

HOUSE BILL REPORT

SHB 1201

As Passed Legislature

Title: An act relating to the community integration assistance program.

Brief Description: Establishing the community integration assistance program.

Sponsors: House Committee on Human Services (originally sponsored by Representatives O'Brien, Dickerson, Hurst and Appleton).

Brief History:

Committee Activity:

Human Services: 1/28/09, 2/5/09 [DPS].

Floor Activity:

Passed House: 3/9/09, 97-0.

Senate Amended.

Passed Senate: 4/2/09, 46-0.

House Concurred.

Passed House: 4/18/09, 97-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires that the Department of Corrections at the time of an offender's release include in the release plan a mental health advance directive executed by an offender if the offender has been designated a high risk to be a danger to himself or others and assessed as likely having a major mental illness.
- Changes the name of the Dangerous Mentally Ill Offender program to the new name of the Offender Re-Entry Community Safety Program.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green, Klippert, Morrell, O'Brien and Walsh.

Staff: Linda Merelle (786-7092)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

As of the late 1990s, the Department of Corrections (DOC) did not have a way of providing wraparound services for offenders who completed their criminal sentence under the Sentencing Reform Act, but who were mentally ill and potentially posed a threat to public safety.

In 1999 the Legislature passed Substitute Senate Bill 5011 which required the DOC to identify offenders in their custody believed to be dangerous to themselves and others and who had a mental disorder or illness. Once identified, the DOC was required to develop a release plan for treatment and support services that may be needed once the offender left the custody of the DOC. A team which includes representatives from the DOC, the Division of Mental Health, and other appropriate divisions of the Department of Social and Health Services (DSHS), and other treatment providers were required to help develop the offender's release plan for delivery of treatment and support services.

An offender is eligible for the wraparound services upon release if the offender is determined to be likely to have a major mental disorder and has been assessed as a high risk to be a danger to himself or others. The program that provides services to a mentally ill offender is administered through the DSHS. The person who has been identified for these wraparound services is eligible to receive them for five years after his or her release. Between July 1, 2000, and June 30, 2008, 517 individuals were designated as eligible for the wraparound services. While participation in the program is considered voluntary by the DSHS, the DOC may require that the offender participate in services as a part of their supervision in the community. Under the 1999 legislation, the offenders were designated as "dangerous mentally ill offenders."

As a result of a work group which met throughout 2008, mental health professionals, law enforcement, county representatives, prosecutors, defense attorneys, legislators and others gathered proposals and information that may be used to increase the effectiveness of the program which provides wraparound services to mentally ill offenders. One proposal was to have an offender designated as needing the wraparound services for mentally ill offenders execute a mental health advanced directive (MHAD) before being released from the custody of the DOC.

Any person, mentally ill or not, can sign a MHAD. In a MHAD, a person, while not in a decompensated state, can indicate what type of mental health treatment they are willing to undergo should they decompensate. A valid MHAD can provide consent for mental health treatment in situations where the person is in a decompensated mental state and is either not consenting to treatment or is unable to give direction regarding treatment. A MHAD may be revoked by the person, even as their mental health deteriorates.

Summary of Substitute Bill:

The members of the DOC and other mental health professionals must include a MHAD to be executed by the offender prior to release from confinement and as a part of the offender's release plan if the offender has been designated as mentally ill and assessed as a high risk to be a danger to himself or others. The name of the program which provides wraparound

services to mentally ill offenders is changed to the Offender Re-entry Community Safety Program.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Changing the name of the program from dangerous mentally ill offender is a good idea. Although the original designation was accurate, it was counterproductive. If a person becomes homeless, it makes it more likely that they will become dangerous. However, landlords focus on the "dangerous" rather than the underlying circumstances. This bill is useful. Few people in the community use the MHADs. There is distrust and offenders with a mental illness are hard to win over. The system has not been confident enough to make MHADs mandatory. The MHAD is another tool in the tool box for the community corrections officers. The situation for offenders who are mentally ill is complex, and there is support for the bill's purpose to protect the community. However, the MHAD is only a piece of paper that can be torn up.

(With concerns) The change in the name is appropriate. The mandatory language in the MHAD should be changed to allow the DOC to encourage the execution of a MHAD, rather than requiring a person to execute a MHAD upon release. In a release context, a person may execute a MHAD just to be released. This is antithetical to a person's choice and would be a violation of the Patient's Self-Determination Act. Designated mental health providers are extremely concerned by the lack of bed capacity. Many counties are unwilling to sign a contract in serving persons who are mentally ill offenders. Less than one-half of the Regional Support Networks have signed onto the program created by the DOC for mentally ill offenders, and the resources are not necessarily available. If a MHAD is required, some offenders will not agree to participate in the program. If a MHAD is in place, it often does not help in the rural areas because those facilities will have the direction but will not necessarily have the staff or facilities to follow it.

(Opposed) None.

Persons Testifying: (In support) Representative O'Brien, prime sponsor; James Adams, National Alliance on Mental Illness - Washington; Ethan Rogers, King County Prosecutor's Office; Ian Harrol, Washington Association of Designated Mental Health Professionals; and Eleanor Owen, National Alliance on Mental Illness - Greater Seattle.

(With concerns) David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying: None.