

# HOUSE BILL REPORT

## HB 2298

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to demonstration projects to improve treatment and management and reduce recidivism rates of mentally ill offenders.

**Brief Description:** Designing demonstration projects to improve treatment and management and reduce recidivism rates of mentally ill offenders.

**Sponsors:** Representatives O'Brien, Kirby, Edwards and Ogden.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 1/16/02, 1/23/02 [DP].

#### Brief Summary of Bill

- Requires the Department of Social and Health Services (DSHS) to establish a task force to study ways to improve the treatment of the state's mentally ill offender population.
- Requires the task force to design a demonstration project for two participating counties that may be used in the future as a model for providing treatment and management of mentally ill offenders.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

**Staff:** Yvonne Walker (786-7841).

### Background:

Over the last several years, the Legislature, based upon recommendations from various local and state mental health agencies, has made various statutory changes such as focusing on the process of public safety, increasing the sharing of information, and ensuring additional opportunities for the treatment of mentally ill offenders and those

offenders with the co-occurring disorders of both mental illness and chemical dependency.

In the 1999-2001 biennial budget, the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to review Washington's community mental health system. At the conclusion of JLARC's review several recommendations were made to improve services. Two of those recommendations suggested that: 1) Washington's mental health system should make the coordination of services for clients with multiple needs (such as mental illness and chemical dependency) more effective; and 2) state oversight efforts should concentrate more on collecting outcome measures that show client improvements resulting from the public resources that are spent on mental health.

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**Summary of Bill:**

The Legislature finds that there are a number of offenders incarcerated in jail who suffer from mental illness or have a co-occurring disorder of both mental illness and chemical dependency, however only a small percentage of these offenders have access to treatment. As a result these offenders often present a risk to their own safety as well to others. The Legislature further states that new cooperative approaches such as demonstration projects based on partnerships between state and local government can help reduce the number of offenders that cycle repeatedly through the system.

The secretary of the DSHS must establish a mentally ill offender task force to study ways, through a demonstration project, to improve the treatment, management, and reduction of criminal activity within the mentally ill offender population. The DSHS must select two counties to participate in the demonstration project. One county must be from western Washington and contain a population of at least 180,000 but not more than 220,000 people. The second county must be from eastern Washington and must contain a population of at least 50,000 but no more than 250,000 people.

**Task Force Membership.** The task force is composed of the members or designees from the following agencies: the assistant secretary of the DSHS Medical Assistance Administration; the assistant secretary of the DSHS Juvenile Rehabilitation Administration; the director of the DSHS Mental Health Division; the director of the DSHS Division of Alcohol and Substance Abuse; and the secretary of the Department of Corrections. In addition, the task force must also include the following individuals from each of the two counties selected to participate in the study: the director of the Regional Support Networks (RSNs), or his or her designee; the county chemical dependency coordinator; the county jail administrator, or his or her designee; the county sheriff, or his or her designee; a judge of the superior, district, or municipal court from each of the counties; the county prosecutor, or his or her designee; a member of the criminal defense bar; the director of probation services; and an individual representing persons with mental illness.

**Task Force Duties.** The task force must design demonstration projects for the participating two counties that may be used in the future as a model for providing treatment and management of mentally ill offenders and those offenders possessing co-occurring disorders. The demonstration projects must include a partnership between the state and counties and include the following goals and the capacity to evaluate these goals:

- A mechanism to identify and track mentally ill offenders statewide;
- Ways to divert mentally ill offenders from the criminal justice system into appropriate treatment;
- In coordination with current commitment proceedings, access to evaluation and treatment for offenders that are mentally ill or co-dependent, who have been charged with or convicted of a crime and are awaiting trial or sentencing or are serving a sentence in a jail, including adequate discharge planning to ensure access to appropriate treatment and medication upon release from jail;
- Ways to reduce recidivism rates among offenders who are mentally ill or possess co-occurring disorders; and
- Ways to provide wrap-around services such as housing, transportation, and vocational services to mentally ill offenders.

**Implementation Plan.** The task force must develop a plan to implement the goals and evaluation measures that they are required to accomplish. Other issues to be addressed by the task force and included in the implementation plan include, but are not limited to, the following:

- Providing mechanisms on ways to share information among mental health and substance abuse treatment providers and the criminal justice system in a way that continues to protect each offender's privacy, yet aids in providing coordinated treatment and management to the offender;
- Helping each offender to gain access to medical assistance benefits (if eligible under existing medical assistance rules as part of his or her pre-discharge plan from jail);
- Identifying further ways to enhance coordination and maximize the value of existing mental health, substance abuse, and criminal justice resources to better serve and manage offenders that are mentally ill or have multiple needs that include both a mental illness and a chemical dependency; and
- Identifying both public and private resources to fund the demonstration project.

The implementation plan must be submitted to the appropriate committees of the Legislature and the Governor by December 15, 2002.

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**Appropriation:** The sum of \$ 50,000.

**Fiscal Note:** Available.

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

**Testimony For:** This is a great concept and an excellent way to improve the treatment of those mentally ill offenders located in jail. In fact, the Dangerous Mentally Ill Offender Program has been in existence for almost two years and has had a significant impact on the collaboration among state agencies, Regional Support Networks (RSNs), mental health and chemical dependency providers.

One concern with the bill as drafted is that there is no immunity language for those agencies, providers, and RSNs who would be providing services for the mentally ill population. Many insurers have already notified several RSNs and community providers that they will no longer have liability insurance coverage if they choose to serve the dangerous mentally ill offender population. As a result, RSNs have already stated that they will no longer be able to accept dangerous mentally ill offenders for mental health services, due to the loss of the liability insurance coverage.

Another concern with the bill is the amount of funding needed to accomplish the tasks required in the bill. Although there is a small appropriation in the bill, that is not enough to cover the costs that will be incurred by the participating counties and state agencies.

**Testimony Against:** Although the goals of this legislation - reducing criminality, reducing incarceration rates, and helping people who are in trouble- are note-worthy, there are two aspects of this legislation that needs to be addressed.

First, this bill is not an effective means to accomplish the goal. In fact, the court often finds itself having to address the needs of the mentally ill because existing institutions and services in the community have failed to serve this population. Ideally, whatever problems a person classified as mentally ill is experiencing could have been addressed before he or she entered the criminal justice system.

Secondly, this bill is just another way for offenders to receive a "get out of jail free" card. To what degree does the process of labeling a person as mentally ill release them from the responsibility of their actions?

This bill leads us toward an extremely arbitrary form of justice system instead of one that strives for equal justice for all.

**Testified:** (In support) Jean Wessman, Washington State Association of Counties; Karen Daniels, Washington Association of Sheriffs and Police Chiefs; Kevin Glacken-Coley, Washington State Catholic Conference; Mike Robbins and Dr. Tom Saltrup, Department of Corrections; Tim Brown, Department of Social and Health Services; and Brad Boswell, National Alliance of the Mentally Ill.

(Neutral) Sarajane Siegfriedt, Association of Alcohol and Addiction Providers.

(Concerns) Richard Warner, Citizens Commission on Human Rights.

