

ESSB 6641 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED AND ENGROSSED 3/5/20

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 18.155.020 and 2004 c 38 s 3 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter:

7 (1) "Advisory committee" means the sex offender treatment
8 providers advisory committee established under section 5 of this act.

9 (2) "Certified sex offender treatment provider" means ((a
10 licensed, certified, or registered health professional)) an
11 individual who is a licensed psychologist, licensed marriage and
12 family therapist, licensed social worker, licensed mental health
13 counselor, mental health professional, as defined in RCW 71.05.020,
14 or psychiatrist, as defined in RCW 71.05.020, who is certified to
15 examine and treat sex offenders pursuant to chapters 9.94A and 13.40
16 RCW and sexually violent predators under chapter 71.09 RCW.

17 ((+2)) (3) "Certified affiliate sex offender treatment provider"
18 means ((a licensed, certified, or registered health professional)) an
19 individual who is a licensed psychologist, licensed marriage and
20 family therapist, licensed social worker, licensed mental health
21 counselor, mental health professional, as defined in RCW 71.05.020,
22 or psychiatrist, as defined in RCW 71.05.020, who is certified as an
23 affiliate to examine and treat sex offenders pursuant to chapters
24 9.94A and 13.40 RCW and sexually violent predators under chapter
25 71.09 RCW under the supervision of a ((certified sex offender
26 treatment provider)) qualified supervisor.

27 ((+3)) (4) "Department" means the department of health.

28 ((+4)) (5)(a) "Qualified supervisor" means:

29 (i) A person who meets the requirements for certification as a
30 sex offender treatment provider;

31 (ii) A person who meets a lifetime experience threshold of having
32 provided at least two thousand hours of direct sex offender specific

1 treatment and assessment services and who continues to maintain
2 professional involvement in the field; or

3 (iii) A person who meets a lifetime experience threshold of at
4 least two years of full-time work in a state-run facility or state-
5 run treatment program providing direct sex offender specific
6 treatment and assessment services and who continues to maintain
7 professional involvement in the field.

8 (b) A qualified supervisor not credentialed by the department as
9 a sex offender treatment provider must sign and submit to the
10 department an attestation form provided by the department stating
11 under penalty of perjury that the qualified supervisor has met the
12 requisite education, training, or experience requirements and that
13 the qualified supervisor is able to substantiate the qualified
14 supervisor's claim to have met the requirements for education,
15 training, or experience.

16 (6) "Secretary" means the secretary of health.

17 ~~((5))~~ (7) "Sex offender treatment provider" or "affiliate sex
18 offender treatment provider" means a person who counsels or treats
19 sex offenders accused of or convicted of a sex offense as defined by
20 RCW 9.94A.030.

21 **Sec. 2.** RCW 18.155.030 and 2004 c 38 s 4 are each amended to
22 read as follows:

23 (1) No person shall represent himself or herself as a certified
24 sex offender treatment provider or certified affiliate sex offender
25 treatment provider without first applying for and receiving a
26 certificate pursuant to this chapter.

27 (2) Only a certified sex offender treatment provider, or
28 certified affiliate sex offender treatment provider who has completed
29 at least fifty percent of the required hours under the supervision of
30 a ~~((certified sex offender treatment provider))~~ qualified supervisor,
31 may perform or provide the following services:

32 ~~((a) ((Evaluations conducted for the purposes of and pursuant to~~
33 ~~RCW 9.94A.670 and 13.40.160;~~

34 ~~((b))~~ Treatment or evaluation of convicted level III sex
35 offenders who are sentenced and ordered into treatment pursuant to
36 chapter 9.94A RCW and adjudicated level III juvenile sex offenders
37 who are ordered into treatment pursuant to chapter 13.40 RCW; or

38 ~~((e))~~ (b) Except as provided under subsection (3) of this
39 section, treatment of sexually violent predators who are

1 conditionally released to a less restrictive alternative pursuant to
2 chapter 71.09 RCW.

3 (3) A certified sex offender treatment provider, or certified
4 affiliate sex offender treatment provider who has completed at least
5 fifty percent of the required hours under the supervision of a
6 (~~certified sex offender treatment provider~~) qualified supervisor,
7 may not perform or provide treatment of sexually violent predators
8 under subsection (2)(~~(e)~~) (b) of this section if the treatment
9 provider has been:

10 (a) Convicted of a sex offense, as defined in RCW 9.94A.030;

11 (b) Convicted in any other jurisdiction of an offense that under
12 the laws of this state would be classified as a sex offense as
13 defined in RCW 9.94A.030; or

14 (c) Suspended or otherwise restricted from practicing any health
15 care profession by competent authority in any state, federal, or
16 foreign jurisdiction.

17 (4) Certified sex offender treatment providers and certified
18 affiliate sex offender treatment providers may perform or provide the
19 following service: Treatment or evaluation of convicted level I and
20 level II sex offenders who are sentenced and ordered into treatment
21 pursuant to chapter 9.94A RCW and adjudicated juvenile level I and
22 level II sex offenders who are sentenced and ordered into treatment
23 pursuant to chapter 13.40 RCW.

24 (5) Employees of state-run facilities or state-run treatment
25 programs are not required to be a certified sex offender treatment
26 provider or a certified affiliate sex offender treatment provider to
27 do the work described in this section as part of their job duties if
28 not pursuing certification under this chapter.

29 **Sec. 3.** RCW 18.155.075 and 2006 c 134 s 2 are each amended to
30 read as follows:

31 The department shall issue an affiliate certificate to any
32 applicant who meets the following requirements:

33 (1) Successful completion of an educational program approved by
34 the secretary or successful completion of alternate training which
35 meets the criteria of the secretary;

36 (2) Successful completion of an examination administered or
37 approved by the secretary;

38 (3) Proof of supervision by a (~~certified sex offender treatment~~
39 ~~provider~~) qualified supervisor;

1 (4) Not having engaged in unprofessional conduct or being unable
2 to practice with reasonable skill and safety as a result of a
3 physical or mental impairment;

4 (5) Not convicted of a sex offense, as defined in RCW 9.94A.030
5 or convicted in any other jurisdiction of an offense that under the
6 laws of this state would be classified as a sex offense as defined in
7 RCW 9.94A.030; and

8 (6) Other requirements as may be established by the secretary
9 that impact the competence of the sex offender treatment provider.

10 **Sec. 4.** RCW 18.155.080 and 2004 c 38 s 7 are each amended to
11 read as follows:

12 The secretary shall establish standards and procedures for
13 approval of the following:

14 (1) Educational programs and alternate training, which must
15 consider credit for experience obtained through work in a state-run
16 facility or state-run treatment program in Washington or in another
17 state or territory of the United States where the applicant
18 demonstrates having provided at least two thousand hours of direct
19 sex offender specific treatment and assessment services, or two years
20 full-time experience working in a state-run facility or state-run
21 treatment program providing direct sex offender specific treatment
22 and assessment services, and continue to maintain professional
23 involvement in the field;

24 (2) Examination procedures;

25 (3) (a) Certifying applicants who have a comparable certification
26 in another jurisdiction, who must be allowed to receive consideration
27 of certification if:

28 (i) They hold or have held within the past thirty-six months a
29 credential in good standing from another state or territory of the
30 United States that the secretary, with advice from the advisory
31 committee, deems to be substantially equivalent to sex offender
32 treatment provider certification in Washington; or

33 (ii) They meet a lifetime experience threshold of having provided
34 at least two thousand hours of direct sex offender specific treatment
35 and assessment services, or two years full-time experience working in
36 a state-run facility or state-run treatment program providing direct
37 sex offender specific treatment and assessment services, and continue
38 to maintain professional involvement in the field;

1 (b) Nothing in (a) of this subsection prohibits the secretary
2 from requiring background checks as a condition of receiving a
3 credential;

4 (4) Application method and forms;

5 (5) Requirements for renewals of certificates;

6 (6) Requirements of certified sex offender treatment providers
7 and certified affiliate sex offender treatment providers who seek
8 inactive status;

9 (7) Other rules, policies, administrative procedures, and
10 administrative requirements as appropriate to carry out the purposes
11 of this chapter.

12 (8) In construing the requirements of this section, the applicant
13 may sign attestation forms under penalty of perjury indicating that
14 the applicant has participated in the required training and that the
15 applicant is able to substantiate the applicant's claim to have met
16 the requirements for hours of training if such substantiation is
17 requested. Substantiation may include letters of recommendation from
18 experts in the field with personal knowledge of the applicant's
19 qualifications and experience to treat sex offenders in the
20 community.

21 (9) Employees of a state-run facility or state-run treatment
22 program may obtain the necessary experience to qualify for this
23 certification through their work and do not need to be certified as
24 an affiliate sex offender treatment provider to obtain the necessary
25 experience requirements upon demonstrating proof of supervision by a
26 qualified supervisor.

27 NEW SECTION. Sec. 5. A new section is added to chapter 18.155
28 RCW to read as follows:

29 (1) The sex offender treatment providers advisory committee is
30 established to advise the secretary concerning the administration of
31 this chapter.

32 (2) The secretary shall appoint the members of the advisory
33 committee, which shall consist of the following persons:

34 (a) One superior court judge;

35 (b) Three sex offender treatment providers;

36 (c) One mental health practitioner who specializes in treating
37 victims of sexual assault;

38 (d) One defense attorney with experience in representing persons
39 charged with sexual offenses;

1 (e) One representative from a statewide association representing
2 prosecuting attorneys;

3 (f) The secretary of the department of social and health services
4 or the secretary's designee;

5 (g) The secretary of the department of corrections or the
6 secretary's designee; and

7 (h) The secretary of the department of children, youth, and
8 families or the secretary's designee.

9 (3) The advisory committee shall be a permanent body. The members
10 shall serve staggered six-year terms, to be set by the secretary. No
11 person other than the members representing the departments of social
12 and health services, children, youth, and families, and corrections
13 may serve more than two consecutive terms.

14 (4) The secretary may remove any member of the advisory committee
15 for cause as specified by rule. In the case of a vacancy, the
16 secretary shall appoint a person to serve for the remainder of the
17 unexpired term.

18 (5) The advisory committee shall provide advice to the secretary
19 concerning:

20 (a) Certification procedures under this chapter and their
21 implementation;

22 (b) Standards maintained under RCW 18.155.080, and advice on
23 individual applications for certification;

24 (c) Issues pertaining to maintaining a healthy workforce of
25 certified sex offender treatment providers to meet the needs of the
26 state of Washington. In considering workforce issues, the advisory
27 committee must evaluate options for reducing or eliminating some or
28 all of the certification-related fees, including the feasibility of
29 requiring that the cost of regulation of persons certified under this
30 chapter be borne by the professions that are identified as eligible
31 to be an underlying credential for certification; and

32 (d) Recommendations for reform of regulatory or administrative
33 practices of the department, the department of social and health
34 services, or the department of corrections that are within the
35 purview and expertise of the advisory committee. The advisory
36 committee may submit recommendations requiring statutory reform to
37 the office of the governor, the secretary of the senate, and the
38 chief clerk of the house of representatives.

39 (6) Committee members shall be reimbursed for travel expenses in
40 accordance with RCW 43.03.050 and 43.03.060.

1 (7) The advisory committee shall elect officers as deemed
2 necessary to administer its duties. A simple majority of the advisory
3 committee members currently serving shall constitute a quorum of the
4 advisory committee.

5 (8) Members of the advisory committee shall be residents of the
6 state of Washington.

7 (9) Members of the advisory committee who are sex offender
8 treatment providers must have a minimum of five years of extensive
9 work experience in treating sex offenders to qualify for appointment
10 to the advisory committee. The sex offender treatment providers on
11 the advisory committee must be certified under this chapter.

12 (10) The advisory committee shall meet at times as necessary to
13 conduct advisory committee business.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 71.09
15 RCW to read as follows:

16 To facilitate the equitable geographic distribution of
17 conditional releases under this chapter, the department shall notify
18 the secretary of health, or the secretary's designee, whenever a sex
19 offender treatment provider in an underserved county has been
20 contracted to provide treatment services to persons on conditional
21 release under this chapter, in which case the secretary of health
22 shall waive any fees for the initial issue, renewal, and reissuance
23 of a credential for the provider under chapter 18.155 RCW. An
24 underserved county is any county identified by the department as
25 having an inadequate supply of qualified sex offender treatment
26 providers to achieve equitable geographic distribution of conditional
27 releases under this chapter.

28 **Sec. 7.** RCW 18.155.040 and 2004 c 38 s 5 are each amended to
29 read as follows:

30 In addition to any other authority provided by law, the secretary
31 shall have the following authority:

32 (1) To set administrative procedures, administrative
33 requirements, and fees in accordance with RCW 43.70.250 (~~and~~),
34 43.70.280, and section 6 of this act;

35 (2) To establish forms necessary to administer this chapter;

36 (3) To issue a certificate or an affiliate certificate to any
37 applicant who has met the education, training, and examination
38 requirements for certification or an affiliate certification and deny

1 a certificate to applicants who do not meet the minimum
2 qualifications for certification or affiliate certification.
3 Proceedings concerning the denial of certificates based on
4 unprofessional conduct or impaired practice shall be governed by the
5 uniform disciplinary act, chapter 18.130 RCW;

6 (4) To hire clerical, administrative, and investigative staff as
7 needed to implement and administer this chapter and to hire
8 individuals including those certified under this chapter to serve as
9 examiners or consultants as necessary to implement and administer
10 this chapter;

11 (5) To maintain the official department record of all applicants
12 and certifications;

13 (6) To conduct a hearing on an appeal of a denial of a
14 certificate on the applicant's failure to meet the minimum
15 qualifications for certification. The hearing shall be conducted
16 pursuant to chapter 34.05 RCW;

17 (7) To issue subpoenas, statements of charges, statements of
18 intent to deny certificates, and orders and to delegate in writing to
19 a designee the authority to issue subpoenas, statements of charges,
20 and statements of intent to deny certificates;

21 (8) To determine the minimum education, work experience, and
22 training requirements for certification or affiliate certification,
23 including but not limited to approval of educational programs;

24 (9) To prepare and administer or approve the preparation and
25 administration of examinations for certification;

26 (10) To establish by rule the procedure for appeal of an
27 examination failure;

28 (11) To adopt rules implementing a continuing competency program;

29 (12) To adopt rules in accordance with chapter 34.05 RCW as
30 necessary to implement this chapter.

31 NEW SECTION. **Sec. 8.** The following sections are decodified:

32 (1) RCW 18.155.900 (Index, part headings not law—1990 c 3);

33 (2) RCW 18.155.901 (Severability—1990 c 3); and

34 (3) RCW 18.155.902 (Effective dates—Application—1990 c 3)."

35 Correct the title.

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