

# HOUSE BILL REPORT

## HB 2849

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to eliminating credentialing barriers for sex offender treatment providers.

**Brief Description:** Eliminating credentialing barriers for sex offender treatment providers.

**Sponsors:** Representatives Kagi, Cody, Campbell, Bush and Schual-Berke; by request of Department of Health.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/3/04, 2/6/04 [DPS].

#### Brief Summary of Substitute Bill

- Authorizes the Department of Health (DOH) to certify "affiliate sex offender treatment providers" who have met the education, training, and examination requirements for certification under the DOH.
- Authorizes certain certified affiliate sex offender treatment providers, under the supervision of a certified sex offender treatment provider, to provide treatment to convicted sex offenders and sexually violent predators.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

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

### Background:

Sex offender treatment providers are certified by the DOH after completing the necessary education, experience, and examination requirements. Only certified sex offender treatment providers may provide:

- Evaluations for offenders eligible for the Special Sex Offender Sentencing Alternative (SSOSA) and the Special Sex Offender Disposition Alternative (SSODA);
- Treatment to convicted or adjudicated sex offenders who were sentenced and ordered into treatment as part of a court order; and
- Treatment to sexually violent predators released to a less restricted alternative (LRA) unless specified exceptions apply. A certified sex offender treatment provider may not provide treatment to sexually violent predators if the provider has been convicted of a sex offense or restricted from practicing any health care profession.

A certified sex offender treatment provider is not liable in a civil action for damages for the injuries or death of another caused by a sexually violent predator or level III sex offender receiving treatment by the provider if the provider is acting within the course of his or her duties and the provider's act or omission did not constitute gross negligence or willful or wanton misconduct. The limited liability does not affect the provider's civil liability for damages caused by the provider's breach of any duty to warn or protect imposed by law. The limited liability does not affect the state's civil liability for damages for injuries or death of another. The certified sex offender treatment provider must report any expressions of intent to harm or other predatory behavior, whether or not there is an ascertainable victim, in progress reports. A certified sex offender treatment provider acts within the scope of his or her profession when he or she provides services to the Department of Corrections (DOC) by identifying and notifying the DOC of risk factors of sex offenders who are not amenable to treatment but who are required under court order to receive treatment.

In 1991, the DOH adopted rules that allowed affiliated sex offender treatment providers (sex offender treatment providers who are "in-training") to become certified. Certified affiliates meet all the requirements that full certified providers meet, except for the clinical experience.

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### **Summary of Substitute Bill:**

The DOH is authorized to issue affiliate sex offender treatment provider certifications; determine minimum education, experience, and training requirements; and deny certification in accordance with the Uniform Disciplinary Act.

A certified affiliate sex offender treatment provider is a licensed, certified, or registered health professional who is certified as an affiliate to examine and treat sex offenders and sexually violent predators under the supervision of a certified sex offender treatment provider.

The DOH has the authority to issue an affiliate certificate to any person who:

- Successfully completes the education requirements or other alternative training that meets the criteria and approval of the DOH;

- Successfully completes the examination administered by the DOH;
- Shown proof that he or she is being supervised by a certified sex offender treatment provider;
- Has not engaged in unprofessional conduct or has not been unable to practice with reasonable skill and safety as a result of a physical or mental impairment; and
- Has met any other requirements as established by the DOH that impact the competence of the sex offender treatment provider.

Similar to certified sex offender treatment providers, affiliate sex offender treatment providers may provide treatment to sex offenders. However, only certified affiliate sex offender treatment providers that have completed at least 50 percent of the required hours under the supervision of a certified provider, may perform evaluations for offenders eligible for the SSOSA and the SSODA programs as well as provide treatment to convicted level III sex offenders and sexually violent predators. All other affiliate treatment providers are prohibited from providing evaluations and treatment to such sex offenders.

The same liability standards that relate to certified sex offender treatment providers also pertain to affiliate sex offender treatment providers.

Technical changes are made to statutes referencing certified sex offender treatment providers to include certified affiliate sex offender treatment providers.

#### **Substitute Bill Compared to Original Bill:**

A provision is added that prohibits the DOH from issuing an affiliate certificate until the affiliate treatment provider provides proof that he or she is being supervised by a certified sex offender treatment provider. A provision is added that states that only certified affiliate sex offender treatment providers who have completed at least 50 percent of the required hours under the supervision of a certified provider may perform SSOSA and SSODA evaluations and provide treatment to convicted level III sex offenders and sexually violent predators.

Technical changes are made to statutes: 1) referencing certified sex offender treatment providers to include certified affiliate sex offender treatment providers and 2) clarifying the DOH's authorization to issue affiliate certifications; determine minimum education, experience, and training requirements; and deny certification in accordance with the Uniform Disciplinary Act. An effective date of July 1, 2004 is added.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** This bill takes effect on July 1, 2004.

**Testimony For:** This bill was brought forward because the Legislature has mandated that sex offender treatment providers must be certified, however there is no way that doctors in-training can get experience to become certified. Under this bill, affiliates who have the same educational background as certified doctors would now be able to get the required clinical training hours needed to obtain their certification license.

When the sex offender act was originally enacted back in the early 1990s as part of the Community Protection Act, all the current sex offender treatment providers were grandfathered in as certified providers. In 1991, the DOH created the affiliate category for treatment providers.

Currently there are 47 affiliates in the program and approximately 76 certified providers have retired over the last several years. As a result, there is a shortage in the workforce for certified treatment providers.

(With concerns) The bill needs to be clarified as to the type or risk level of sex offenders that affiliates may be treating. There are also concerns about affiliates performing the SSOSA assessments given their lack of experience. In addition, it was suggested that as a requirement for the affiliate certification, that the DOH should require proof of supervision of the affiliate by a certified sex offender treatment provider.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Kagi, prime sponsor; and Ron Weaver, Department of Health.

(Information only) Suzanne Brown-McBride, Washington Coalition of Sexual Assault Programs.

(With concerns) Tom McBride, Washington Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** None.