

# HOUSE BILL REPORT

## ESSB 5105

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**As Passed House:**  
April 5, 2011

**Title:** An act relating to the conditional release of persons committed as criminally insane to their county of origin.

**Brief Description:** Addressing the conditional release of persons committed as criminally insane to their county of origin.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Conway, Stevens, Schoesler, Becker and Shin).

**Brief History:**

**Committee Activity:**

Public Safety & Emergency Preparedness: 3/16/11, 3/22/11 [DP].

**Floor Activity:**

Passed House: 4/5/11, 90-6.

**Brief Summary of Engrossed Substitute Bill**

- Prohibits the Department of Social and Health Services (Department) from supporting conditional release of a criminally insane person outside the person's county of origin unless conditional release to the county of origin would be inappropriate.
- Requires the Department to avoid developing placements that would have a disproportionate effect on a single county.

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**HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS**

**Majority Report:** Do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Hope, Kirby, Moscoso and Ross.

**Minority Report:** Do not pass. Signed by 1 member: Representative Armstrong.

**Staff:** Alexa Silver (786-7190).

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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.*

**Background:**

A defendant may assert insanity as a defense by showing that as a result of a mental disease or defect, he or she was unable to perceive the nature and quality of the act or was unable to tell right from wrong at the time of the offense. If a defendant is found not guilty by reason of insanity, the court must order hospitalization or treatment in a less restrictive alternative if the person is a substantial danger to others or presents a substantial likelihood of committing criminal acts that would jeopardize public safety unless kept under further control. If the person needs control by the court or an institution, but is not a substantial danger and does not present a substantial likelihood of committing criminal acts that would jeopardize public safety, the court conditionally releases the person. The commitment or treatment ordered may not exceed the maximum sentence for the offense.

An examination of the person's mental condition is made once every six months. Following the examination, the Department of Social and Health Services (Department) may recommend to the court that the person be conditionally released. The recommendation must include proposed terms and conditions of release. The committed person may also apply for conditional release by submitting an application to the Department, which forwards the person's application along with its recommendation to the court.

The court must hold a hearing on applications that have the approval of the Department within 30 days, and it may hold a hearing on applications that do not have the approval of the Department. The court determines at the hearing whether the person may be conditionally released without substantial danger to others, or a substantial likelihood of committing criminal acts that would jeopardize public safety. If the court orders the person to be conditionally released, it may modify the proposed terms and conditions. The court must review the person's case on a periodic basis to determine whether the person should continue to be conditionally released.

County legislative authorities are required by statute to establish a law and justice council, which may address issues related to communication regarding offenders, jail management, and partnerships between the Department of Corrections (DOC) and local supervision programs.

**Summary of Bill:**

The Department may not support an application for conditional release to a location outside the person's county of origin unless it determines that a return to the county of origin would be inappropriate considering protection orders, victim safety concerns, the availability of appropriate treatment, negative influences on the person, or the location of family or other persons or organizations that offer support to the person. If the person is not conditionally released to the county of origin, the Department must provide a written explanation to the law and justice council in the county in which the person is released.

When the Department develops a placement outside the county of origin and there are multiple options for placement, it must attempt to avoid a placement that would have a disproportionate effect on a single county.

"County of origin" means the county of the court that ordered the person's commitment.

**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 bill is a variation on a law that requires the DOC to develop an offender reentry plan for convicted felons. That process has worked well. For persons confined at Western State Hospital, there is a high likelihood of release into Pierce County regardless of the county of origin, which is a burden because this population rotates between jails, prisons, and mental hospitals. This bill will reduce the differential for some counties.

(Opposed) None.

**Persons Testifying:** Senator Carrell, prime sponsor; and Troy Christensen, Pierce County.

**Persons Signed In To Testify But Not Testifying:** None.