

HOUSE BILL REPORT

SB 6308

As Passed House:
March 5, 2010

Title: An act relating to controlling computer access by residents of the special commitment center.

Brief Description: Controlling computer access by residents of the special commitment center.

Sponsors: Senators Carrell, King, Marr, Stevens, Becker and Roach.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/23/10 [DP].

Floor Activity:

Passed House: 3/5/10, 97-1.

Brief Summary of Bill

- Prohibits a sexually violent predator who is committed or detained from possessing or accessing a computer if the treatment plan states that it would be harmful to a phase or course of treatment.
- Permits a sexually violent predator to access a limited functioning personal computers device that is only capable of word processing, and has limited data storage.
- Provides that the limited functioning personal computer must not have an optical or external drive or USB port and must not have Internet capability or the capability to display images or videos from the prohibited drives or ports.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 5 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Ross.

Minority Report: Do not pass. Signed by 3 members: Representatives Appleton, Goodman and Kirby.

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.

Staff: Alexa Silver (786-7190).

Background:

Civil Commitment of Sexually Violent Predators.

A sexually violent predator is defined in law as a person who has been charged with or convicted of a crime of sexual violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility. A sexually violent predator may be civilly committed under the following circumstances: when his or her criminal sentence expires; if he or she has been determined to be incompetent to stand trial; if he or she has been found not guilty by reason of insanity of a sexually violent offense; or if he or she was previously convicted of a sexually violent offense and has committed a recent overt act.

Sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) and confined at the Special Commitment Center (SCC) for control, care, and individualized treatment. Because they are civilly committed, residents of the SCC are not subject to as many restrictions as persons confined pursuant to a criminal conviction.

Conditional Release to a Less Restrictive Alternative.

A person who has been civilly committed is statutorily entitled to consideration of whether conditional release to a less restrictive alternative (LRA) is in the best interest of the person and would adequately protect the community. Such consideration takes place on an annual basis and at the person's probable cause and commitment hearings. Two Secure Community Transition Facilities (SCTF) serve as an LRA for qualified residents. The court may order a sexually violent predator to an LRA if it finds: (1) the person will be treated by a qualified treatment provider; (2) the treatment provider has presented a specific course of treatment and has agreed to assume treatment responsibility and provide progress reports to the court; (3) secure housing exists; (4) the person is willing to comply with the treatment plan; and (5) the person is willing to comply with supervision requirements imposed by the Department of Corrections.

Prior to releasing a sexually violent predator to an LRA, the court must impose conditions on the person to ensure public safety. Conditions may include prohibiting contact with potential victims, prohibiting alcohol and drugs, requiring a specific course of treatment that may include polygraph monitoring, monitoring through global positioning satellite technology, supervision by a community corrections officer, and any other conditions that are in the best interest of the person or others.

Computer Access.

The DSHS restricts computer usage by sexually violent predators. Residents of the SCC and the SCTF may purchase a DSHS-approved computer with no Internet capabilities and sealed USB ports. Residents are prohibited from purchasing certain types of hardware and software. Residents' computers are subject to search at any time.

Summary of Bill:

The Legislature finds that there have been ongoing examples of residents of the SCC processing child pornography and that linking computer use to treatment plans will make residents more likely to successfully complete treatment.

A sexually violent predator who is civilly committed or detained is prohibited from possessing or accessing a personal computer, if his or her treatment plan states that computer access is harmful to bringing about a positive response to a phase or course of treatment. A sexually violent predator may still access a limited functioning personal computer that is only capable of word processing and has limited data storage.

The limited functioning personal computer must not have an optical drive, external drive, or USB port and must not have the capability to access the Internet or display photographs, images, videos, or motion pictures from the prohibited drives and ports.

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) This is the third time this bill has passed through the Legislature, but the difference is that eight residents of the SCC have now been federally prosecuted for child pornography. That number will likely rise as employees work through the backlog of computer examinations. Right now the situation at the SCC is similar to having an open bar in an alcohol treatment center. This bill is necessary to allow the SCC to monitor and control inappropriate behavior related to computer usage.

(Opposed) Most computer users at the SCC do not possess child pornography. A four-year investigation by the Federal Bureau of Investigations, postal inspectors, and the SCC found eight residents with child pornography out of 97 residents with computers. An additional eight residents may be arrested. There are discrepancies in the SCC's numbers regarding the computer examination backlog. There is no professional literature supporting the analogy to alcoholics; there is only one use for alcohol, but there are many legitimate uses for computers. The computer that would be allowed cannot accommodate the voluminous discovery in these cases, and the SCC cannot accommodate paper copies of discovery documents.

Persons Testifying: (In support) Senator Carrell, prime sponsor; and Kelly Cunningham, Special Commitment Center.

(Opposed) Pete MacDonald, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.