

SSB 6638 - S AMD TO 6638-S AMS WICL S6755.1 **1141**

By Senator Padden

NOT ADOPTED 02/18/2020

1 On page 1, line 22, after "Finally, it", strike all material
2 through "71.24.470 and" on page 1, line 24.

3 On page 16, starting at line 1, strike all of sections 7, 8, and 9
4 and insert the following:

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6 **"Sec. 7.** RCW 72.09.370 and 2019 c 325 s 5025 are each amended
7 to read as follows:

8 (1) The (~~offender~~) reentry community (~~safety~~) services
9 program is established to provide intensive services to offenders
10 identified under this subsection and to thereby promote successful
11 reentry, public safety, and recovery. The secretary shall identify
12 offenders in confinement or partial confinement who: (a) Are
13 reasonably believed to (~~be dangerous~~) present a danger to
14 themselves or others if released to the community without supportive
15 services; and (b) have a mental disorder. In determining an
16 offender's dangerousness, the secretary shall consider behavior
17 known to the department and factors, based on research, that are
18 linked to (~~an increased~~) risk (~~for~~) of dangerousness of
19 offenders with mental illnesses who are involved with the criminal
20 justice system and shall include consideration of an offender's
21 substance use disorder or history of substance abuse.

22 (2) Prior to release of an offender identified under this
23 section, a team consisting of representatives of the department of
24 corrections, the health care authority, and, as necessary, the
25 indeterminate sentence review board, divisions or administrations
26 within the department of social and health services, specifically
27 including the division of developmental disabilities, the

1 appropriate managed care organization ((~~contracted with the health~~
2 ~~care authority, the appropriate~~)) or behavioral health
3 administrative services organization, and the providers, as
4 appropriate, shall develop a plan, as determined necessary by the
5 team, for delivery of treatment and support services to the offender
6 upon release. In developing the plan, the offender shall be offered
7 assistance in executing a mental health advance directive under
8 chapter 71.32 RCW, after being fully informed of the benefits,
9 scope, and purposes of such directive. The team may include a school
10 district representative for ~~offenders~~ under the age of twenty-one.
11 The team shall consult with the offender's counsel, if any, and, as
12 appropriate, the offender's family and community. The team shall
13 notify the crime victim/witness program, which shall provide notice
14 to all people registered to receive notice under RCW 72.09.712 of
15 the proposed release plan developed by the team. Victims, witnesses,
16 and other interested people notified by the department may provide
17 information and comments to the department on potential safety risk
18 to specific individuals or classes of individuals posed by the
19 specific offender. The team may recommend: (a) That the offender be
20 evaluated by ((~~the~~)) a designated crisis responder, as defined in
21 chapter 71.05 RCW; (b) department-supervised community treatment; or
22 (c) voluntary community mental health or substance use disorder or
23 abuse treatment.

24 (3) Prior to release of an offender identified under this
25 section, the team shall determine whether or not an evaluation by a
26 designated crisis responder is needed. If an evaluation is
27 recommended, the supporting documentation shall be immediately
28 forwarded to the appropriate designated crisis responder. The
29 supporting documentation shall include the offender's criminal
30 history, history of judicially required or administratively ordered
31 involuntary antipsychotic medication while in confinement, and any
32 known history of involuntary civil commitment.

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1 (4) If an evaluation by a designated crisis responder is
2 recommended by the team, such evaluation shall occur not more than
3 ten days, nor less than five days, prior to release.

4 (5) A second evaluation by a designated crisis responder shall
5 occur on the day of release if requested by the team, based upon new
6 information or a change in the offender's mental condition, and the
7 initial evaluation did not result in an emergency detention or a
8 summons under chapter 71.05 RCW.

9 (6) If the designated crisis responder determines an emergency
10 detention under chapter 71.05 RCW is necessary, the department shall
11 release the offender only to a state hospital or to a consenting
12 evaluation and treatment facility or secure withdrawal management
13 and stabilization facility. The department shall arrange
14 transportation of the offender to the hospital or facility.

15 (7) If the designated crisis responder believes that a less
16 restrictive alternative treatment is appropriate, he or she shall
17 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to
18 require the offender to appear at an evaluation and treatment
19 facility or secure withdrawal management and stabilization facility.
20 If a summons is issued, the offender shall remain within the
21 corrections facility until completion of his or her term of
22 confinement and be transported, by corrections personnel on the day
23 of completion, directly to the identified (~~evaluation and~~
24 ~~treatment~~) facility.

25 (8) The secretary shall adopt rules to implement this section.
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27 **Sec. 8.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to
28 read as follows:

29 (1) The director shall contract, to the extent that funds are
30 appropriated for this purpose, for case management services and such
31 other services as the director deems necessary to assist offenders
32 identified under RCW 72.09.370 for participation in the (~~offender~~)
33 reentry community (~~safety~~) services program. The contracts may be
34 with any qualified and appropriate entities.

1 (2) The case manager has the authority to assist these offenders
2 in obtaining the services, as set forth in the plan created under
3 RCW 72.09.370(2), for up to five years. The services may include
4 coordination of mental health services, assistance with unfunded
5 medical expenses, assistance obtaining substance use disorder
6 treatment, housing, employment services, educational or vocational
7 training, independent living skills, parenting education, anger
8 management services, peer services, and such other services as the
9 case manager deems necessary.

10 (3) The legislature intends that funds appropriated for the
11 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this
12 section are to supplement and not to supplant general funding. Funds
13 appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212,
14 and this section are not to be considered available resources as
15 defined in RCW 71.24.025 and are not subject to the priorities,
16 terms, or conditions in the appropriations act established pursuant
17 to RCW 71.24.035.

18 (4) The ((offender)) reentry community ((safety)) services
19 program was formerly known as the community integration assistance
20 program.

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22 **Sec. 9.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to
23 read as follows:

24 (1) A licensed or certified behavioral health agency acting in
25 the course of the ((provider's)) agency's duties under this
26 chapter((, is)) and its individual employees are not liable for
27 civil damages resulting from the injury or death of another caused
28 by a participant in the ((offender)) reentry community ((safety))
29 services program who is a client of the ((provider or organization))
30 agency, unless the act or omission of the ((provider or
31 organization)) agency or employee constitutes:

32 (a) Gross negligence;

33 (b) Willful or wanton misconduct; or

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1 (c) A breach of the duty to warn of and protect from a client's
2 threatened violent behavior if the client has communicated a serious
3 threat of physical violence against a reasonably ascertainable
4 victim or victims.

5 (2) In addition to any other requirements to report violations,
6 the licensed or certified behavioral health agency shall report an
7 offender's expressions of intent to harm or other predatory
8 behavior, regardless of whether there is an ascertainable victim, in
9 progress reports and other established processes that enable courts
10 and supervising entities to assess and address the progress and
11 appropriateness of treatment.

12 (3) A licensed or certified behavioral health agency's mere act
13 of treating a participant in the ((~~offender~~)) reentry community
14 ((~~safety~~)) services program is not negligence. Nothing in this
15 subsection alters the licensed or certified behavioral health
16 agency's normal duty of care with regard to the client.

17 (4) The limited liability provided by this section applies only
18 to the conduct of licensed or certified behavioral health agencies
19 and their employees and does not apply to conduct of the state.

20 (5) For purposes of this section, "participant in the ((~~offender~~))
21 reentry community ((~~safety~~)) services program" means a person who
22 has been identified under RCW 72.09.370 as an offender who: (a) Is
23 reasonably believed to ((~~be dangerous~~)) present a danger to himself
24 or herself or others if released to the community without supportive
25 services; and (b) has a mental disorder."

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EFFECT: Removes amendments that would change references to
"offenders" to "persons."

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