

HOUSE BILL REPORT

SHB 2533

As Passed Legislature

Title: An act relating to the detention and interstate transfer of persons found not guilty by reason of insanity.

Brief Description: Concerning detention and interstate transfer of persons found not guilty by reason of insanity.

Sponsors: House Committee on Human Services (originally sponsored by Representatives Pearson, Hurst, Kelley and Morrell).

Brief History:

Committee Activity:

Human Services: 1/21/10, 1/28/10 [DPS].

Floor Activity:

Passed House: 2/10/10, 96-0.

Senate Amended.

Passed Senate: 3/2/10, 45-0.

House Concurred.

Passed House: 3/6/10, 94-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Authorizes the civil commitment of a person in this state, without a finding of likelihood of serious harm or grave disability, if the person has been found not guilty by reason of insanity in another state and has fled from detention, commitment, or conditional release in that state; specific documentation from the requesting state must be presented.
- Provides that a person initially detained under this act is entitled to a probable cause hearing and rights as provided under the Involuntary Commitment Act, and that the court, upon a finding of probable cause, may detain a person for up to 30 days for the purpose of transfer to the custody or care of the requesting state.

HOUSE COMMITTEE ON HUMAN SERVICES

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.

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; Darneille, Green, Herrera, O'Brien and Walsh.

Staff: Linda Merelle (786-7092).

Background:

Extradition for Persons Charged with or Convicted of a Crime.

The executive authority of another state may make a demand to Washington for the extradition of a person charged with a crime. However, no such demand will be recognized by Washington's Governor unless evidence in writing is provided that the accused person was present in the demanding state at the time of the commission of the alleged crime and that the accused has fled. The writing must be accompanied by a copy of an indictment or information supported by an affidavit in the state having jurisdiction over the crime. The writing may also be supported by other evidentiary documents in support of a warrant issued by the demanding state, such as a judgment and sentence.

If the Governor of Washington decides to comply with the demand for extradition and issues a warrant for arrest, the person arrested has a right to a hearing before a court, a right to counsel, and a right to challenge the legality of his or her arrest before being extradited. The individual may also waive those rights.

Extradition for Persons Not Charged with a Crime.

There are currently no extradition procedures in place in Washington for individuals who have not committed a crime but who have fled a state after having been assessed as having some kind of mental disorder or while a hearing is pending to determine whether there is a mental disorder and whether the person should be taken into custody because of his or her mental disorder. At least eight states have enacted the "Uniform Act for the Extradition of Persons of Unsound Mind." They are: Hawaii, Illinois, Indiana, Louisiana, Maryland, Vermont, Alaska, and Colorado. This act gives states the authority to extradite a person of "unsound mind" if requested by another state.

Summary of Substitute Bill:

Civil Commitment.

A person who has been found Not Guilty by Reason of Insanity and who has fled from another state while under commitment or on conditional release may be committed under the procedures of the Involuntary Treatment Act without application of the "likelihood or serious harm" or "gravely disabled" standards upon presentation of specific documentation from the state from which the person had been originally committed.

Rights of Detained Person.

The person who has been initially committed is entitled to a probable cause hearing, the assistance of counsel, and the other rights afforded any person who is subject to a civil commitment under the Involuntary Treatment Act. The court, upon a finding of probable cause, may detain the person for up to 30 days for the purpose of transfer of the person to the requesting state. The court may order a less restrictive alternative only under conditions that ensure the person's safe transfer to the custody or care of the requesting state within 30 days and without undue risk to the safety of the person or others.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill came about because a person who had been found not guilty by reason of insanity and who was on conditional release in Florida fled to Washington. Washington cannot extradite him back under current laws even though Florida wants him back to continue the conditions of his conditional release. We need this bill to be able to return him back to Florida. It would bring some peace of mind to the people of Skagit County.

(Opposed) None.

Persons Testifying: Representative Pearson, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.