

SENATE BILL REPORT

SB 6308

As Amended by 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: Human Services & Corrections: 1/28/10, 2/02/10 [DP].

Passed Senate: 2/16/10, 47-0.

Passed House: 3/05/10, 97-1.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: Persons who are found to be sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) for control, care, and individualized treatment. Most sexually violent predators are currently housed at the Special Commitment Center (SCC) on McNeil Island.

DSHS has imposed a variety of restrictions on residents of the SCC with respect to computer usage. For example, the residents may only purchase one type of computer, which has been approved by DSHS. The computer is not capable of reading thumbnail drives and is only capable of reading (not writing) compact discs. The computer does not have wireless Internet access or a modem, which means that the residents are not capable of accessing the Internet while in the SCC.

In April 2007, a resident of the SCC was found to be in possession of contraband pornography in violation of SCC rules and the resident's sex offender treatment plan.

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.

Summary of Bill: A resident of the SCC is prohibited from accessing a personal computer and accessing the Internet unless the resident's treatment plan states that access to a computer is necessary or beneficial to the resident's treatment. A person who is prohibited from possessing a personal computer is permitted to access a limited functioning device only capable of word processing and limited data storage.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Since last session we have had eight more felony arrests for child pornography. The presence of computers on McNeil Island represents a situation that the SCC is unable to control. The SCC is charged with the care of this population, including searching computers for contraband. The facility continues to grow by two residents per month. Two FTEs are dedicated solely to searching computers, and the facility spends close to \$250,000 just on monitoring the computer usage. We have researched limited access devices and believe these would allow residents to do legal work and participate in treatment. Two residents have tested these machines and both of them asked where they could purchase one. The machines do not allow them to view or store images, but have limited storage capability for PDFs and test documents. Computers on McNeil Island appear to be an irresistible temptation that allows residents to hold onto their deviancy. Only 40 percent of the current population is actively involved in treatment. The SCC is first and foremost a treatment facility. SCC must have the ability to curtail deviant behavior by restricting access to materials that arouse the very sexual behavior that the SCC is trying to treat.

CON: The implications from this bill are that child pornography is rampant at the SCC. This is not true. There are approximately 300 residents of the SCC, and approximately one third of those have computers. Eight people have been prosecuted in the federal system and potentially eight more will be in the near future. Those who are complying with the rules should not have their computers removed for the bad acts of a comparatively small population. Many of the infractions being tracked are copyright infractions, and not infractions of a pornographic nature that would lead to prosecution. There is a lot of monitoring going on by the SCC that is a waste of time. Current SCC policy allows a computer to be searched at any time for any reason. The residents know this. This bill is a far-reaching overreaction to the problem. It is also counterproductive to the treatment of individuals who are complying with their requirements. Limited access devices would not allow a person to access religious materials or participate in training programs to obtain viable employment after release.

Persons Testifying: PRO: Kelly Cunningham, Superintendent, Special Commitment Center, DSHS; Hunter Goodman, Attorney General's Office.

CON: Pete MacDonald, Washington Defender Assoc., Washington Assn. of Criminal Defense Lawyers; Gary Friedman, Jewish Prisoner Services Int'l.

House Amendment(s): Legislative findings are included regarding the discovery of pornography and other banned materials on the computers of residents of the Special Commitment Center. It is the intent of the Legislature to limit residents' access to computers unless the computer access is related to therapeutic goals.

A committed sexually violent predator is prohibited from accessing or possessing a personal computer if the person's 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 who is prohibited from accessing or possessing a personal computer is permitted to access a limited functioning personal computer that is only capable of word processing and that 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 or ports.

A severability clause is added.