

# HOUSE BILL REPORT

## E2SSB 6630

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### As Passed House - Amended:

March 1, 2006

**Title:** An act relating to establishing the community protection program for persons with developmental disabilities.

**Brief Description:** Establishing the community protection program for persons with developmental disabilities.

**Sponsors:** By Senate Committee on Ways & Means (originally sponsored by Senators Kline, Prentice, Keiser, Fairley, Regala, McAuliffe and Kohl-Welles).

### Brief History:

#### Committee Activity:

Children & Family Services: 2/20/06, 2/23/06 [DPA].

#### Floor Activity:

Passed House - Amended: 3/1/06, 98-0.

### Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Creates the Community Protection Program to provide a structured, therapeutic environment for persons who have developmental disabilities and who constitute a risk to others.

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## HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille, Dickerson, Haler and Pettigrew.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Dunn.

**Staff:** Sonja Hallum (786-7092).

### Background:

In 1996, the Legislature began providing funding to the Department of Social and Health Services (DSHS) to create and run a program for persons over the age of 18 with developmental disabilities who have demonstrated violent or sexually violent behaviors. The program, known as the Community Protection Program, exists through budget proviso and through Division of Developmental Disabilities policy and is not set out in statute.

The DSHS contracts with firms or agencies to provide support to the Community Protection Program participants. The contracting agencies assist the participants in finding housing, provide supervision, and support the participants.

Currently, there are approximately 393 persons placed in the Community Protection Program. Of the 393 participants, approximately 80 percent demonstrate sexually aggressive behavior, with the remaining 20 percent demonstrating violent, assaultive, or arsonist behaviors. Approximately 100 participants are registered sex offenders.

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## **Summary of Amended Bill:**

### **Establishment of the Program**

A Community Protection Program is established to provide a voluntary, structured, therapeutic environment for persons who have a developmental disability and who constitute a risk to others.

### **Placement in the Program**

#### Eligibility

A person is eligible for the Community Protection Program if he or she meets the following criteria:

- (1) he or she has been determined to have a developmental disability; and
- (2) a. has been charged with or convicted of a crime of sexual violence, a sexual act directed toward others, or a violent offense and constitutes a current risk to others as determined by a qualified professional; or
  - b. has not been charged with or convicted of a crime, but has a history of specific behaviors that indicate a likelihood to commit a sexually violent and/or predatory act and constitutes a current risk to others as determined by a qualified professional.

#### Assessment

Prior to receiving services in the Community Protection Program, the person must be assessed by a qualified professional to determine the person's risk and/or dangerousness and whether the person can be successfully managed in the community.

#### Notification

Any person being considered for placement in the Community Protection Program must be given notice of the person's rights, limitations of the program, and the requirement to engage in treatment as a condition of receiving services.

### **Appeal Process**

An appeal process is created which permits an individual to appeal certain determinations relating to the community protection waiver through an administrative hearings process,

including the decisions to place the individual on the community protection waiver. However, there is no right to appeal a decision denying placement on the community protection waiver.

### **Less Restrictive Alternative**

A treatment team must review the participant's progress every 90 days and must include an evaluation of the potential for use of less restrictive alternatives.

### **Sexually Violent Predator Civil Commitment**

When a court is determining whether a person is a sexually violent predator and would likely engage in predatory acts of sexual violence if not confined in a secure facility, the court may not consider the Community Protection Program as an alternative placement or treatment option. Additionally, if a person has been civilly committed as a sexually violent predator, the Community Protection Program may not be considered as a less restrictive alternative for placement of the person if released from confinement.

### **Service Providers**

The Department of Social and Health Services (DSHS) is authorized to take action against residential service providers who fail or refuse to comply with the statutes or rules governing developmental disability services, the certification requirements, requirements for services to vulnerable adults, or who make false statements to the DSHS.

The sanctions the DSHS may impose include decertifying or refusing to renew certification of a provider, imposing conditions on the certification, suspending DSHS referrals to the provider, or require the provider to implement a plan of correction. If the provider fails to implement a plan of correction or monitoring, the DSHS may impose civil monetary penalties.

The provider may request an informal review of the DSHS enforcement action.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support of original bill) The bill creates a program that has already been in effect by DSHS and doesn't make any major policy changes. The bill establishes the program in the code and gives participants their due process rights. The bill also affords DSHS the right to deal with providers in ways other than pulling their license. It gives DSHS greater flexibility. The DSHS would prefer an "informal" review.

(With concerns) The Community Protection Program is a good decision for the people who choose to participate in the program. There should be an appropriation for attorneys to assist the participants. The language does not say anything about a right to a fair hearing when there

is a denial of eligibility for the program and this is not consistent with federal law. We prefer the language of SHB 2914 and the word "violent" needs to be added to section 2. We would like an independent review of the rules developed by the DSHS.

**Testimony Against:** None.

**Persons Testifying:** (In support of original bill) Senator Kline, prime sponsor; Sue Elliot, ARC of Washington; and Donna Patrick, Developmental Disabilities Council.

(With concerns) David Lord, Washington Protection and Advocacy System; Kathy Leitch, Department of Social and Health Services; and Sharon Case, Community Residential Services Association.

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