

SSB 6493 - H COMM AMD

By Committee on Public Safety & Emergency Preparedness

NOT CONSIDERED 03/06/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 2.70.020 and 2008 c 313 s 4 are each amended to read  
4 as follows:

5 The director shall:

6 (1) Administer all state-funded services in the following program  
7 areas:

8 (a) Trial court criminal indigent defense, as provided in chapter  
9 10.101 RCW;

10 (b) Appellate indigent defense, as provided in this chapter;

11 (c) Representation of indigent parents qualified for appointed  
12 counsel in dependency and termination cases, as provided in RCW  
13 13.34.090 and 13.34.092;

14 (d) Extraordinary criminal justice cost petitions, as provided in  
15 RCW 43.330.190;

16 (e) Compilation of copies of DNA test requests by persons convicted  
17 of felonies, as provided in RCW 10.73.170;

18 (f) Representation of indigent respondents qualified for appointed  
19 counsel in sexually violent predator civil commitment cases, as  
20 provided in chapter 71.09 RCW;

21 (2) Submit a biennial budget for all costs related to the office's  
22 program areas;

23 (3) Establish administrative procedures, standards, and guidelines  
24 for the office's program areas, including cost-efficient systems that  
25 provide for authorized recovery of costs;

26 (4) Provide oversight and technical assistance to ensure the  
27 effective and efficient delivery of services in the office's program  
28 areas;

29 (5) Recommend criteria and standards for determining and verifying  
30 indigency. In recommending criteria for determining indigency, the

1 director shall compile and review the indigency standards used by other  
2 state agencies and shall periodically submit the compilation and report  
3 to the legislature on the appropriateness and consistency of such  
4 standards;

5 (6) Collect information regarding indigent defense services funded  
6 by the state and report annually to the advisory committee, the  
7 legislature, and the supreme court;

8 (7) Coordinate with the supreme court and the judges of each  
9 division of the court of appeals to determine how appellate attorney  
10 services should be provided.

11 The office of public defense shall not provide direct  
12 representation of clients.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.70 RCW  
14 to read as follows:

15 In providing indigent defense services for sexually violent  
16 predator civil commitment cases under chapter 71.09 RCW, the director  
17 shall:

18 (1) In accordance with state contracting laws, contract with  
19 persons admitted to practice law in this state and organizations  
20 employing persons admitted to practice law in this state for the  
21 provision of legal services to indigent persons;

22 (2) Establish annual contract fees for defense legal services  
23 within amounts appropriated based on court rules and court orders;

24 (3) Ensure an indigent person qualified for appointed counsel has  
25 one contracted counsel appointed to assist him or her. Upon a showing  
26 of good cause, the court may order additional counsel;

27 (4) Consistent with court rules and court orders, establish  
28 procedures for the reimbursement of expert witness and other  
29 professional and investigative costs;

30 (5) Review and analyze existing caseload standards and make  
31 recommendations for updating caseload standards as appropriate;

32 (6) Annually, with the first report due December 1, 2013, submit a  
33 report to the chief justice of the supreme court, the governor, and the  
34 legislature, with all pertinent data on the operation of indigent  
35 defense services for commitment proceedings under this section,  
36 including:

1 (a) Recommended levels of appropriation to maintain adequate  
2 indigent defense services to the extent constitutionally required;

3 (b) The time to trial for all commitment trial proceedings  
4 including a list of the number of continuances granted, the party that  
5 requested the continuance, the county where the proceeding is being  
6 heard, and, if available, the reason the continuance was granted;

7 (c) Recommendations for policy changes, including changes in  
8 statutes and changes in court rules, which may be appropriate for the  
9 improvement of sexually violent predator civil commitment proceedings.

10 NEW SECTION. **Sec. 3.** (1) All powers, duties, and functions of the  
11 department of social and health services and the special commitment  
12 center pertaining to indigent defense under chapter 71.09 RCW are  
13 transferred to the office of public defense.

14 (2)(a) The office of public defense may request any written  
15 materials in the possession of the department of social and health  
16 services and the special commitment center pertaining to the powers,  
17 functions, and duties transferred, which shall be delivered to the  
18 custody of the office of public defense. Materials may be transferred  
19 electronically and/or in hard copy, as agreed by the agencies. All  
20 funds, credits, or other assets held in connection with the powers,  
21 functions, and duties transferred shall be assigned to the office of  
22 public defense.

23 (b) Any appropriations made to the department of social and health  
24 services for carrying out the powers, functions, and duties transferred  
25 shall, on July 1, 2012, be transferred and credited to the office of  
26 public defense.

27 (3) Notwithstanding the effective date of this section, if  
28 implementation of office of public defense contracts would result in  
29 the substitution of counsel within one hundred eighty days of a  
30 scheduled trial date, the director of the office of public defense may  
31 continue defense services with existing counsel to facilitate  
32 continuity of effective representation and avoid further continuance of  
33 a trial. When existing counsel is maintained, payment to complete the  
34 trial shall be prorated based on standard contract fees established by  
35 the office of public defense under section 2 of this act and, at the  
36 director's discretion, may include extraordinary compensation based on  
37 attorney documentation.

1           **Sec. 4.** RCW 71.09.040 and 2009 c 409 s 4 are each amended to read  
2 as follows:

3           (1) Upon the filing of a petition under RCW 71.09.030, the judge  
4 shall determine whether probable cause exists to believe that the  
5 person named in the petition is a sexually violent predator. If such  
6 determination is made the judge shall direct that the person be taken  
7 into custody and notify the office of public defense of the potential  
8 need for representation.

9           (2) Within seventy-two hours after a person is taken into custody  
10 pursuant to subsection (1) of this section, the court shall provide the  
11 person with notice of, and an opportunity to appear in person at, a  
12 hearing to contest probable cause as to whether the person is a  
13 sexually violent predator. In order to assist the person at the  
14 hearing, within twenty-four hours of service of the petition, the  
15 prosecuting agency shall provide to the person or his or her counsel a  
16 copy of all materials provided to the prosecuting agency by the  
17 referring agency pursuant to RCW 71.09.025, or obtained by the  
18 prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d). At this  
19 hearing, the court shall (a) verify the person's identity, and (b)  
20 determine whether probable cause exists to believe that the person is  
21 a sexually violent predator. At the probable cause hearing, the state  
22 may rely upon the petition and certification for determination of  
23 probable cause filed pursuant to RCW 71.09.030. The state may  
24 supplement this with additional documentary evidence or live testimony.  
25 The person may be held in total confinement at the county jail until  
26 the trial court renders a decision after the conclusion of the seventy-  
27 two hour probable cause hearing. The county shall be entitled to  
28 reimbursement for the cost of housing and transporting the person  
29 pursuant to rules adopted by the secretary.

30           (3) At the probable cause hearing, the person shall have the  
31 following rights in addition to the rights previously specified: (a)  
32 To be represented by counsel, and if the person is indigent as defined  
33 in RCW 10.101.010, to have office of public defense contracted counsel  
34 appointed as provided in RCW 10.101.020; (b) to present evidence on his  
35 or her behalf; (c) to cross-examine witnesses who testify against him  
36 or her; (d) to view and copy all petitions and reports in the court  
37 file. The court must permit a witness called by either party to

1 testify by telephone. Because this is a special proceeding, discovery  
2 pursuant to the civil rules shall not occur until after the hearing has  
3 been held and the court has issued its decision.

4 (4) If the probable cause determination is made, the judge shall  
5 direct that the person be transferred to ~~((an appropriate facility for  
6 an evaluation as to whether the person is a sexually violent predator.  
7 The evaluation shall be conducted by a person deemed to be  
8 professionally qualified to conduct such an examination pursuant to  
9 rules developed by the department of social and health services. In  
10 adopting such rules, the department of social and health services shall  
11 consult with the department of health and the department of  
12 corrections))~~ the custody of the department of social and health  
13 services for placement in a total confinement facility operated by the  
14 department. In no event shall the person be released from confinement  
15 prior to trial. ~~((A witness called by either party shall be permitted  
16 to testify by telephone.))~~

17 **Sec. 5.** RCW 71.09.050 and 2010 1st sp.s. c 28 s 1 are each amended  
18 to read as follows:

19 (1) Within forty-five days after the completion of any hearing held  
20 pursuant to RCW 71.09.040, the court shall conduct a trial to determine  
21 whether the person is a sexually violent predator. The trial may be  
22 continued upon the request of either party and a showing of good cause,  
23 or by the court on its own motion in the due administration of justice,  
24 and when the respondent will not be substantially prejudiced. ~~((The  
25 department is responsible for the cost of one expert or professional  
26 person to conduct an evaluation on the prosecuting agency's behalf.))~~  
27 The prosecuting agency shall have a right to a current evaluation of  
28 the person by experts chosen by the state. The judge shall require the  
29 person to complete any or all of the following procedures or tests if  
30 requested by the evaluator: (a) A clinical interview; (b)  
31 psychological testing; (c) plethysmograph testing; and (d) polygraph  
32 testing. The judge may order the person to complete any other  
33 procedures and tests relevant to the evaluation. The state is  
34 responsible for the costs of the evaluation. At all stages of the  
35 proceedings under this chapter, any person subject to this chapter  
36 shall be entitled to the assistance of counsel, and if the person is  
37 indigent as defined in RCW 10.101.010, the court, as provided in RCW

1 10.101.020, shall appoint office of public defense contracted counsel  
2 to assist him or her. The person shall be confined in a secure  
3 facility for the duration of the trial.

4 (2) Whenever any indigent person is subjected to an evaluation  
5 under this chapter, the (~~department~~) office of public defense is  
6 responsible for the cost of one expert or professional person to  
7 conduct an evaluation on the person's behalf. When the person wishes  
8 to be evaluated by a qualified expert or professional person of his or  
9 her own choice, the expert or professional person must be permitted to  
10 have reasonable access to the person for the purpose of such  
11 evaluation, as well as to all relevant medical and psychological  
12 records and reports. In the case of a person who is indigent, the  
13 court shall, upon the person's request, assist the person in obtaining  
14 an expert or professional person to perform an evaluation or  
15 participate in the trial on the person's behalf. Nothing in this  
16 chapter precludes the person from paying for additional expert services  
17 at his or her own expense.

18 (3) The person, the prosecuting agency, or the judge shall have the  
19 right to demand that the trial be before a twelve-person jury. If no  
20 demand is made, the trial shall be before the court.

21 **Sec. 6.** RCW 71.09.080 and 2010 c 218 s 2 are each amended to read  
22 as follows:

23 (1) Any person subjected to restricted liberty as a sexually  
24 violent predator pursuant to this chapter shall not forfeit any legal  
25 right or suffer any legal disability as a consequence of any actions  
26 taken or orders made, other than as specifically provided in this  
27 chapter, or as otherwise authorized by law.

28 (2)(a) Any person committed or detained pursuant to this chapter  
29 shall be prohibited from possessing or accessing a personal computer if  
30 the resident's individualized treatment plan states that access to a  
31 computer is harmful to bringing about a positive response to a specific  
32 and certain phase or course of treatment.

33 (b) A person who is prohibited from possessing or accessing a  
34 personal computer under (a) of this subsection shall be permitted to  
35 access a limited functioning personal computer capable of word  
36 processing and limited data storage on the computer only that does not  
37 have: (i) Internet access capability; (ii) an optical drive, external

1 drive, universal serial bus port, or similar drive capability; or (iii)  
2 the capability to display photographs, images, videos, or motion  
3 pictures, or similar display capability from any drive or port  
4 capability listed under (b)(ii) of this subsection.

5 (3) Any person committed pursuant to this chapter has the right to  
6 adequate care and individualized treatment. The department of social  
7 and health services shall keep records detailing all medical, expert,  
8 and professional care and treatment received by a committed person, and  
9 shall keep copies of all reports of periodic examinations made pursuant  
10 to this chapter. All such records and reports shall be made available  
11 upon request only to: The committed person, his or her attorney, the  
12 prosecuting (~~(attorney)~~) agency, the court, the protection and advocacy  
13 agency, or another expert or professional person who, upon proper  
14 showing, demonstrates a need for access to such records.

15 (4) At the time a person is taken into custody or transferred into  
16 a facility pursuant to a petition under this chapter, the professional  
17 person in charge of such facility or his or her designee shall take  
18 reasonable precautions to inventory and safeguard the personal property  
19 of the persons detained or transferred. A copy of the inventory,  
20 signed by the staff member making it, shall be given to the person  
21 detained and shall, in addition, be open to inspection to any  
22 responsible relative, subject to limitations, if any, specifically  
23 imposed by the detained person. For purposes of this subsection,  
24 "responsible relative" includes the guardian, conservator, attorney,  
25 spouse, parent, adult child, or adult brother or sister of the person.  
26 The facility shall not disclose the contents of the inventory to any  
27 other person without consent of the patient or order of the court.

28 (5) Nothing in this chapter prohibits a person presently committed  
29 from exercising a right presently available to him or her for the  
30 purpose of obtaining release from confinement, including the right to  
31 petition for a writ of habeas corpus.

32 (6) No indigent person may be conditionally released or  
33 unconditionally discharged under this chapter without suitable  
34 clothing, and the secretary shall furnish the person with such sum of  
35 money as is required by RCW 72.02.100 for persons without ample funds  
36 who are released from correctional institutions. As funds are  
37 available, the secretary may provide payment to the indigent persons

1 conditionally released pursuant to this chapter consistent with the  
2 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules  
3 to do so.

4 (7) If a civil commitment petition is dismissed, or a trier of fact  
5 determines that a person does not meet civil commitment criteria, the  
6 person shall be released within twenty-four hours of service of the  
7 release order on the superintendent of the special commitment center,  
8 or later by agreement of the person who is the subject of the petition.

9 **Sec. 7.** RCW 71.09.090 and 2011 2nd sp.s. c 7 s 2 are each amended  
10 to read as follows:

11 (1) If the secretary determines that the person's condition has so  
12 changed that either: (a) The person no longer meets the definition of  
13 a sexually violent predator; or (b) conditional release to a less  
14 restrictive alternative is in the best interest of the person and  
15 conditions can be imposed that adequately protect the community, the  
16 secretary shall authorize the person to petition the court for  
17 conditional release to a less restrictive alternative or unconditional  
18 discharge. The petition shall be filed with the court and served upon  
19 the prosecuting agency responsible for the initial commitment. The  
20 court, upon receipt of the petition for conditional release to a less  
21 restrictive alternative or unconditional discharge, shall within forty-  
22 five days order a hearing.

23 (2)(a) Nothing contained in this chapter shall prohibit the person  
24 from otherwise petitioning the court for conditional release to a less  
25 restrictive alternative or unconditional discharge without the  
26 secretary's approval. The secretary shall provide the committed person  
27 with an annual written notice of the person's right to petition the  
28 court for conditional release to a less restrictive alternative or  
29 unconditional discharge over the secretary's objection. The notice  
30 shall contain a waiver of rights. The secretary shall file the notice  
31 and waiver form and the annual report with the court. If the person  
32 does not affirmatively waive the right to petition, the court shall set  
33 a show cause hearing to determine whether probable cause exists to  
34 warrant a hearing on whether the person's condition has so changed  
35 that: (i) He or she no longer meets the definition of a sexually  
36 violent predator; or (ii) conditional release to a proposed less



1 restrictive alternative would be in the best interest of the person and  
2 conditions can be imposed that would adequately protect the community.

3 (b) The committed person shall have a right to have an attorney  
4 represent him or her at the show cause hearing, which may be conducted  
5 solely on the basis of affidavits or declarations, but the person is  
6 not entitled to be present at the show cause hearing. At the show  
7 cause hearing, the prosecuting (~~(attorney or attorney general)~~) agency  
8 shall present prima facie evidence establishing that the committed  
9 person continues to meet the definition of a sexually violent predator  
10 and that a less restrictive alternative is not in the best interest of  
11 the person and conditions cannot be imposed that adequately protect the  
12 community. In making this showing, the state may rely exclusively upon  
13 the annual report prepared pursuant to RCW 71.09.070. The committed  
14 person may present responsive affidavits or declarations to which the  
15 state may reply.

16 (c) If the court at the show cause hearing determines that either:  
17 (i) The state has failed to present prima facie evidence that the  
18 committed person continues to meet the definition of a sexually violent  
19 predator and that no proposed less restrictive alternative is in the  
20 best interest of the person and conditions cannot be imposed that would  
21 adequately protect the community; or (ii) probable cause exists to  
22 believe that the person's condition has so changed that: (A) The  
23 person no longer meets the definition of a sexually violent predator;  
24 or (B) release to a proposed less restrictive alternative would be in  
25 the best interest of the person and conditions can be imposed that  
26 would adequately protect the community, then the court shall set a  
27 hearing on either or both issues.

28 (d) If the court has not previously considered the issue of release  
29 to a less restrictive alternative, either through a trial on the merits  
30 or through the procedures set forth in RCW 71.09.094(1), the court  
31 shall consider whether release to a less restrictive alternative would  
32 be in the best interests of the person and conditions can be imposed  
33 that would adequately protect the community, without considering  
34 whether the person's condition has changed. The court may not find  
35 probable cause for a trial addressing less restrictive alternatives  
36 unless a proposed less restrictive alternative placement meeting the  
37 conditions of RCW 71.09.092 is presented to the court at the show cause  
38 hearing.

1           (3)(a) At the hearing resulting from subsection (1) or (2) of this  
2 section, the committed person shall be entitled to be present and to  
3 the benefit of all constitutional protections that were afforded to the  
4 person at the initial commitment proceeding. The prosecuting agency  
5 shall represent the state and shall have a right to a jury trial and to  
6 have the committed person evaluated by experts chosen by the state.  
7 (~~The department is responsible for the cost of one expert or~~  
8 ~~professional person to conduct an evaluation on the prosecuting~~  
9 ~~agency's behalf.)) The prosecuting agency shall have a right to a  
10 current evaluation of the person by experts chosen by the state. The  
11 judge shall require the person to complete any or all of the following  
12 procedures or tests if requested by the evaluator: (i) A clinical  
13 interview; (ii) psychological testing; (iii) plethysmograph testing;  
14 and (iv) polygraph testing. The judge may order the person to complete  
15 any other procedures and tests relevant to the evaluation. The state  
16 is responsible for the costs of the evaluation. The committed person  
17 shall also have the right to a jury trial and the right to have experts  
18 evaluate him or her on his or her behalf and the court shall appoint an  
19 expert if the person is indigent and requests an appointment.~~

20           (b) Whenever any indigent person is subjected to an evaluation  
21 under (a) of this subsection, the (~~department~~) office of public  
22 defense is responsible for the cost of one expert or professional  
23 person conducting an evaluation on the person's behalf. When the  
24 person wishes to be evaluated by a qualified expert or professional  
25 person of his or her own choice, such expert or professional person  
26 must be permitted to have reasonable access to the person for the  
27 purpose of such evaluation, as well as to all relevant medical and  
28 psychological records and reports. In the case of a person who is  
29 indigent, the court shall, upon the person's request, assist the person  
30 in obtaining an expert or professional person to perform an evaluation  
31 or participate in the hearing on the person's behalf. Nothing in this  
32 chapter precludes the person from paying for additional expert services  
33 at his or her own expense.

34           (c) If the issue at the hearing is whether the person should be  
35 unconditionally discharged, the burden of proof shall be upon the state  
36 to prove beyond a reasonable doubt that the committed person's  
37 condition remains such that the person continues to meet the definition

1 of a sexually violent predator. Evidence of the prior commitment trial  
2 and disposition is admissible. The recommitment proceeding shall  
3 otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

4 (d) If the issue at the hearing is whether the person should be  
5 conditionally released to a less restrictive alternative, the burden of  
6 proof at the hearing shall be upon the state to prove beyond a  
7 reasonable doubt that conditional release to any proposed less  
8 restrictive alternative either: (i) Is not in the best interest of the  
9 committed person; or (ii) does not include conditions that would  
10 adequately protect the community. Evidence of the prior commitment  
11 trial and disposition is admissible.

12 (4)(a) Probable cause exists to believe that a person's condition  
13 has "so changed," under subsection (2) of this section, only when  
14 evidence exists, since the person's last commitment trial, or less  
15 restrictive alternative revocation proceeding, of a substantial change  
16 in the person's physical or mental condition such that the person  
17 either no longer meets the definition of a sexually violent predator or  
18 that a conditional release to a less restrictive alternative is in the  
19 person's best interest and conditions can be imposed to adequately  
20 protect the community.

21 (b) A new trial proceeding under subsection (3) of this section may  
22 be ordered, or a trial proceeding may be held, only when there is  
23 current evidence from a licensed professional of one of the following  
24 and the evidence presents a change in condition since the person's last  
25 commitment trial proceeding:

26 (i) An identified physiological change to the person, such as  
27 paralysis, stroke, or dementia, that renders the committed person  
28 unable to commit a sexually violent act and this change is permanent;  
29 or

30 (ii) A change in the person's mental condition brought about  
31 through positive response to continuing participation in treatment  
32 which indicates that the person meets the standard for conditional  
33 release to a less restrictive alternative or that the person would be  
34 safe to be at large if unconditionally released from commitment.

35 (c) For purposes of this section, a change in a single demographic  
36 factor, without more, does not establish probable cause for a new trial  
37 proceeding under subsection (3) of this section. As used in this

1 section, a single demographic factor includes, but is not limited to,  
2 a change in the chronological age, marital status, or gender of the  
3 committed person.

4 (5) The jurisdiction of the court over a person civilly committed  
5 pursuant to this chapter continues until such time as the person is  
6 unconditionally discharged.

7 (6) During any period of confinement pursuant to a criminal  
8 conviction, or for any period of detention awaiting trial on criminal  
9 charges, this section is suspended.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.09 RCW  
11 to read as follows:

12 The following activities, unless provided as part of investigation  
13 and preparation for any hearing or trial under this chapter, are beyond  
14 the scope of representation of an attorney under contract with the  
15 office of public defense pursuant to chapter 2.70 RCW for the purposes  
16 of providing indigent defense services in sexually violent predator  
17 civil commitment proceedings:

18 (1) Investigation or legal representation challenging the  
19 conditions of confinement at the special commitment center or any  
20 secure community transition facility;

21 (2) Investigation or legal representation for making requests under  
22 the public records act, chapter 42.56 RCW;

23 (3) Legal representation or advice regarding filing a grievance  
24 with the department as part of its grievance policy or procedure;

25 (4) Such other activities as may be excluded by policy or contract  
26 with the office of public defense.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.09 RCW  
28 to read as follows:

29 (1) The office of public defense is responsible for the cost of one  
30 expert or professional person conducting an evaluation on an indigent  
31 person's behalf as provided in RCW 71.09.050, 71.09.070, or 71.09.090.

32 (2) Expert evaluations are capped at ten thousand dollars, to  
33 include all professional fees, travel, per diem, and other costs.  
34 Partial evaluations are capped at five thousand five hundred dollars  
35 and expert services apart from an evaluation, exclusive of testimony at  
36 trial or depositions, are capped at six thousand dollars.

1 (3) The office of public defense will pay for the costs related to  
2 the evaluation of an indigent person by an additional examiner or in  
3 excess of the stated fee caps only upon a finding by the superior court  
4 that such appointment or extraordinary fees are for good cause.

5 **Sec. 10.** RCW 71.09.110 and 2010 1st sp.s. c 28 s 3 are each  
6 amended to read as follows:

7 The department of social and health services shall be responsible  
8 for ~~((all))~~ the costs relating to the ~~((evaluation and))~~ treatment of  
9 persons committed to their custody whether in a secure facility or  
10 under a less restrictive alternative ~~((under any provision of))~~ as  
11 provided in this chapter. ~~((The secretary shall adopt rules to contain~~  
12 ~~costs relating to reimbursement for evaluation services.))~~  
13 Reimbursement may be obtained by the department for the cost of care  
14 and treatment of persons committed to its custody whether in a secure  
15 facility or under a less restrictive alternative pursuant to RCW  
16 43.20B.330 through 43.20B.370.

17 **Sec. 11.** RCW 71.09.120 and 1990 c 3 s 1012 are each amended to  
18 read as follows:

19 (1) In addition to any other information required to be released  
20 under this chapter, the department is authorized, pursuant to RCW  
21 4.24.550, to release relevant information that is necessary to protect  
22 the public, concerning a specific sexually violent predator committed  
23 under this chapter.

24 (2) The department and the courts are authorized to release to the  
25 office of public defense records needed to implement the office's  
26 administration of public defense in these cases, including research,  
27 reports, and other functions as required by RCW 2.70.020 and section 2  
28 of this act. The office of public defense shall maintain the  
29 confidentiality of all confidential information included in the  
30 records.

31 (3) The inspection or copying of any nonexempt public record by  
32 persons residing in a civil commitment facility for sexually violent  
33 predators may be enjoined following procedures identified in RCW  
34 42.56.565. The injunction may be requested by:

35 (a) An agency or its representative;

36 (b) A person named in the record or his or her representative;



1 notice are confidential and shall not be available to the committed  
2 person.

3 (3) If a person committed as a sexually violent predator under this  
4 chapter escapes from a department of social and health services  
5 facility, the department shall immediately notify, by the most  
6 reasonable and expedient means available, the chief of police of the  
7 city and the sheriff of the county in which the committed person  
8 resided immediately before his or her commitment as a sexually violent  
9 predator, or immediately before his or her incarceration for his or her  
10 most recent offense. If previously requested, the department shall  
11 also notify the witnesses and the victims of the sexually violent  
12 offenses for which the person was convicted in the past or the victim's  
13 next of kin if the crime was a homicide. If the person is recaptured,  
14 the department shall send notice to the persons designated in this  
15 subsection as soon as possible but in no event later than two working  
16 days after the department learns of such recapture.

17 (4) If the victim or victims of any sexually violent offenses for  
18 which the person was convicted in the past or the victim's next of kin,  
19 or any witness is under the age of sixteen, the notice required by this  
20 section shall be sent to the parents or legal guardian of the child.

21 (5) The department of social and health services shall send the  
22 notices required by this chapter to the last address provided to the  
23 department by the requesting party. The requesting party shall furnish  
24 the department with a current address.

25 (6) Nothing in this section shall impose any liability upon a chief  
26 of police of a city or sheriff of a county for failing to request in  
27 writing a notice as provided in subsection (1) of this section.

28 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
29 this act, referencing this act by bill or chapter number, is not  
30 provided by June 30, 2012, in the omnibus appropriations act, this act  
31 is null and void.

32 NEW SECTION. **Sec. 14.** This act takes effect July 1, 2012."

33 Correct the title.

EFFECT: Authorizes prosecuting agencies to obtain current

evaluations of the respondent or SVP, including any tests requested by the evaluator, with the state bearing the expense. Eliminates DSHS' oversight of post-filing evaluations, consistent with the rest of the bill. Requires annual, rather than periodic, reporting on the operation of indigent defense services under this section. Limits defense representation to one counsel, except if good cause is shown. Redefines the scope of indigent defense representation under this section.

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