

SENATE BILL REPORT

HB 1599

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, March 19, 2015

Title: An act relating to secure facilities for the criminally insane.

Brief Description: Concerning secure facilities for the criminally insane.

Sponsors: Representatives Rodne, Jinkins and Wylie; by request of Department of Social and Health Services.

Brief History: Passed House: 3/09/15, 96-2.

Committee Activity: Human Services, Mental Health & Housing: 3/16/15, 3/19/15 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass as amended.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Padden.

Staff: Kevin Black (786-7747)

Background: In 2010 the Legislature passed Engrossed Senate Bill 6610. Section 2 of this bill authorizes the Department of Social and Health Services (DSHS) to place a person who has been committed to a state hospital based on criminal insanity in a secure facility operated by the Department of Corrections (DOC) if the Secretary of DSHS determines in writing that the person presents an unreasonable safety risk which is not manageable in a state hospital setting. The person must receive appropriate mental health treatment governed by a formalized treatment plan targeted at mental health rehabilitation needs and be afforded due process rights to petition the courts for conditional or final release. DSHS must submit a report to the Legislature every six months regarding the use of this authority. The authority granted under this section of law expires on June 30, 2015.

A person is criminally insane when they have been acquitted of a crime by reason of insanity by a court or jury and committed to a state hospital on the basis of a danger to other persons or substantial likelihood of committing criminal acts jeopardizing public safety or security.

Summary of Bill (Recommended Amendments): The expiration date is removed from the authority granted to the Secretary of DSHS to place a person committed as criminally insane

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who has been determined to present an unreasonable safety risk that is not manageable in a state hospital setting in a secure facility operated by DOC. The Secretary must give consideration to reasonable alternatives that would be effective to manage the behavior. The Secretary's written decision and reasoning must be documented in the patient's medical file.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Amendments): The Secretary must give consideration to reasonable alternatives that would be effective to manage the behavior. The Secretary's written decision and reasoning must be documented in the patient's medical file.

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 on House Bill: PRO: We want to keep both of the Senate and House vehicles moving, given how important this issue is. This bill is part of our strategic plan to ensure the safety of state hospital staff and patients. We have used this authority only once, and would use it only after using other tools to address the behavior, such as changing treatment plans or medication, consultations with safety experts, transfers to other wards or state hospitals, and one-on-one staffing. Although used sparingly, this authority is essential for safety.

CON: Nothing in this bill requires progressive steps to be taken or due process to be afforded before a person is transferred to a DOC facility. There is no guarantee that DSHS will continue to use this authority with the same restraint in the future under different leadership. This law could affect fragile persons who plead to criminal insanity with no expectation of being sent to prison instead of a state hospital. The criminal insanity commitment is indeterminate; prison sentences are shorter term, and so it is not fair to place a person who is criminally insane in a prison environment. The courts should be required to review this type of placement before it is made.

Persons Testifying: PRO: Jane Beyer, DSHS.

CON: Kari Reardon, WA Defender Assn., WA Assn. of Criminal Defense Lawyers.

Persons Signed in to Testify But Not Testifying: No one.