

# FINAL BILL REPORT

## SHB 1578

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C 31 L 93  
Synopsis as Enacted

**Brief Description:** Revising provisions relating to offenders under the jurisdiction of the department of corrections.

By House Committee on Corrections (originally sponsored by Representatives L. Johnson, Morris, G. Cole, Padden, Riley, Edmondson, Mastin, Johanson, Jones, Basich, King, Valle, Campbell, Long, Shin, Springer, Karahalios, Roland, Rayburn, Conway, Kremen, Ogden, Cothorn and H. Myers; by request of Department of Corrections).

House Committee on Corrections  
Senate Committee on Law & Justice

### **Background:**

#### TRACKING FELONY CASES

The Department of Corrections is required to maintain information about convicted felons, including felons under Washington jurisdiction pursuant to interstate compact agreements. Tracking begins at the time the department receives a disposition from the prosecuting attorney. Information collected includes a felon's criminal records from the time of conviction through the completion of sentence.

#### COMMUNITY SANCTIONS

When an offender is absent from a community sanction without permission, the court must establish the date for tolling the sentence. The tolling date is based on reports provided to the court by the Department of Corrections.

Offenders with sentences that include community supervision, community service, community placement, or legal financial obligations must pay a supervision fee. Additional community sanctions, such as electronic monitoring, telephonic reporting and day reporting, are not specifically identified in statute.

#### CONDITIONAL RELEASE FOR THE CRIMINALLY INSANE

Until 1981, corrections was a program under the umbrella of the Department of Social and Health Services; the criminally

insane statute contains references to this repealed agency structure.

Individuals who are legally determined to be criminally insane may be conditionally released by the court to the Department of Corrections. Until a conditional release is granted, the individual is under the jurisdiction of the Department of Social and Health Services. If regular or periodic medication or other medical treatment is a condition of release, the court requires the individual to report to a physician or other person for medication or treatment. In addition to other required reports, the physician or other person must immediately, upon the released person's failure to appear for medication or treatment, report the failure to the court and to the prosecuting attorney of the county in which the released person was committed.

A physician treating a conditionally released person must regularly or periodically submit reports to the court, the secretary of the institution from which the individual is released, and the prosecuting attorney of the county in which the person was committed. The report must state that the person is adhering to the terms and conditions of the release.

When a conditionally released person is required to report to a physician, probation officer or other individual on a regular or periodic basis, the physician, probation officer, or other such person must submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county from which the person was committed, a monthly report or a report as directed by the court stating whether the person is adhering to the terms and conditions of the conditional release.

If a person on conditional release disappears, the superintendent must notify, as appropriate, local law enforcement, other governmental agencies, the person's relatives and other appropriate individuals of the disappearance.

Each person conditionally released by the court must have his or her case reviewed by that court no later than one year after the release and no later than every two years after that. Reviews may occur in a shorter time or more frequently as determined by the court in its discretion on its own motion or on motion of the released person, the secretary or the prosecuting attorney. The sole purpose of the review is to determine whether the individual may continue to be conditionally released.

If the prosecuting attorney, the secretary, or the court believe that the conditionally released person is failing to adhere to the terms and conditions of the conditional release, the court or the secretary may order the person taken into custody until a hearing can be scheduled to determine whether the conditional release should be revoked or modified. Either the prosecutor or the conditionally released person has the right to ask for an immediate mental examination of the conditionally released person. If the conditionally released individual is indigent, the court or secretary must, upon request, assist the person in obtaining a qualified person to conduct a mental examination.

The secretary, upon application by the conditionally released person, must determine whether or not reasonable grounds exist for a final discharge.

All records and reports concerning criminally insane individuals may only be released upon request to: the committed person, his or her attorney, his or her personal physician, the prosecuting attorney, the court, the protection and advocacy agency, or other expert or professional person who, upon proper showing, demonstrates a need for access to such records. These records and reports shall also be made available to the Department of Corrections and the Indeterminate Sentence Review Board if the person was on parole or probation at the time of detention, hospitalization, or commitment, or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed.

**Summary:**

TRACKING FELONY CASES

The requirement for the Department of Corrections to track convicted felons is clarified to include only those convicted felons sentenced for longer than one year or otherwise under the department's supervision or jurisdiction.

COMMUNITY SANCTIONS

When an offender is absent from a community sanction without permission, the Department of Corrections is responsible for establishing the date for tolling the sentence. The department is also responsible for keeping track of absences from both confinement and community sanctions.

Offenders with the ability to pay for these special services including electronic monitoring, day reporting, and

telephone monitoring, are assessed a fee. The department is authorized to pay for these services for indigent offenders.

#### CONDITIONAL RELEASE OF THE CRIMINALLY INSANE

The sections of statute covering criminally insane persons on conditional release are clarified to reflect a separate Department of Corrections. Reporting requirements involving the released person are modified.

When a criminally insane person is conditionally released by the court and the person is required to report to a community corrections officer, the release order must specify that the conditionally released person is under the supervision of the Department of Corrections. While under the supervision of the department, the conditionally released person must follow the instructions of the department which include: reporting to the community corrections officer, remaining in prescribed geographical boundaries, and reporting any changes in address or employment.

If the court determines that regular or periodic medication or treatment is a condition of the person's release then the court must require the person to report to the treating professional. If the person fails to appear for medication and treatment, the treating professional must immediately notify the court and the prosecuting attorney in the county of commitment. In addition, the supervising community corrections officer must also be notified.

The reporting requirements of the individuals who deal with the conditionally released person are modified. Unless the court determines otherwise, the physician, community corrections officer, medical or mental health practitioner, or any other person must report monthly for the first six months and semiannually after that, to the court, the secretary of the institution from which released, and the prosecuting attorney, regarding whether the released person is adhering to the terms and conditions of the conditional release.

Responsibility for notice is clarified if a committed person escapes from the institution or if a person on conditional release disappears. Either the Department of Social and Health Services or the Department of Corrections must, as appropriate, notify law enforcement, other governmental agencies or other individuals as necessary, to preserve public safety or assist with the apprehension of the committed or conditionally released person.

After the first year on conditional release, the released person's case must be reviewed and a review conducted every other year after that. In addition to the court, the prosecuting attorney or the conditionally released person, the secretary of the Department of Social and Health Services, the secretary of the Department of Corrections and the medical or mental health practitioners may make a motion to the court to review the case in a shorter period of time or more frequently.

Clarification is made with respect to who may revoke a person's conditional release. In addition to the court, the prosecuting attorney, or the secretary of the Department of Social and Health Services, and the secretary of the Department of Corrections may also order the conditionally released person taken into custody for failure to adhere to the conditions of release.

Upon the person's application requesting discharge from the institution or conditional release, the secretary of the Department of Social and Health Services may consider reports and evaluations from professionals familiar with the case as well as reports filed pursuant to statute.

If the secretary approves the final discharge, the person is then authorized to petition the court and prosecuting attorney. A hearing shall be scheduled within 45 days unless good cause is shown. The petitioner or prosecuting attorney may demand a jury. The burden of proof is on the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to others or a likelihood of committing other felonies.

The community corrections officer is added to the list of people who may have access to the committed individual's records and reports.

**Votes on Final Passage:**

House	96	0
Senate	39	0

**Effective:** July 25, 1993