

# SENATE BILL REPORT

## SB 5885

---

As of February 12, 2001

**Title:** An act relating to establishing parameters for the siting, securing, and staffing of less restrictive alternative housing for sexually violent predators.

**Brief Description:** Providing criteria for siting of treatment facilities for sexually violent predators.

**Sponsors:** Senators Hewitt, Sheahan, Hargrove, Long, T. Sheldon, McCaslin, Morton and Rasmussen.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/14/01.

---

### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Fara Daun (786-7459)

**Background:** In 1990, Washington State enacted the Community Protection Act to provide for civil commitment of sexually violent predators following their release from criminal confinement. Persons committed under this statute are confined in the Special Commitment Center (SCC), which is operated by the Department of Social and Health Services (DSHS).

In 1995, the Washington Supreme Court ruled that for the program to be constitutional, the state must provide an opportunity for release to a less restrictive alternative (LRA) for those persons who a court or jury determined were appropriate for an LRA. The Legislature amended the law to provide for consideration of an LRA by the courts either when the state recommends it or when the person petitions over the state's objections. Five of the approximately 60 persons committed under this provision have been conditionally released to LRAs. There are about 70 persons housed at the SCC awaiting civil commitment trials. Persons awaiting a civil commitment trial are not eligible for an LRA.

The Community Protection Act has been in place long enough now that a growing number of civilly committed persons are nearing the need for an LRA placement. Most sexually violent predators do not have appropriate family placements and so must be placed elsewhere in the community. An LRA placement can be made only after a court orders it and the conditions of the placement meet the statutory requirements.

Washington is under a federal court injunction to improve treatment and provide less restrictive placements in the community. The continued constitutionality of the civil commitment statute for sexually violent predators depends in large part on the state's ability to find community placement for civilly committed persons deemed to need a less restrictive alternative.

**Summary of Bill:** An LRA ordered after January 1, 2001 may not be located in any community unless the local legislative body with land use planning authority for the site has first approve the location. DSHS must make every effort to ensure that LRA small housing units are allocated equitably among the counties. Equitable allocation must consider the number of sex offenders registered in the community, the number of total number of offenders under supervision in the community and other LRA small housing units in, or planned for, the community.

Minimum requirements for an LRA small housing unit must: (1) have an average response time by law enforcement or public employees qualified and designated to perform security response functions for the facility; (2) have an average response time by local fire and emergency medical personnel not longer than that of the local community; (3) not be in direct proximity to risk-potential activities and facilities; (4) have a security or alarms system with a backup system, internal siren, cellular system with clear and uninterrupted service, and alarm activated listening devices and cameras, and an available contractor to install, maintain and repair the system; (5) be within a one-hour commute to a town of at least 25,000 people; (6) be located where qualified treatment providers are available; (7) have a staffing ratio of one staff per resident during normal waking hours and a minimum of two staff during sleeping hours and staff must meet the qualifications of a residential rehabilitation counselor I, II, or III who have completed a DSHS training curriculum; (8) provide escorts by staff or court authorized personnel who remain in close proximity and close supervision during any time a resident leaves the premises; and (9) residents must wear electronic monitoring devices at all times.

DSHS may only locate an LRA small housing unit after public notification and review including at least two public hearings. Fourteen days notice of the hearings must be given through radio, television and newspapers of general circulation, and to local persons and organizations and the hearings must occur at least 60 days prior to a final siting decision.

DSHS may only locate an LRA housing facility for more than three persons after receiving legislative approval of criteria for siting, securing, programming and staffing.

The Department of Health must revoke the certification of any sex offender treatment provider who intentionally or with gross negligence violates his or her obligations under RCW 71.09.092 or 71.09.096.

The legislation is remedial and applies retroactively to any LRA at any facility not in operation as of January 1, 2001.

**Appropriation:** None.

**Fiscal Note:** Requested on February 6, 2001.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.