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HOUSE BILL 3205

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State of Washington

59th Legislature

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By Representatives O'Brien, Clements, Pettigrew, Santos, McDermott, Ericks, Sells, Kilmer, Green and Morrell

Read first time 01/25/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to the authority to apprehend conditionally  
2 released persons; and amending RCW 71.09.098.

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

4 **Sec. 1.** RCW 71.09.098 and 2001 c 286 s 13 are each amended to read  
5 as follows:

6 (1) Any service provider submitting reports pursuant to RCW  
7 71.09.096(6), the supervising community corrections officer, the  
8 prosecuting attorney, or the attorney general may petition the court,  
9 or the court on its own motion may schedule an immediate hearing, for  
10 the purpose of revoking or modifying the terms of the person's  
11 conditional release to a less restrictive alternative if the petitioner  
12 or the court believes the released person is not complying with the  
13 terms and conditions of his or her release or is in need of additional  
14 care, monitoring, supervision, or treatment.

15 (2) If the prosecuting attorney, the supervising community  
16 corrections officer, or the court, based upon information received by  
17 them, reasonably believes that a conditionally released person is not  
18 complying with the terms and conditions of his or her conditional  
19 release to a less restrictive alternative, the court or community

1 corrections officer may order that the conditionally released person be  
2 apprehended and taken into custody until such time as a hearing can be  
3 scheduled to determine the facts and whether or not the person's  
4 conditional release should be revoked or modified. A law enforcement  
5 officer, who has responded to a request for assistance from a  
6 department employee, may apprehend and take into custody the  
7 conditionally released person if the law enforcement officer reasonably  
8 believes that the conditionally released person is not complying with  
9 the terms and conditions of his or her conditional release to a less  
10 restrictive alternative. The conditionally released person may be  
11 detained in the county jail or returned to the secure community  
12 transition facility. The court shall be notified before the close of  
13 the next judicial day of the person's apprehension. Both the  
14 prosecuting attorney and the conditionally released person shall have  
15 the right to request an immediate mental examination of the  
16 conditionally released person. If the conditionally released person is  
17 indigent, the court shall, upon request, assist him or her in obtaining  
18 a qualified expert or professional person to conduct the examination.

19 (3) The court, upon receiving notification of the person's  
20 apprehension, shall promptly schedule a hearing. The issue to be  
21 determined is whether the state has proven by a preponderance of the  
22 evidence that the conditionally released person did not comply with the  
23 terms and conditions of his or her release. Hearsay evidence is  
24 admissible if the court finds it otherwise reliable. At the hearing,  
25 the court shall determine whether the person shall continue to be  
26 conditionally released on the same or modified conditions or whether  
27 his or her conditional release shall be revoked and he or she shall be  
28 committed to total confinement, subject to release only in accordance  
29 with provisions of this chapter.

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