

HOUSE BILL REPORT

HB 2262

*As Reported By House Committee on:
Judiciary*

Title: An act relating to refinements of the community protection act of 1990.

Brief Description: Refining the community protection act of 1990.

Sponsor(s): Representatives Appelwick, Padden, Wineberry, Riley, Tate, Wang, Roland, Winsley, Paris, May, Bowman, Orr and Van Luven; by request of Department of Corrections, Dept. of Social and Health Services and Indeterminate Sentence Review Board.

Brief History:

Reported by House Committee on:
Judiciary, January 15, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; Riley; Scott; D. Sommers; Tate; and Vance.

Staff: Pat Shelledy (786-7149).

Background:

In 1990, the Legislature passed a comprehensive act concerning sex offenders which was termed the community protection act of 1990.

The act created a civil commitment scheme for civil commitment of sexually violent predators. The act provides that three months before the anticipated release from total confinement of a sex offender who committed a sex offense between June 30, 1984 and July 1, 1988, the Department of Corrections must notify the prosecutor of the county where the person was convicted of the offender's release. The department must also provide information to the prosecutor

about the offender's conduct in prison, and advise the prosecutor whether the department recommends that the prosecutor file a civil commitment petition. Under the civil commitment act, several other sex offenders are eligible for civil commitment, including juveniles, insane people who were found not guilty by reason of insanity, and persons acquitted of sex offenses due to incompetence to stand trial. No specific statute exists requiring those agencies to notify the prosecutor about the person's release, nor does a specific statute exist requiring notice to the prosecutor of offenders being released whose crimes were not committed within that four-year period.

A person may become eligible for civil commitment in a variety of ways. An adult offender who has been convicted or a juvenile offender who has been adjudicated of a sexually violent offense becomes eligible when the person's sentence or disposition is about to expire or has expired. Some confusion has existed whether the term "sentence" means that a person on parole under the old indeterminate sentencing scheme may be eligible for civil commitment or whether the person must be revoked on parole to become eligible for civil commitment at the expiration of the sentence.

Some sex offenders who were convicted of a sexually violent offense under the old sentencing system may have been released on parole and while on parole committed a sex offense after the new sentencing scheme (the Sentencing Reform Act, "SRA") was in effect. In some of those cases, the offender was "paroled" into the custody of the Department of Corrections while serving time on the new offense. Those offenders may still have remaining parole time to serve after completion of the SRA commitment. The Indeterminate Sentence Review Board may not have authority to "revoke" their parole upon completion of the SRA sentence but may want to refer the offender for civil commitment.

The Department of Corrections must notify various parties no later than 10 days before a sex or violent offender is paroled, placed in community placement or work release, or furloughed. The statute does not expressly state that the department must notify those parties when the offender is released.

Summary of Substitute Bill:

Three months before the anticipated release of a person who may be eligible for civil commitment, the agency that has jurisdiction over the person must refer the person to the appropriate county prosecuting attorney. "Agency" means the Department of Corrections, the Indeterminate Sentence Review

Board, or the Department of Social and Health Services as appropriate. The agency must document the person's institutional adjustment and any treatment received. The agency does not have to prepare a narrative description.

The eligibility criteria for civil commitment are amended to include the following provisions:

1. Offenders convicted of a sexually violent offense who are on or may be placed on parole for that offense are not eligible for civil commitment until their sentence expires. Therefore, parole must be revoked and the parolee complete (or almost complete) the remaining portion of the sentence prior to becoming eligible for civil commitment.
2. Adult offenders convicted of a sexually violent offense under the Sentencing Reform Act or juvenile offenders adjudicated for a sexually violent offense are eligible when their term of total confinement expires, has expired, or is about to expire.
3. Offenders, who were convicted of a sexually violent offense under the old sentencing scheme, and who while on parole for that offense committed a new sex offense under the Sentencing Reform Act's provisions, are eligible upon completion of their commitment to prison under the Sentencing Reform Act offense.

The Department of Corrections must provide notice of a sex offender's release at least 10 days before the offender's release. If the department does not know where the sex offender will reside, the department must send notice to the county sheriff and the chief of police in the city and county where the offender was convicted. The department must also notify the State Patrol who shall put the information into the crime information center for dissemination to law enforcement.

Substitute Bill Compared to Original Bill:

Eligibility for civil commitment is clarified to provide that the offender is eligible when the person's term of total confinement, as opposed to partial, is about to expire or has expired.

A technical date change is made.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will clarify the eligibility and referral requirements under the civil commitment statute.

Testimony Against: None.

Witnesses: Ruben Cede/o, Department of Corrections (in favor); Jeanne Taylor, Department of Social and Health Services (in favor); and Dennis Marsh, Indeterminate Sentence Review Board (in favor).