

# SENATE BILL REPORT

## ESSB 5760

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As Passed Senate, February 9, 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:** Human Services & Corrections: 2/26/97, 3/5/97 [DPS-WM].

Ways & Means: 3/10/97 [DPS (HSC)].

Passed Senate, 3/18/97, 48-0.

Passed Senate, 2/9/98, 46-0.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5760 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

**Staff:** Richard Rodger (786-7461)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5760 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Sheldon, Snyder, Spanel, Swecker, Thibaudeau, Winsley and Zarelli.

**Staff:** Bryon Moore (786-7726)

**Background:** Offenders with a mental illness have a higher likelihood of recidivism and reincarceration. Such offenders often receive adequate treatment during incarceration, then discontinue treatment after release.

Presentence reports are currently required for offenders convicted of felony sex offenses. They are used to collect additional information to assist in determining the sentence to be imposed.

**Summary of Bill:** The court must order a presentence report before imposing a sentence when the court determines that the defendant may be a mentally ill person.

The court may order an offender whose sentence includes community placement or community supervision to undergo mental health treatment if reasonable grounds exist to believe that the offender is a mentally ill person and that the offender's condition is likely to have influenced the offense. The order for evaluation must be based on the presentence report and other evaluations filed with the court regarding any defense of insanity.

If an offender violates a condition of a sentence involving failure to undergo mental status evaluation or treatment, the community corrections officer must consult with the treatment provider on the offender's status before taking action on the violation.

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. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of Chapter 71.05 RCW are to be considered in preference to incarceration.

The Department of Corrections is directed to track outcomes and report to the Legislature on the effectiveness of the provisions of this act.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill will reduce recidivism and reincarceration by mentally ill offenders by taking into account their need for treatment when they are sentenced. Community corrections officers will be able to intervene before mentally ill offenders deteriorate and commit new offenses.

**Testimony Against:** None.

**Testified: PRO:** Senator Jeanine, Long, original prime sponsor; David Lovell, University of Washington; Jann Hoppler, DSHS/Mental Health; Terry Kohl, Washington State Psychological Association/Washington Association of Criminal Defense Lawyers/Washington Defender Association.

**House Amendment(s):** A provision is added that requires the sharing of information between community corrections officers and inpatient mental health treatment providers while an offender is in inpatient treatment.

A null and void clause is added.