
SENATE BILL 5617

State of Washington

63rd Legislature

2013 Regular Session

By Senators Carrell, Darneille, and Pearson

Read first time 02/05/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to service of petitions for release by persons
2 committed as criminally insane; and amending RCW 10.77.200.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 10.77.200 and 2010 c 263 s 8 are each amended to read
5 as follows:

6 (1) Upon application by the committed or conditionally released
7 person, the secretary shall determine whether or not reasonable grounds
8 exist for release. In making this determination, the secretary may
9 consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140,
10 and 10.77.160, and other reports and evaluations provided by
11 professionals familiar with the case. If the secretary approves the
12 release he or she then shall authorize the person to petition the
13 court.

14 (2) In instances in which persons have not made application for
15 release, but the secretary believes, after consideration of the reports
16 filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and
17 other reports and evaluations provided by professionals familiar with
18 the case, that reasonable grounds exist for release, the secretary may

1 petition the court. If the secretary petitions the court for release
2 under this subsection, notice of the petition must be provided to the
3 person who is the subject of the petition and to his or her attorney.

4 (3) The petition shall be served upon the court and the prosecuting
5 attorney. The court, upon receipt of the petition for release, shall
6 within forty-five days order a hearing. Continuance of the hearing
7 date shall only be allowed for good cause shown. The prosecuting
8 attorney shall represent the state, and shall have the right to have
9 the petitioner examined by an expert or professional person of the
10 prosecuting attorney's choice. If the petitioner is indigent, and the
11 person so requests, the court shall appoint a qualified expert or
12 professional person to examine him or her. If the petitioner has a
13 developmental disability, the examination shall be performed by a
14 developmental disabilities professional. The hearing shall be before
15 a jury if demanded by either the petitioner or the prosecuting
16 attorney. The burden of proof shall be upon the petitioner to show by
17 a preponderance of the evidence that the petitioner no longer presents,
18 as a result of a mental disease or defect, a substantial danger to
19 other persons, or a substantial likelihood of committing criminal acts
20 jeopardizing public safety or security, unless kept under further
21 control by the court or other persons or institutions.

22 (4) For purposes of this section, a person affected by a mental
23 disease or defect in a state of remission is considered to have a
24 mental disease or defect requiring supervision when the disease may,
25 with reasonable medical probability, occasionally become active and,
26 when active, render the person a danger to others. Upon a finding that
27 the petitioner has a mental disease or defect in a state of remission
28 under this subsection, the court may deny release, or place or continue
29 such a person on conditional release.

30 (5) Nothing contained in this chapter shall prohibit the patient
31 from petitioning the court for release or conditional release from the
32 institution in which he or she is committed. The petition shall be
33 served upon the court, the prosecuting attorney, and the secretary.
34 Upon receipt of such petition, the secretary shall develop a
35 recommendation as provided in subsection (1) of this section and
36 provide the secretary's recommendation to all parties and the court.
37 The issue to be determined on such proceeding is whether the
38 petitioner, as a result of a mental disease or defect, is a substantial

1 danger to other persons, or presents a substantial likelihood of
2 committing criminal acts jeopardizing public safety or security, unless
3 kept under further control by the court or other persons or
4 institutions.

5 (6) Nothing contained in this chapter shall prohibit the committed
6 person from petitioning for release by writ of habeas corpus.

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