

SENATE BILL REPORT

SB 5099

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, January 29, 2015

Title: An act relating to restricting conditional releases of sexually violent predators outside their county of origin.

Brief Description: Restricting conditional releases of sexually violent predators outside their county of origin. [**Revised for 1st Substitute:** Restricting conditional releases of sexually violent predators outside their county of commitment.]

Sponsors: Senators Darneille, O'Ban, Conway, Dammeier, Roach, Miloscia and Becker.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 1/22/15, 1/29/15 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: That Substitute Senate Bill No. 5099 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senator Hargrove.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Lindsay Erickson (786-7465)

Background: Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed to the Special Commitment Center (SCC). An 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 an SVP, the prosecuting agency may file a petition to confine the person alleged as an SVP. If a person is found at trial beyond a

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reasonable doubt to be an SVP, the state is authorized to involuntarily commit the person to the SCC for an indefinite period of time.

The individual is held in total confinement until: (a) the individual's condition has so changed that the individual no longer meets the definition of an SVP; or (b) the court orders the person's conditional release to a less-restrictive alternative placement.

Each individual has the right to an annual progress review by the court or a jury of the court. After reviewing evidence and hearing expert testimony, the court may order conditional release only if the release is in the best interest of the individual and conditions can be imposed that would adequately protect the community.

Under current law, before the court may enter an order directing conditional release to a less-restrictive alternative, the court must find that:

- the person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington;
- the treatment provider presented a specific course of treatment, and agreed to assume responsibility for such treatment, report progress to the court on a regular basis, and report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the SCC;
- housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the SCC if the person leaves the housing to which the person has been assigned without authorization;
- the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and
- the person will be under the supervision of the Department of Corrections and is willing to comply with those supervision requirements.

If the court does not find that the individual meets the conditions for release, the individual must remain in the total confinement facility.

Summary of Bill (Recommended Substitute): Prior to authorizing the conditional release of a person who is committed as an SVP to a less-restrictive alternative, the court must consider whether it is appropriate for the conditional release to occur to the person's county of commitment. The person's county of commitment means the county of the court which ordered the person's commitment.

The Legislature finds that it is appropriate for conditional releases to occur in the person's county of commitment, to ensure equitable distribution of releases and prevent the disproportionate grouping of persons subject to less-restrictive orders in any one county or in any one jurisdiction or community within a county, unless the court determines that a return to the county of commitment would be inappropriate considering any:

- court-issued protection orders;
- victim safety concerns;

- lack of availability of appropriate treatment or facilities that would adequately protect the community;
- negative influences on the person; or
- barriers to the location of family or other persons or organizations offering support to the person.

If the Department of Social and Health Services (DSHS) or court assists with developing a placement outside the county of commitment, and there are two or more options, it must attempt to develop a placement in a manner that does not have a disproportionate effect on a single county.

If a person is not released to the person's county of commitment, DSHS must provide notice and a written explanation to the law and justice council of the county in which the person is conditionally released.

These provisions do not apply to conditional releases directly to a secure community transition facility.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Substitute): Replaces county of origin with county of commitment in the title and throughout the bill.

Appropriation: None.

Fiscal Note: Not requested.

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 Original Bill: PRO: This bill attempts to build upon the successes of the Department of Corrections (DOC) fair share program that deals with the release of individuals in DOC custody to their counties of origin. This is an attempt to clarify where individuals who are at the SCC will go upon release. A large number of those individuals released from the SCC stay in Pierce County, even though Pierce County is not their county of commitment. This presents a dangerously unfair and unbalanced situation for Pierce County, which only makes up 12 percent of the state's population. Since 2001 a total of 129 offenders were released from the SCC, but 33 were released in 2012 and 2013. Of the 33 offenders released in those two years, 17 were released to Pierce County. This bill would provide judges with guidance in providing for a more fair and balanced distribution of these individuals.

CON: Although this is a complex issue, this particular solution does not address the real problems associated with the individuals released from the SCC. Suggestions were made to form a workgroup or refer the issue to the sex offender policy board. Many of the sex offender treatment and less-restrictive alternative resources utilized by those released from the SCC are located in Pierce and King Counties. Having a higher number of released individuals in certain counties may increase the ability to supervise the individuals which

would increase public safety. In some circumstances, releasing an SVP to their county of commitment is the worst location for the victims, because the victims are still located in that county. This bill may also require the victims to come to court and convince the judge as to why the individual should not be released to the victim's county.

Persons Testifying: PRO: Senator Darneille, prime sponsor; Mark Lindquist, Pierce County Prosecuting Attorney.

CON: Lin-Marie Nacht, King County Dept. of Public Defense; Ken Henrikson, citizen.