

HOUSE BILL REPORT

ESSB 5760

As Passed House - Amended:

March 5, 1998

Title: An act relating to mentally ill offenders.

Brief Description: Authorizing courts to order evaluation and treatment of mentally ill offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Deccio, Thibaudeau, Winsley and Kohl).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/20/98, 2/25/98 [DPA];

Appropriations: 2/28/98 [DPA(CJC & APP)].

Floor Activity:

Passed House - Amended: 3/5/98, 97-0.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 12 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell; Radcliff and Sullivan.

Staff: Yvonne Walker (786-7841).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Criminal Justice & Corrections as further amended by Committee on Appropriations. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Dave Johnson (786-7154).

Background: Pre-sentence Reports. Before imposing a sentence upon an offender, the court usually conducts a pre-sentence hearing. At that time, the court may order the Department of Corrections (DOC) to complete a pre-sentence report to assist in the trial court in sentencing an offender after he or she has been convicted. Pre-sentence reports usually include prior convictions, prior arrests, employment history, education history, and family and social background.

Community Placement & Community Supervision. "Community placement" refers to a period of supervision over a prisoner after release from state prison. "Community supervision" includes up to one year in the county jail and one year of supervision in the community.

As part of a community placement or a community supervision sentence, the court may order an offender, in addition to crime-related prohibitions, to: participate in employment; participate in education programs; undergo outpatient substance abuse treatment; remain in a specific geographical residence; report to the court or community corrections officer; pay specific fees; and perform community service work. Offenders are not required to undergo psychiatric evaluations or participate in available outpatient psychiatric treatment programs as part of their court ordered community placement or community supervision sentences.

Violations of Community Placement & Community Supervision Conditions. If an offender violates his or her conditions of community placement or community supervision, the court may modify its original order of judgment or sentence and impose further punishment. Some of these punishments include: work release, electronic monitoring, day reporting, curfew, inpatient treatment, community service, and even possible jail time.

Summary of Amended Bill: Community corrections officers are permitted to intervene and require compliance if the judgement and sentence requires outpatient psychiatric treatment as one of the offender's community supervision or community placement conditions.

Pre-sentence Reports. If a court believes a person might be mentally ill then the court must order a pre-sentence report even, if, at the time of the crime, the defendant lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime. The evaluation will be performed by the DOC and may be included as part of an offender's pre-sentence report.

The term "mentally ill" includes persons considered acutely mentally ill, chronically mentally ill adults, and severely emotionally disturbed children.

Community Placement & Community Supervision. After review of the offender's pre-sentence report and evaluations ordered under the incompetency and insanity statutes, the

court may order further psychiatric evaluations and treatment as part of the offender's community placement or supervision sentence if the court determines that strong grounds exist for assessing the offender as mentally ill, and the mental illness is likely to have influenced the offense.

Violations of Community Placement & Community Supervision Conditions. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. When a violation concerns an offender's failure to participate in a mental status evaluation or a treatment program, the assigned community corrections officer may consult the service provider treating the offender. The officer may obtain any necessary information from the service provider regarding the status of the offender's treatment without the offender's consent.

The officer must continue to enforce offender mental health orders in the less-restrictive means as alternative measure to incarceration. However, offenders who continually fail to receive psychiatric services and their behavior poses a serious threat to themselves or society may be involuntarily committed to treatment or be subject to sanctions for violating the sentence by the court.

Service providers must ensure that community corrections officers know that the offender has been discharged or conditionally released from inpatient treatment, and that the inpatient treatment provider knows of pending hearings, new charges, detainers, etc. The term "inpatient treatment provider" is used to cover cases where the offender has voluntarily obtained inpatient mental health treatment.

A new section was added which makes the bill null and void unless specific funding is provided in the Omnibus Appropriations Act by June 30, 1998.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: (Criminal Justice & Corrections) The state of Washington has more people in its prison system with mental health problems than any other state in the United States. When an offender's condition starts to deteriorate we need to keep them from harming others as well as themselves. Pre-sentence reports and mandatory psychiatric services will alleviate this problem. However, there are concerns regarding who (Medicaid, the DOC, communities, or offenders themselves) will have to pay for these services and whether those entities currently have sufficient resources and funding to provide services for mentally ill offenders. It is also advised that when the DOC

recommends that treatment should take place as part of an offender's community supervision or community placement, then the service providers should sign off on the supervision/placement plan and keep in constant communication with the assigned community corrections officer.

(Appropriations) None.

Testimony Against: (Criminal Justice & Corrections) None.

(Appropriations) None.

Testified: (Criminal Justice & Corrections) Pro: Senator Jeanine Long, prime sponsor; Eleanor Owen, Washington Advocates for the Mentally Ill; Jean Wessman, Washington State Association of Counties; and David Lovell, University of Washington. Pro w/concerns: Jann Hoppler, Department of Social and Health Services; Dave Stewart, Pierce County Corrections, Mental Health Division; and Beth Anderson, Department of Corrections.

(Appropriations) None.