

SENATE BILL REPORT

SHB 2148

As of Second Reading

Title: An act relating to suspending annual examinations and show cause hearings for sexually violent predators convicted of a criminal offense or awaiting trial on criminal charges.

Brief Description: Suspending annual examinations and show cause hearings for sexually violent predators convicted of a criminal offense or awaiting trial on criminal charges.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Darneille and Hunter; by request of Department of Social and Health Services).

Brief History: Passed House: 12/13/11, 94-0.

Committee Activity:

Staff: Shani Bauer (786-7468)

Background: Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed upon the expiration of that person's criminal sentence. A SVP is a person who has been convicted of, or charged with a sexually violent offense 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 to a secure facility. When it appears that a person may meet the criteria of a SVP, the prosecuting attorney of the county where the person was convicted or charged or the Attorney General's Office, if so requested by the prosecuting attorney, may file a petition alleging that the person is a SVP.

If a person is found at trial to be a SVP, the state is authorized by statute to involuntarily commit a person to the Special Commitment Center (SCC) with the Department of Social and Human Services (DSHS). Civil commitment as a SVP is for an indefinite period. Once a person is committed, the DSHS must conduct an annual examination to determine whether the person's condition has so changed such that the person no longer meets the definition of a SVP; or if conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed to protect the community. The person may petition the court for release with or without the approval of the DSHS. Upon receiving a petition, the court must set a show-cause hearing to determine if probable cause exists to warrant a hearing on whether the person's condition has so changed.

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.

The jurisdiction of the court over a civilly committed person continues until the person is unconditionally released. A person subject to court order under chapter 71.09 RCW who is thereafter convicted of a criminal offense remains under the jurisdiction of the DSHS and is returned to the physical custody of the DSHS at the time of release from confinement. Over the past two years there have been civilly committed persons residing at the Special Commitment Center who have been convicted of crimes. These persons are currently serving their criminal sentences and are not in the physical custody of the DSHS.

Summary of Bill: The statute requiring the DSHS to conduct an annual examination is suspended during any period of time a SVP is either confined for a criminal conviction or is detained due to a criminal charge. Additionally, during any period of time a SVP is confined for a criminal conviction or detained due to criminal charges, the statute regarding petitions to the court for conditional release or unconditional discharge is suspended. The DSHS must initiate an examination of the committed person's mental condition upon the return of the person to the DSHS custody and must follow procedures regarding examinations as provided in statute.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.