

# HOUSE BILL REPORT

## SHB 2533

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### As Amended by the Senate

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

**Brief Description:** Concerning the interstate compact on mental health.

**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.

#### **Brief Summary of Substitute Bill**

- Authorizes the Governor to arrest and transfer a person in this state who has been found not guilty by reason of insanity in another state and who has fled from detention, commitment, or conditional release in that state.
- Authorizes the Governor of Washington to demand the return of a person who has been found guilty by reason of insanity and has fled detention, commitment, or conditional release from this state.
- Provides local officials and courts with the same powers as those set forth in the criminal extradition statutes.
- Provides the same rights to persons arrested under this act as those afforded in the criminal extradition statutes.
- Applies the provisions of the act retroactively.

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### HOUSE COMMITTEE ON HUMAN SERVICES

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*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:**

The Governor has the authority to extradite individuals who, after being found not guilty by reason of insanity, have fled from detention, commitment, or conditional release. The Governor also has the authority to demand the return of such persons who have fled Washington.

State and local officials and courts have the same powers and must follow the same procedures as set forth in the Uniform Criminal Extradition Act, and individuals arrested pursuant to this act must have the same rights provided to persons accused or convicted of crimes under the Uniform Criminal Extradition Act.

The statute is applied retroactively, has a severability clause, and has an emergency clause.

**EFFECT OF SENATE AMENDMENT(S):**

- Allows 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 to be committed under the procedures of RCW 71.05 without application of the "likelihood of serious harm" or "gravely disabled" standards upon presentation of specific documentation from the state from which the person had been originally committed.
- Permits the court to allow detention of such person in a treatment facility for up to 30 days for the purpose of transferring the person to the custody and care of the requesting state; the court may also impose less restrictive alternative under conditions which ensure the person's safe transfer to the requesting state.
- Changes the title.

**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.