

FINAL BILL REPORT

E2SSB 6358

PARTIAL VETO

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Synopsis as Enacted

Brief Description: Improving collaboration regarding offenders with treatment orders.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove and Stevens).

Senate Committee on Children & Family Services & Corrections

Senate Committee on Ways & Means

House Committee on Criminal Justice & Corrections

House Committee on Appropriations

Background: Concerns have been raised that, for offenders under supervision by the Department of Corrections (DOC) who are subject to treatment orders for mental health or chemical dependency, the level of communication and collaboration may need improvement. There is confusion over the degree to which the Health Insurance Portability and Accountability Act permits communication between multi-disciplinary teams.

There is also concern that where a person's mental disorder is caused by methamphetamine or other drugs, or caused by head trauma, that person is not considered appropriate for civil commitment despite meeting the standard for commitment.

Summary: When a person has a mental disorder and is otherwise committable, the cause of the disorder does not make the person ineligible for commitment.

When a court issues an order for mental health or chemical dependency treatment, the order must contain a statement that if the person is, or becomes, subject to DOC supervision, the person must notify his or her treatment provider and the person's mental health or chemical dependency treatment information must be shared with DOC. When a person is convicted in superior court, the judgment and sentence must contain an equivalent statement. Upon petition by a person who has no history of violent acts, the court may find that public safety would not be enhanced by the sharing of this person's information.

When DOC is determining an offender's risk management level, DOC must ask and must be told whether the offender is subject to court-ordered mental health or chemical dependency treatment. When an offender discloses he or she is subject to court-ordered treatment, DOC must request an authorization to share treatment information and notify the offender that the information will be shared. DOC must make a written request for information from the treatment provider. The authorization and the written request do not expire until the end of the supervision. If an offender has failed to report to DOC as required, or in an emergent situation, the treatment provider may share information related to mental health services delivered to the offender and, if known, where an offender may be found on an oral request from DOC. Oral requests must be confirmed with a written request which may be made by

email or facsimile. A request for treatment information does not require the consent of the offender. There is a parallel provision for mental health and chemical dependency treatment providers. The law enforcement exception to the mental health confidentiality law includes DOC and is mandatory upon the provider.

When a state hospital admits a person with a history of violent acts from a correctional facility or who is or has been under DOC supervision, the hospital must consult with the appropriate corrections and chemical dependency personnel and forensic staff to conduct a discharge review to determine whether the person presents a likelihood of serious harm and whether the person is appropriate for a less restrictive alternative. If the person is returned to a correctional facility, the hospital must notify the correctional facility that the person was subject to a discharge review.

When a jail releases a person subject to a discharge review, the jail must notify the county designated mental health professional (CDMHP) or county designated chemical dependency specialist (CDCDS) 72 hours in advance of the release, or upon release if the jail did not have 72 hours notice. The CDMHP or CDCDS, as appropriate, must evaluate the person within 72 hours of release.

When a CDMHP or CDCDS becomes aware that an offender is in violation of the terms of his or her supervision that relate to public safety, or when the CDMHP or CDCDS detains a person, the CDMHP or CDCDS must notify the person's treatment provider and DOC. When DOC becomes aware that an offender is in violation of the terms of his or her court-ordered mental health or chemical dependency treatment order, DOC must notify the CDMHP or CDCDS of the violation and request an evaluation for purposes of revocation of the less restrictive alternative or conditional release. When an offender that DOC has classified as high risk or high needs becomes the subject of a civil commitment petition, DOC must provide the court and the petitioner with documentation of its risk assessment or other concerns.

Mental health and chemical dependency treatment providers do not have a duty to supervise offenders.

Persons acting in good faith compliance with the provisions of this act and without gross negligence are protected from civil liability.

DOC and the Department of Social and Health Services (DSHS) must develop a training plan for information sharing on offenders under supervision who are subject to mental health or chemical dependency treatment orders. DOC, DSHS and the Washington Association of Prosecuting Attorneys must develop a model for multi-disciplinary case management and release planning for offenders with high resource needs in multiple service areas. DSHS must assess the needed and available capacity for crisis response and ongoing treatment for persons with mental disorders, chemical dependency and for those with multiple disorders or complex causation. Legislative staff must review other state programs.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: March 26, 2004 (Sections 6, 20 and 22)
July 1, 2004

Partial Veto Summary: The Governor vetoed the intent section.