

HB 3277 - H AMD 683

By Representatives Ericksen, Orcutt, McCune, Ahern, Schindler,
Serben, Woods, Roach and Shabro

SCOPE AND OBJECT 2/1/2006

1 On page 30, after line 34, insert:

2 "Sec. 8. RCW 9.94A.670 and 2004 c 176 s 4 are each amended to
3 read as follows:

4 (1) Unless the context clearly requires otherwise, the
5 definitions in this subsection apply to this section only.

6 (a) "Sex offender treatment provider" or "treatment provider"
7 means a certified sex offender treatment provider or a certified
8 affiliate sex offender treatment provider as defined in RCW
9 18.155.020.

10 (b) "Substantial bodily harm" means bodily injury that involves
11 a temporary but substantial disfigurement, or that causes a
12 temporary but substantial loss or impairment of the function of any
13 body part or organ, or that causes a fracture of any body part or
14 organ.

15 (c) "Victim" means any person who has sustained emotional,
16 psychological, physical, or financial injury to person or property
17 as a result of the crime charged. "Victim" also means a parent or
18 guardian of a victim who is a minor child unless the parent or
19 guardian is the perpetrator of the offense.

20 (2) An offender is eligible for the special sex offender
21 sentencing alternative if:

22 (a) The offender has been convicted of a sex offense other than
23 a violation of RCW 9A.44.050 or a sex offense that is also a
24 serious violent offense;

25 (b) The offender has no prior convictions for a sex offense as
26 defined in RCW 9.94A.030 or any other felony sex offenses in this
27 or any other state;

1 (c) The offender has no prior adult convictions for a violent
2 offense that was committed within five years of the date the
3 current offense was committed;

4 (d) The offense did not result in substantial bodily harm to
5 the victim;

6 (e) The offender had an established relationship with, or
7 connection to, the victim such that the sole connection with the
8 victim was not the commission of the crime; (~~and~~)

9 (f) The offender's standard sentence range for the offense
10 includes the possibility of confinement for less than eleven years;
11 and

12 (g) The immediate victim or immediate victim's family agrees to
13 the sentence imposed under this section.

14 (3) If the court finds the offender is eligible for this
15 alternative, the court, on its own motion or the motion of the
16 state or the offender, may order an examination to determine
17 whether the offender is amenable to treatment.

18 (a) The report of the examination shall include at a minimum
19 the following:

20 (i) The offender's version of the facts and the official
21 version of the facts;

22 (ii) The offender's offense history;

23 (iii) An assessment of problems in addition to alleged deviant
24 behaviors;

25 (iv) The offender's social and employment situation; and

26 (v) Other evaluation measures used.

27 The report shall set forth the sources of the examiner's
28 information.

29 (b) The examiner shall assess and report regarding the
30 offender's amenability to treatment and relative risk to the
31 community. A proposed treatment plan shall be provided and shall
32 include, at a minimum:

33 (i) Frequency and type of contact between offender and
34 therapist;

35 (ii) Specific issues to be addressed in the treatment and
36 description of planned treatment modalities;

37 (iii) Monitoring plans, including any requirements regarding
38 living conditions, lifestyle requirements, and monitoring by family
39 members and others;

1 (iv) Anticipated length of treatment; and

2 (v) Recommended crime-related prohibitions and affirmative
3 conditions, which must include, to the extent known, an
4 identification of specific activities or behaviors that are
5 precursors to the offender's offense cycle, including, but not
6 limited to, activities or behaviors such as viewing or listening to
7 pornography or use of alcohol or controlled substances.

8 (c) The court on its own motion may order, or on a motion by
9 the state shall order, a second examination regarding the
10 offender's amenability to treatment. The examiner shall be
11 selected by the party making the motion. The offender shall pay
12 the cost of any second examination ordered unless the court finds
13 the defendant to be indigent in which case the state shall pay the
14 cost.

15 (4) After receipt of the reports, the court shall consider
16 whether the offender and the community will benefit from use of
17 this alternative, consider whether the alternative is too lenient
18 in light of the extent and circumstances of the offense, consider
19 whether the offender has victims in addition to the victim of the
20 offense, consider whether the offender is amenable to treatment,
21 consider the risk the offender would present to the community, to
22 the victim, or to persons of similar age and circumstances as the
23 victim, and consider the victim's opinion whether the offender
24 should receive a treatment disposition under this section. The
25 court shall give great weight to the victim's opinion whether the
26 offender should receive a treatment disposition under this section.
27 If the sentence imposed is contrary to the victim's opinion, the
28 court shall enter written findings stating its reasons for imposing
29 the treatment disposition. The fact that the offender admits to
30 his or her offense does not, by itself, constitute amenability to
31 treatment. If the court determines that this alternative is
32 appropriate, the court shall then impose a sentence or, pursuant to
33 RCW 9.94A.712, a minimum term of sentence, within the standard
34 sentence range. If the sentence imposed is less than eleven years
35 of confinement, the court may suspend the execution of the sentence
36 and impose the following conditions of suspension:

37 (a) The court shall order the offender to serve a term of
38 confinement of up to twelve months or the maximum term within the
39 standard range, whichever is less. The court may order the

1 offender to serve a term of confinement greater than twelve months
2 or the maximum term within the standard range based on the presence
3 of an aggravating circumstance listed in *RCW 9.94A.535(2). In no
4 case shall the term of confinement exceed the statutory maximum
5 sentence for the offense. The court may order the offender to
6 serve all or part of his or her term of confinement in partial
7 confinement. An offender sentenced to a term of confinement under
8 this subsection is not eligible for earned release under RCW
9 9.92.151 or 9.94A.728.

10 (b) The court shall place the offender on community custody for
11 the length of the suspended sentence, the length of the maximum
12 term imposed pursuant to RCW 9.94A.712, or three years, whichever
13 is greater, and require the offender to comply with any conditions
14 imposed by the department under RCW 9.94A.720.

15 (c) The court shall order treatment for any period up to five
16 years in duration. The court, in its discretion, shall order
17 outpatient sex offender treatment or inpatient sex offender
18 treatment, if available. A community mental health center may not
19 be used for such treatment unless it has an appropriate program
20 designed for sex offender treatment. The offender shall not change
21 sex offender treatment providers or treatment conditions without
22 first notifying the prosecutor, the community corrections officer,
23 and the court. If any party or the court objects to a proposed
24 change, the offender shall not change providers or conditions
25 without court approval after a hearing.

26 (d) As conditions of the suspended sentence, the court shall
27 impose specific prohibitions and affirmative conditions relating to
28 the known precursor activities or behaviors identified in the
29 proposed treatment plan under subsection (3)(b)(v) of this section
30 or identified in an annual review under subsection (7)(b) of this
31 section.

32 (5) As conditions of the suspended sentence, the court may
33 impose one or more of the following:

34 (a) Crime-related prohibitions;

35 (b) Require the offender to devote time to a specific
36 employment or occupation;

37 (c) Require the offender to remain within prescribed
38 geographical boundaries and notify the court or the community

1 corrections officer prior to any change in the offender's address
2 or employment;

3 (d) Require the offender to report as directed to the court and
4 a community corrections officer;

5 (e) Require the offender to pay all court-ordered legal
6 financial obligations as provided in RCW 9.94A.030;

7 (f) Require the offender to perform community restitution work;
8 or

9 (g) Require the offender to reimburse the victim for the cost
10 of any counseling required as a result of the offender's crime.

11 (6) At the time of sentencing, the court shall set a treatment
12 termination hearing for three months prior to the anticipated date
13 for completion of treatment.

14 (7)(a) The sex offender treatment provider shall submit
15 quarterly reports on the offender's progress in treatment to the
16 court and the parties. The report shall reference the treatment
17 plan and include at a minimum the following: Dates of attendance,
18 offender's compliance with requirements, treatment activities, the
19 offender's relative progress in treatment, and any other material
20 specified by the court at sentencing.

21 (b) The court shall conduct a hearing on the offender's
22 progress in treatment at least once a year. At least fourteen days
23 prior to the hearing, notice of the hearing shall be given to the
24 victim. The victim shall be given the opportunity to make
25 statements to the court regarding the offender's supervision and
26 treatment. At the hearing, the court may modify conditions of
27 community custody including, but not limited to, crime-related
28 prohibitions and affirmative conditions relating to activities and
29 behaviors identified as part of, or relating to precursor
30 activities and behaviors in, the offender's offense cycle or revoke
31 the suspended sentence.

32 (8) At least fourteen days prior to the treatment termination
33 hearing, notice of the hearing shall be given to the victim. The
34 victim shall be given the opportunity to make statements to the
35 court regarding the offender's supervision and treatment. Prior to
36 the treatment termination hearing, the treatment provider and
37 community corrections officer shall submit written reports to the
38 court and parties regarding the offender's compliance with
39 treatment and monitoring requirements, and recommendations

1 regarding termination from treatment, including proposed community
2 custody conditions. The court may order an evaluation regarding
3 the advisability of termination from treatment by a sex offender
4 treatment provider who may not be the same person who treated the
5 offender under subsection (4) of this section or any person who
6 employs, is employed by, or shares profits with the person who
7 treated the offender under subsection (4) of this section unless
8 the court has entered written findings that such evaluation is in
9 the best interest of the victim and that a successful evaluation of
10 the offender would otherwise be impractical. The offender shall
11 pay the cost of the evaluation. At the treatment termination
12 hearing the court may: (a) Modify conditions of community custody,
13 and either (b) terminate treatment, or (c) extend treatment in two-
14 year increments for up to the remaining period of community
15 custody.

16 (9)(a) If a violation of conditions other than a second
17 violation of the prohibitions or affirmative conditions relating to
18 precursor behaviors or activities imposed under subsection (4)(d)
19 or (7)(b) of this section occurs during community custody, the
20 department shall either impose sanctions as provided for in RCW
21 9.94A.737(2)(a) or refer the violation to the court and recommend
22 revocation of the suspended sentence as provided for in subsections
23 (6) and (8) of this section.

24 (b) If a second violation of the prohibitions or affirmative
25 conditions relating to precursor behaviors or activities imposed
26 under subsection (4)(d) or (7)(b) of this section occurs during
27 community custody, the department shall refer the violation to the
28 court and recommend revocation of the suspended sentence as
29 provided in subsection (10) of this section.

30 (10) The court may revoke the suspended sentence at any time
31 during the period of community custody and order execution of the
32 sentence if: (a) The offender violates the conditions of the
33 suspended sentence, or (b) the court finds that the offender is
34 failing to make satisfactory progress in treatment. All
35 confinement time served during the period of community custody
36 shall be credited to the offender if the suspended sentence is
37 revoked.

38 (11) The offender's sex offender treatment provider may not be
39 the same person who examined the offender under subsection (3) of

1 this section or any person who employs, is employed by, or shares
2 profits with the person who examined the offender under subsection
3 (3) of this section, unless the court has entered written findings
4 that such treatment is in the best interests of the victim and that
5 successful treatment of the offender would otherwise be
6 impractical. Examinations and treatment ordered pursuant to this
7 subsection shall only be conducted by certified sex offender
8 treatment providers or certified affiliate sex offender treatment
9 providers under chapter 18.155 RCW unless the court finds that:

10 (a) The offender has already moved to another state or plans to
11 move to another state for reasons other than circumventing the
12 certification requirements; or

13 (b)(i) No certified sex offender treatment providers or
14 certified affiliate sex offender treatment providers are available
15 for treatment within a reasonable geographical distance of the
16 offender's home; and

17 (ii) The evaluation and treatment plan comply with this section
18 and the rules adopted by the department of health.

19 (12) If the offender is less than eighteen years of age when
20 the charge is filed, the state shall pay for the cost of initial
21 evaluation and treatment."

22 Renumber the remaining sections consecutively and correct
23 internal references accordingly.

24 On page 31, line 3, after "4" strike "and 6" and insert ", 6,
25 and 8"

26 Correct the title.

EFFECT: Requires the immediate victim or the immediate
victim's family to agree to the SSOSA before it can be
granted.