
SUBSTITUTE SENATE BILL 5465

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Costa, Hargrove and Long)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to sex offender treatment providers; reenacting and
2 amending RCW 18.155.020 and 18.155.030; adding a new section to chapter
3 4.24 RCW; adding a new section to chapter 71.09 RCW; and creating a new
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the state needs
7 an increasing number of certified sex offender treatment providers to
8 treat sexually violent predators and meet the state's commitment to
9 long-term treatment, help reduce recidivism, and more adequately
10 provide for the community. The legislature recognizes that these
11 treatment providers offer a valuable service to the people of
12 Washington and may experience difficulty maintaining adequate liability
13 protection given the inherent uncertainties of providing treatment to
14 sexually violent predators. The legislature intends to provide very
15 limited immunity, for instances of simple negligence only, to certified
16 sex offender treatment providers for their treatment decisions
17 involving sexually violent predators released to a less restrictive
18 alternative under chapter 71.09 RCW.

1 **Sec. 2.** RCW 18.155.020 and 2000 c 171 s 33 and 2000 c 28 s 38 are
2 each reenacted and amended to read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter:

5 (1) "Certified sex offender treatment provider" means a licensed,
6 certified, or registered health professional who is certified to
7 examine and treat sex offenders pursuant to chapters 9.94A and 13.40
8 RCW ((~~9.94A.670~~ and ~~13.40.160~~)) and sexually violent predators under
9 chapter 71.09 RCW.

10 (2) "Department" means the department of health.

11 (3) "Secretary" means the secretary of health.

12 (4) "Sex offender treatment provider" means a person who counsels
13 or treats sex offenders accused of or convicted of a sex offense as
14 defined by RCW 9.94A.030.

15 **Sec. 3.** RCW 18.155.030 and 2000 c 171 s 34 and 2000 c 28 s 39 are
16 each reenacted and amended to read as follows:

17 (1) No person shall represent himself or herself as a certified sex
18 offender treatment provider without first applying for and receiving a
19 certificate pursuant to this chapter.

20 (2) Only a certified sex offender treatment provider may perform or
21 provide the following services:

22 (a) Evaluations conducted for the purposes of and pursuant to RCW
23 9.94A.670 and 13.40.160;

24 (b) Treatment of convicted sex offenders who are sentenced and
25 ordered into treatment pursuant to RCW 9.94A.670 and adjudicated
26 juvenile sex offenders who are ordered into treatment pursuant to RCW
27 13.40.160;

28 (c) Treatment of sexually violent predators who are conditionally
29 released to a less restrictive alternative pursuant to chapter 71.09
30 RCW.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 4.24 RCW
32 to read as follows:

33 (1) A certified sex offender treatment provider, acting in the
34 course of his or her duties, providing treatment to a person who has
35 been released to a less restrictive alternative under chapter 71.09 RCW
36 or to a level III sex offender on community custody as a court or
37 department ordered condition of sentence is not negligent because he or

1 she treats a high risk offender; sex offenders are known to have a risk
2 of reoffense. The treatment provider is not liable for civil damages
3 resulting from the reoffense of a client unless the treatment
4 provider's acts or omissions constituted gross negligence or willful or
5 wanton misconduct. This limited liability provision is limited by the
6 treatment provider's duty to warn of and protect from a client's
7 threatened violent behavior if the client communicates a serious threat
8 of physical violence against a reasonably ascertainable victim or
9 victims.

10 (2) Sex offender treatment providers who provide services to the
11 department of corrections by identifying risk factors and notifying the
12 department of risks for the subset of high risk offenders who are not
13 amenable to treatment and who are under court order for treatment or
14 supervision are practicing within the scope of their profession.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.09 RCW
16 to read as follows:

17 (1) Examinations and treatment of sexually violent predators who
18 are conditionally released to a less restrictive alternative under this
19 chapter shall be conducted only by sex offender treatment providers
20 certified by the department of health under chapter 18.155 RCW unless
21 the court or the department of social and health services finds that:
22 (a) The court-ordered less restrictive alternative placement is located
23 in another state; (b) the treatment provider is employed by the
24 department; or (c)(i) all certified treatment providers become
25 unavailable to provide treatment within a reasonable geographic
26 distance of the person's home, as determined in rules adopted by the
27 department of social and health services; and (ii) the evaluation and
28 treatment plan comply with the rules adopted by the department of
29 social and health services.

30 A treatment provider approved by the department of social and
31 health services under (c) of this subsection, who is not certified by
32 the department of health, shall consult with a certified provider
33 during the person's period of treatment to ensure compliance with the
34 rules adopted by the department of health. The frequency and content
35 of the consultation shall be based on the recommendation of the
36 certified provider.

37 (2) Nothing in this section prohibits a qualified expert from
38 examining or evaluating a sexually violent predator who has been

1 conditionally released for purposes of presenting an opinion in court
2 proceedings.

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