cost of housing and transporting the person
10 pursuant to rules adopted by the secretary.

11 (3) At the probable cause hearing, the person shall have the
12 following rights in addition to the rights previously specified: (a)
13 To be represented by counsel, and if the person is indigent as defined
14 in RCW 10.101.010, to have office of public defense contracted counsel
15 appointed as provided in RCW 10.101.020; (b) to present evidence on his
16 or her behalf; (c) to cross-examine witnesses who testify against him
17 or her; (d) to view and copy all petitions and reports in the court
18 file. The court must permit a witness called by either party to
19 testify by telephone. Because this is a special proceeding, discovery
20 pursuant to the civil rules shall not occur until after the hearing has
21 been held and the court has issued its decision.

22 (4) If the probable cause determination is made, the judge shall
23 direct that the person be transferred to an appropriate facility for an
24 evaluation as to whether the person is a sexually violent predator.
25 The evaluation shall be conducted by a person deemed to be
26 professionally qualified to conduct such an examination pursuant to
27 rules developed by the department of social and health services. In
28 adopting such rules, the department of social and health services shall
29 consult with the department of health and the department of
30 corrections. In no event shall the person be released from confinement
31 prior to trial. A witness called by either party shall be permitted to
32 testify by telephone.

33 **Sec. 5.** RCW 71.09.050 and 2010 1st sp.s. c 28 s 1 are each amended
34 to read as follows:

35 (1) Within forty-five days after the completion of any hearing held
36 pursuant to RCW 71.09.040, the court shall conduct a trial to determine
37 whether the person is a sexually violent predator. The trial may be

1 continued upon the request of either party and a showing of good cause,
2 or by the court on its own motion in the due administration of justice,
3 and when the respondent will not be substantially prejudiced. The
4 department is responsible for the cost of one expert or professional
5 person to conduct an evaluation on the prosecuting agency's behalf. At
6 all stages of the proceedings under this chapter, any person subject to
7 this chapter shall be entitled to the assistance of counsel, and if the
8 person is indigent as defined in RCW 10.101.010, the court, as provided
9 in RCW 10.101.020, shall appoint office of public defense contracted
10 counsel to assist him or her. The person shall be confined in a secure
11 facility for the duration of the trial.

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

26 (3) The person, the prosecuting agency, or the judge shall have the
27 right to demand that the trial be before a twelve-person jury. If no
28 demand is made, the trial shall be before the court.

29 **Sec. 6.** RCW 71.09.080 and 2010 c 218 s 2 are each amended to read
30 as follows:

31 (1) Any person subjected to restricted liberty as a sexually
32 violent predator pursuant to this chapter shall not forfeit any legal
33 right or suffer any legal disability as a consequence of any actions
34 taken or orders made, other than as specifically provided in this
35 chapter, or as otherwise authorized by law.

36 (2)(a) Any person committed or detained pursuant to this chapter
37 shall be prohibited from possessing or accessing a personal computer if

1 the resident's individualized treatment plan states that access to a
2 computer is harmful to bringing about a positive response to a specific
3 and certain phase or course of treatment.

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

13 (3) Any person committed pursuant to this chapter has the right to
14 adequate care and individualized treatment. The department of social
15 and health services shall keep records detailing all medical, expert,
16 and professional care and treatment received by a committed person, and
17 shall keep copies of all reports of periodic examinations made pursuant
18 to this chapter. All such records and reports shall be made available
19 upon request only to: The committed person, his or her attorney, the
20 prosecuting (~~attorney~~) agency, the court, the protection and advocacy
21 agency, or another expert or professional person who, upon proper
22 showing, demonstrates a need for access to such records.

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

36 (5) Nothing in this chapter prohibits a person presently committed
37 from exercising a right presently available to him or her for the

1 purpose of obtaining release from confinement, including the right to
2 petition for a writ of habeas corpus.

3 (6) No indigent person may be conditionally released or
4 unconditionally discharged under this chapter without suitable
5 clothing, and the secretary shall furnish the person with such sum of
6 money as is required by RCW 72.02.100 for persons without ample funds
7 who are released from correctional institutions. As funds are
8 available, the secretary may provide payment to the indigent persons
9 conditionally released pursuant to this chapter consistent with the
10 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules
11 to do so.

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

17 **Sec. 7.** RCW 71.09.090 and 2011 2nd sp.s. c 7 s 2 are each amended
18 to read as follows:

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

31 (2)(a) Nothing contained in this chapter shall prohibit the person
32 from otherwise petitioning the court for conditional release to a less
33 restrictive alternative or unconditional discharge without the
34 secretary's approval. The secretary shall provide the committed person
35 with an annual written notice of the person's right to petition the
36 court for conditional release to a less restrictive alternative or
37 unconditional discharge over the secretary's objection. The notice

1 shall contain a waiver of rights. The secretary shall file the notice
2 and waiver form and the annual report with the court. If the person
3 does not affirmatively waive the right to petition, the court shall set
4 a show cause hearing to determine whether probable cause exists to
5 warrant a hearing on whether the person's condition has so changed
6 that: (i) He or she no longer meets the definition of a sexually
7 violent predator; or (ii) conditional release to a proposed less
8 restrictive alternative would be in the best interest of the person and
9 conditions can be imposed that would adequately protect the community.

10 (b) The committed person shall have a right to have an attorney
11 represent him or her at the show cause hearing, which may be conducted
12 solely on the basis of affidavits or declarations, but the person is
13 not entitled to be present at the show cause hearing. At the show
14 cause hearing, the prosecuting (~~(attorney or attorney general)~~) agency
15 shall present prima facie evidence establishing that the committed
16 person continues to meet the definition of a sexually violent predator
17 and that a less restrictive alternative is not in the best interest of
18 the person and conditions cannot be imposed that adequately protect the
19 community. In making this showing, the state may rely exclusively upon
20 the annual report prepared pursuant to RCW 71.09.070. The committed
21 person may present responsive affidavits or declarations to which the
22 state may reply.

23 (c) If the court at the show cause hearing determines that either:
24 (i) The state has failed to present prima facie evidence that the
25 committed person continues to meet the definition of a sexually violent
26 predator and that no proposed less restrictive alternative is in the
27 best interest of the person and conditions cannot be imposed that would
28 adequately protect the community; or (ii) probable cause exists to
29 believe that the person's condition has so changed that: (A) The
30 person no longer meets the definition of a sexually violent predator;
31 or (B) release to a proposed less restrictive alternative would be in
32 the best interest of the person and conditions can be imposed that
33 would adequately protect the community, then the court shall set a
34 hearing on either or both issues.

35 (d) If the court has not previously considered the issue of release
36 to a less restrictive alternative, either through a trial on the merits
37 or through the procedures set forth in RCW 71.09.094(1), the court
38 shall consider whether release to a less restrictive alternative would

1 be in the best interests of the person and conditions can be imposed
2 that would adequately protect the community, without considering
3 whether the person's condition has changed. The court may not find
4 probable cause for a trial addressing less restrictive alternatives
5 unless a proposed less restrictive alternative placement meeting the
6 conditions of RCW 71.09.092 is presented to the court at the show cause
7 hearing.

8 (3)(a) At the hearing resulting from subsection (1) or (2) of this
9 section, the committed person shall be entitled to be present and to
10 the benefit of all constitutional protections that were afforded to the
11 person at the initial commitment proceeding. The prosecuting agency
12 shall represent the state and shall have a right to a jury trial and to
13 have the committed person evaluated by experts chosen by the state.
14 The department is responsible for the cost of one expert or
15 professional person to conduct an evaluation on the prosecuting
16 agency's behalf. The committed person shall also have the right to a
17 jury trial and the right to have experts evaluate him or her on his or
18 her behalf and the court shall appoint an expert if the person is
19 indigent and requests an appointment.

20 (b) Whenever any indigent person is subjected to an evaluation
21 under (a) of this subsection, the ((department)) office of public
22 defense is responsible for the cost of one expert or professional
23 person conducting an evaluation on the person's behalf. When the
24 person wishes to be evaluated by a qualified expert or professional
25 person of his or her own choice, such expert or professional person
26 must be permitted to have reasonable access to the person for the
27 purpose of such evaluation, as well as to all relevant medical and
28 psychological records and reports. In the case of a person who is
29 indigent, the court shall, upon the person's request, assist the person
30 in obtaining an expert or professional person to perform an evaluation
31 or participate in the hearing on the person's behalf. Nothing in this
32 chapter precludes the person from paying for additional expert services
33 at his or her own expense.

34 (c) If the issue at the hearing is whether the person should be
35 unconditionally discharged, the burden of proof shall be upon the state
36 to prove beyond a reasonable doubt that the committed person's
37 condition remains such that the person continues to meet the definition

1 of a sexually violent predator. Evidence of the prior commitment trial
2 and disposition is admissible. The recommitment proceeding shall
3 otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

4 (d) If the issue at the hearing is whether the person should be
5 conditionally released to a less restrictive alternative, the burden of
6 proof at the hearing shall be upon the state to prove beyond a
7 reasonable doubt that conditional release to any proposed less
8 restrictive alternative either: (i) Is not in the best interest of the
9 committed person; or (ii) does not include conditions that would
10 adequately protect the community. Evidence of the prior commitment
11 trial and disposition is admissible.

12 (4)(a) Probable cause exists to believe that a person's condition
13 has "so changed," under subsection (2) of this section, only when
14 evidence exists, since the person's last commitment trial, or less
15 restrictive alternative revocation proceeding, of a substantial change
16 in the person's physical or mental condition such that the person
17 either no longer meets the definition of a sexually violent predator or
18 that a conditional release to a less restrictive alternative is in the
19 person's best interest and conditions can be imposed to adequately
20 protect the community.

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

26 (i) An identified physiological change to the person, such as
27 paralysis, stroke, or dementia, that renders the committed person
28 unable to commit a sexually violent act and this change is permanent;
29 or

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

35 (c) For purposes of this section, a change in a single demographic
36 factor, without more, does not establish probable cause for a new trial
37 proceeding under subsection (3) of this section. As used in this

1 section, a single demographic factor includes, but is not limited to,
2 a change in the chronological age, marital status, or gender of the
3 committed person.

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

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

10 **Sec. 8.** RCW 71.09.120 and 1990 c 3 s 1012 are each amended to read
11 as follows:

12 (1) In addition to any other information required to be released
13 under this chapter, the department is authorized, pursuant to RCW
14 4.24.550, to release relevant information that is necessary to protect
15 the public, concerning a specific sexually violent predator committed
16 under this chapter.

17 (2) The department and the courts are authorized to release to the
18 office of public defense records needed to implement the office's
19 administration of public defense in these cases, including research,
20 reports, and other functions as required by RCW 2.70.020 and section 2
21 of this act. The office of public defense shall maintain the
22 confidentiality of all confidential information included in the
23 records.

24 (3) The office of public defense and any entity that retains office
25 of public defense data or records shall maintain the confidentiality of
26 a defense attorney's request for an expert, other professional, or
27 investigator; any report or findings submitted to the attorney, the
28 court, or the office of public defense by the expert, other
29 professional, or investigator; and the invoicing associated with the
30 expert, other professional, or investigator. Summary information
31 regarding payments made for attorneys, experts, other professionals, or
32 investigators is not confidential.

33 (4) The inspection or copying of any nonexempt public record by
34 persons residing in a civil commitment facility for sexually violent
35 predators may be enjoined following procedures identified in RCW
36 42.56.565. The injunction may be requested by:

37 (a) An agency or its representative;

1 (b) A person named in the record or his or her representative;

2 (c) A person to whom the request specifically pertains or his or
3 her representative.

4 **Sec. 9.** RCW 71.09.140 and 1995 c 216 s 17 are each amended to read
5 as follows:

6 (1) At the earliest possible date, and in no event later than
7 thirty days before conditional release or unconditional discharge,
8 except in the event of escape, the department of social and health
9 services shall send written notice of conditional release,
10 unconditional discharge, or escape, to the following:

11 (a) The chief of police of the city, if any, in which the person
12 will reside or in which placement will be made under a less restrictive
13 alternative;

14 (b) The sheriff of the county in which the person will reside or in
15 which placement will be made under a less restrictive alternative; and

16 (c) The sheriff of the county where the person was last convicted
17 of a sexually violent offense, if the department does not know where
18 the person will reside.

19 The department shall notify the state patrol of the release of all
20 sexually violent predators and that information shall be placed in the
21 Washington crime information center for dissemination to all law
22 enforcement.

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

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

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

33 (c) Any person specified in writing by the prosecuting ((attorney))
34 agency.

35 Information regarding victims, next of kin, or witnesses requesting
36 the notice, information regarding any other person specified in writing

1 by the prosecuting ((attorney)) agency to receive the notice, and the
2 notice are confidential and shall not be available to the committed
3 person.

4 (3) If a person committed as a sexually violent predator under this
5 chapter escapes from a department of social and health services
6 facility, the department shall immediately notify, by the most
7 reasonable and expedient means available, the chief of police of the
8 city and the sheriff of the county in which the committed person
9 resided immediately before his or her commitment as a sexually violent
10 predator, or immediately before his or her incarceration for his or her
11 most recent offense. If previously requested, the department shall
12 also notify the witnesses and the victims of the sexually violent
13 offenses for which the person was convicted in the past or the victim's
14 next of kin if the crime was a homicide. If the person is recaptured,
15 the department shall send notice to the persons designated in this
16 subsection as soon as possible but in no event later than two working
17 days after the department learns of such recapture.

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

22 (5) The department of social and health services shall send the
23 notices required by this chapter to the last address provided to the
24 department by the requesting party. The requesting party shall furnish
25 the department with a current address.

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

29 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 2012.

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