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**SUBSTITUTE HOUSE BILL 1825**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Kilduff, Leavitt, and Morgan)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to the placement and treatment of conditionally  
2 released sexually violent predators; amending RCW 71.09.080,  
3 71.09.090, 71.09.092, 71.09.096, 71.09.140, and 71.09.250; and adding  
4 a new section to chapter 71.09 RCW.

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

6 **Sec. 1.** RCW 71.09.080 and 2012 c 257 s 6 are each amended to  
7 read as follows:

8 (1) Any person subjected to restricted liberty as a sexually  
9 violent predator pursuant to this chapter shall not forfeit any legal  
10 right or suffer any legal disability as a consequence of any actions  
11 taken or orders made, other than as specifically provided in this  
12 chapter, or as otherwise authorized by law.

13 (2)(a) Any person committed or detained pursuant to this chapter  
14 shall be prohibited from possessing or accessing a personal computer  
15 if the resident's individualized treatment plan states that access to  
16 a computer is harmful to bringing about a positive response to a  
17 specific and certain phase or course of treatment.

18 (b) A person who is prohibited from possessing or accessing a  
19 personal computer under (a) of this subsection shall be permitted to  
20 access a limited functioning personal computer capable of word  
21 processing and limited data storage on the computer only that does

1 not have: (i) Internet access capability; (ii) an optical drive,  
2 external drive, universal serial bus port, or similar drive  
3 capability; or (iii) the capability to display photographs, images,  
4 videos, or motion pictures, or similar display capability from any  
5 drive or port capability listed under (b)(ii) of this subsection.

6 (3) Any person committed pursuant to this chapter has the right  
7 to adequate care and individualized treatment, including an  
8 individualized discharge plan. The department of social and health  
9 services shall keep records detailing all medical, expert, and  
10 professional care and treatment received by a committed person, and  
11 shall keep copies of all reports of periodic examinations made  
12 pursuant to this chapter. All such records and reports shall be made  
13 available upon request only to: The committed person, his or her  
14 attorney, the prosecuting agency, the court, the protection and  
15 advocacy agency, or another expert or professional person who, upon  
16 proper showing, demonstrates a need for access to such records.

17 (4) At the time a person is taken into custody or transferred  
18 into a facility pursuant to a petition under this chapter, the  
19 professional person in charge of such facility or his or her designee  
20 shall take reasonable precautions to inventory and safeguard the  
21 personal property of the persons detained or transferred. A copy of  
22 the inventory, signed by the staff member making it, shall be given  
23 to the person detained and shall, in addition, be open to inspection  
24 to any responsible relative, subject to limitations, if any,  
25 specifically imposed by the detained person. For purposes of this  
26 subsection, "responsible relative" includes the guardian,  
27 conservator, attorney, spouse, parent, adult child, or adult brother  
28 or sister of the person. The facility shall not disclose the contents  
29 of the inventory to any other person without consent of the patient  
30 or order of the court.

31 (5) In developing an individualized discharge plan, the  
32 department must verify that at a minimum the following are addressed,  
33 based on information known to the department:

34 (a) A functional assessment of physical health, functioning, and  
35 need for health aid devices;

36 (b) A history of substance use and abuse;

37 (c) A history of risk and impulsive behaviors; and

38 (d) A summary of treatment needs.

39 (6) Nothing in this chapter prohibits a person presently  
40 committed from exercising a right presently available to him or her

1 for the purpose of obtaining release from confinement, including the  
2 right to petition for a writ of habeas corpus.

3 ~~((+6))~~ (7) No indigent person may be conditionally released or  
4 unconditionally discharged under this chapter without suitable  
5 clothing, and the secretary shall furnish the person with such sum of  
6 money as is required by RCW 72.02.100 for persons without ample funds  
7 who are released from correctional institutions. As funds are  
8 available, the secretary may provide payment to the indigent persons  
9 conditionally released pursuant to this chapter consistent with the  
10 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt  
11 rules to do so.

12 ~~((+7))~~ (8) If a civil commitment petition is dismissed, or a  
13 trier of fact determines that a person does not meet civil commitment  
14 criteria, the person shall be released within twenty-four hours of  
15 service of the release order on the superintendent of the special  
16 commitment center, or later by agreement of the person who is the  
17 subject of the petition.

18 **Sec. 2.** RCW 71.09.090 and 2018 c 131 s 2 are each amended to  
19 read as follows:

20 (1) If the secretary determines that the person's condition has  
21 so changed that either: (a) The person no longer meets the definition  
22 of a sexually violent predator; or (b) conditional release to a less  
23 restrictive alternative is in the best interest of the person and  
24 conditions can be imposed that adequately protect the community, the  
25 secretary shall authorize the person to petition the court for  
26 conditional release to a less restrictive alternative or  
27 unconditional discharge. The petition shall be filed with the court  
28 and served upon the prosecuting agency responsible for the initial  
29 commitment. The court, upon receipt of the petition for conditional  
30 release to a less restrictive alternative or unconditional discharge,  
31 shall within forty-five days order a hearing.

32 (2)(a) Nothing contained in this chapter shall prohibit the  
33 person from otherwise petitioning the court for conditional release  
34 to a less restrictive alternative or unconditional discharge without  
35 the secretary's approval. The secretary shall provide the committed  
36 person with an annual written notice of the person's right to  
37 petition the court for conditional release to a less restrictive  
38 alternative or unconditional discharge over the secretary's  
39 objection. The notice shall contain a waiver of rights. The secretary

1 shall file the notice and waiver form and the annual report with the  
2 court. If the person does not affirmatively waive the right to  
3 petition, the court shall set a show cause hearing to determine  
4 whether probable cause exists to warrant a hearing on whether the  
5 person's condition has so changed that: (i) He or she no longer meets  
6 the definition of a sexually violent predator; or (ii) conditional  
7 release to a proposed less restrictive alternative would be in the  
8 best interest of the person and conditions can be imposed that would  
9 adequately protect the community.

10 (b)(i) The committed person shall have a right to have an  
11 attorney represent him or her at the show cause hearing, which may be  
12 conducted solely on the basis of affidavits or declarations, but the  
13 person is not entitled to be present at the show cause hearing. At  
14 the show cause hearing, the prosecuting agency shall present prima  
15 facie evidence establishing: (A) That the committed person continues  
16 to meet the definition of a sexually violent predator; and (B) that a  
17 less restrictive alternative is not in the best interest of the  
18 person and conditions cannot be imposed that adequately protect the  
19 community.

20 (ii)(A) If the state produces prima facie evidence that the  
21 committed person continues to be a sexually violent predator, then  
22 the state's burden under (b)(i)(A) of this subsection is met and an  
23 unconditional release trial may not be ordered unless the committed  
24 person produces evidence satisfying: Subsection (~~((4))~~) (5)(a) of  
25 this section; and subsection (~~((4))~~) (5)(b) (i) or (ii) of this  
26 section.

27 (B) If the state produces prima facie evidence that a less  
28 restrictive alternative is not appropriate for the committed person,  
29 then the state's burden under (b)(i)(B) of this subsection is met,  
30 and a conditional release trial may not be ordered unless the  
31 committed person:

32 (I) Produces evidence satisfying: Subsection (~~((4))~~) (5)(a) of  
33 this section; and subsection (~~((4))~~) (5)(b) (i) or (ii) of this  
34 section; (~~and~~)

35 (II) Presents the court with a specific placement satisfying the  
36 requirements of RCW 71.09.092; and

37 (III) If the placement includes a residence outside the county of  
38 commitment, presents the court with documentation of his or her  
39 efforts to secure housing satisfying the requirements of RCW  
40 71.09.092 within the county of commitment.

1 (iii) In making the showing required under (b)(i) of this  
2 subsection, the state may rely exclusively upon the annual report  
3 prepared pursuant to RCW 71.09.070. The committed person may present  
4 responsive affidavits or declarations to which the state may reply.

5 (c) If the court at the show cause hearing determines that  
6 either: (i) The state has failed to present prima facie evidence that  
7 the committed person continues to meet the definition of a sexually  
8 violent predator and that no proposed less restrictive alternative is  
9 in the best interest of the person and conditions cannot be imposed  
10 that would adequately protect the community; or (ii) probable cause  
11 exists to believe that the person's condition has so changed that:  
12 (A) The person no longer meets the definition of a sexually violent  
13 predator; or (B) release to a proposed less restrictive alternative  
14 would be in the best interest of the person and conditions can be  
15 imposed that would adequately protect the community, then the court  
16 shall set a hearing on either or both issues. If conditional release  
17 will be considered at the hearing, the court must provide notice of  
18 the hearing and a copy of the proposed less restrictive alternative  
19 placement to the department. The notice of the hearing and the  
20 proposed placement must be provided to the department at least thirty  
21 days prior to the date the report under subsection (3) of this  
22 section is due to the court.

23 (d) If the court has not previously considered the issue of  
24 release to a less restrictive alternative, either through a trial on  
25 the merits or through the procedures set forth in RCW 71.09.094(1),  
26 the court shall consider whether release to a less restrictive  
27 alternative would be in the best interests of the person and  
28 conditions can be imposed that would adequately protect the  
29 community, without considering whether the person's condition has  
30 changed. The court may not find probable cause for a trial addressing  
31 less restrictive alternatives unless a proposed less restrictive  
32 alternative placement meeting the conditions of RCW 71.09.092 is  
33 presented to the court at the show cause hearing.

34 (3) If a hearing is set on the issue of a committed person's  
35 conditional release to a less restrictive alternative, either upon  
36 petition following the secretary's authorization under subsection (1)  
37 of this section or following a show cause hearing under subsection  
38 (2) of this section, the department must review the committed  
39 person's proposed less restrictive alternative placement and provide  
40 a report for the court's review and consideration. The report must be

1 filed with the court and served on the parties at least fourteen days  
2 before the scheduled hearing. At a minimum, the report must contain  
3 the following:

4 (a) Based on the committed person's history of treatment and  
5 other information known to the department, the department must  
6 provide an assessment of the placement proposed by the committed  
7 person and recommendations for any conditions of release that are in  
8 the best interest of the person and that are critical for the success  
9 of the person's treatment and reintegration into the community. The  
10 assessment must include, but is not limited to:

11 (i) Verification that the proposed housing and living arrangement  
12 complies with RCW 71.09.092 (3) and (4); and

13 (ii) Verification of access to the proposed treatment and that  
14 there are no barriers to the use of any involved monitoring  
15 equipment.

16 (b) (i) If the committed person has proposed a less restrictive  
17 placement that includes a residence outside of the county of  
18 commitment, the department must also report on whether or not a  
19 placement satisfying the requirements in RCW 71.09.092 is available  
20 in the county of commitment. This review may be based on information  
21 known to the department at the time the report is completed and must  
22 include, but is not limited to:

23 (A) Available treatment providers;

24 (B) Available housing; and

25 (C) Other factors that the department determines are critical to  
26 the success of the placement.

27 (ii) If the department's conclusion is that a placement  
28 satisfying the requirements in RCW 71.09.092 is not available in the  
29 county of commitment due to lack of treatment providers, available  
30 housing, or other factors, the department must report on whether or  
31 not a placement satisfying the requirements in RCW 71.09.092 in a  
32 county other than the county proposed by the committed person is  
33 available using the same review criteria. If the department is unable  
34 to find a placement in the county of commitment or a county other  
35 than the county of residence proposed by the committed person, the  
36 report must contain a description of its review of the factors listed  
37 in (b) (i) (A) through (C) of this subsection considered for the  
38 alternative placements. The explanation must detail efforts to find  
39 alternative treatment providers and housing, and other inquiries  
40 conducted as to alternative placements.

1       (4)(a) At the hearing resulting from subsection (1) or (2) of  
2 this section, the committed person shall be entitled to be present  
3 and to the benefit of all constitutional protections that were  
4 afforded to the person at the initial commitment proceeding. The  
5 prosecuting agency shall represent the state and shall have a right  
6 to a jury trial and to have the committed person evaluated by experts  
7 chosen by the state. The prosecuting agency shall have a right to a  
8 current evaluation of the person by experts chosen by the state. The  
9 judge may require the person to complete any or all of the following  
10 procedures or tests if requested by the evaluator: (i) A clinical  
11 interview; (ii) psychological testing; (iii) plethysmograph testing;  
12 and (iv) polygraph testing. The judge may order the person to  
13 complete any other procedures and tests relevant to the evaluation.  
14 The state is responsible for the costs of the evaluation. The  
15 committed person shall also have the right to a jury trial and the  
16 right to have experts evaluate him or her on his or her behalf and  
17 the court shall appoint an expert if the person is indigent and  
18 requests an appointment.

19       (b) Whenever any indigent person is subjected to an evaluation  
20 under (a) of this subsection, the office of public defense is  
21 responsible for the cost of one expert or professional person  
22 conducting an evaluation on the person's behalf. When the person  
23 wishes to be evaluated by a qualified expert or professional person  
24 of his or her own choice, such expert or professional person must be  
25 permitted to have reasonable access to the person for the purpose of  
26 such evaluation, as well as to all relevant medical and psychological  
27 records and reports. In the case of a person who is indigent, the  
28 court shall, upon the person's request, assist the person in  
29 obtaining an expert or professional person to perform an evaluation  
30 or participate in the hearing on the person's behalf. Nothing in this  
31 chapter precludes the person from paying for additional expert  
32 services at his or her own expense.

33       (c) If the issue at the hearing is whether the person should be  
34 unconditionally discharged, the burden of proof shall be upon the  
35 state to prove beyond a reasonable doubt that the committed person's  
36 condition remains such that the person continues to meet the  
37 definition of a sexually violent predator. Evidence of the prior  
38 commitment trial and disposition is admissible. The recommitment  
39 proceeding shall otherwise proceed as set forth in RCW 71.09.050 and  
40 71.09.060.

1 (d) If the issue at the hearing is whether the person should be  
2 conditionally released to a less restrictive alternative, the burden  
3 of proof at the hearing shall be upon the state to prove beyond a  
4 reasonable doubt that conditional release to any proposed less  
5 restrictive alternative either: (i) Is not in the best interest of  
6 the committed person; or (ii) does not include conditions that would  
7 adequately protect the community. Evidence of the prior commitment  
8 trial and disposition is admissible.

9 ~~((4))~~ (5)(a) Probable cause exists to believe that a person's  
10 condition has "so changed," under subsection (2) of this section,  
11 only when evidence exists, since the person's last commitment trial,  
12 or less restrictive alternative revocation proceeding, of a  
13 substantial change in the person's physical or mental condition such  
14 that the person either no longer meets the definition of a sexually  
15 violent predator or that a conditional release to a less restrictive  
16 alternative is in the person's best interest and conditions can be  
17 imposed to adequately protect the community.

18 (b) A new trial proceeding under subsection ~~((3))~~ (4) of this  
19 section may be ordered, or a trial proceeding may be held, only when  
20 there is current evidence from a licensed professional of one of the  
21 following and the evidence presents a change in condition since the  
22 person's last commitment trial proceeding:

23 (i) An identified physiological change to the person, such as  
24 paralysis, stroke, or dementia, that renders the committed person  
25 unable to commit a sexually violent act and this change is permanent;  
26 or

27 (ii) A change in the person's mental condition brought about  
28 through positive response to continuing participation in treatment  
29 which indicates that the person meets the standard for conditional  
30 release to a less restrictive alternative or that the person would be  
31 safe to be at large if unconditionally released from commitment.

32 (c) For purposes of this section, a change in a single  
33 demographic factor, without more, does not establish probable cause  
34 for a new trial proceeding under subsection ~~((3))~~ (4) of this  
35 section. As used in this section, a single demographic factor  
36 includes, but is not limited to, a change in the chronological age,  
37 marital status, or gender of the committed person.

38 ~~((5))~~ (6) The jurisdiction of the court over a person civilly  
39 committed pursuant to this chapter continues until such time as the  
40 person is unconditionally discharged.



1        ~~((6))~~ (7) During any period of confinement pursuant to a  
2 criminal conviction, or for any period of detention awaiting trial on  
3 criminal charges, this section is suspended.

4        **Sec. 3.** RCW 71.09.092 and 2009 c 409 s 9 are each amended to  
5 read as follows:

6        Before the court may enter an order directing conditional release  
7 to a less restrictive alternative, it must find the following: (1)  
8 The person will be treated by a treatment provider who is qualified  
9 to provide such treatment in the state of Washington under chapter  
10 18.155 RCW; (2) the treatment provider has presented a specific  
11 course of treatment and has agreed to assume responsibility for such  
12 treatment and will report progress to the court on a regular basis,  
13 and will report violations immediately to the court, the prosecutor,  
14 the supervising community corrections officer, and the superintendent  
15 of the special commitment center; (3) housing exists in Washington  
16 that is sufficiently secure to protect the community, and the person  
17 or agency providing housing to the conditionally released person has  
18 agreed in writing to accept the person, to provide the level of  
19 security required by the court, and immediately to report to the  
20 court, the prosecutor, the supervising community corrections officer,  
21 and the superintendent of the special commitment center if the person  
22 leaves the housing to which he or she has been assigned without  
23 authorization; (4) if the person has been convicted or found not  
24 guilty by reason of insanity of an offense with a victim under the  
25 age of eighteen, the housing proposed in subsection (3) of this  
26 section is not within one thousand feet of any public or private  
27 school providing instruction to kindergarten or any of grades one  
28 through twelve; (5) if proposed housing is outside of the county of  
29 commitment, a documented effort was made to find an appropriate  
30 residential placement in the county of commitment; (6) the person is  
31 willing to comply with the treatment provider and all requirements  
32 imposed by the treatment provider and by the court; and ~~((5))~~ (7)  
33 the person will be under the supervision of the department of  
34 corrections and is willing to comply with supervision requirements  
35 imposed by the department of corrections.

36        **Sec. 4.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to  
37 read as follows:

1 (1) If the court or jury determines that conditional release to a  
2 less restrictive alternative is in the best interest of the person  
3 and includes conditions that would adequately protect the community,  
4 and the court determines that the minimum conditions set forth in RCW  
5 71.09.092 and in this section are met, the court shall enter judgment  
6 and direct a conditional release.

7 (2) The court shall impose any additional conditions necessary to  
8 ensure compliance with treatment and to protect the community. If the  
9 court finds that conditions do not exist that will both ensure the  
10 person's compliance with treatment and protect the community, then  
11 the person shall be remanded to the custody of the department of  
12 social and health services for control, care, and treatment in a  
13 secure facility as designated in RCW 71.09.060(1).

14 (3) If the service provider designated by the court to provide  
15 inpatient or outpatient treatment or to monitor or supervise any  
16 other terms and conditions of a person's placement in a less  
17 restrictive alternative is other than the department of social and  
18 health services or the department of corrections, then the service  
19 provider so designated must agree in writing to provide such  
20 treatment, monitoring, or supervision in accord with this section.  
21 Any person providing or agreeing to provide treatment, monitoring, or  
22 supervision services pursuant to this chapter may be compelled to  
23 testify and any privilege with regard to such person's testimony is  
24 deemed waived.

25 (4) Prior to authorizing any release to a less restrictive  
26 alternative, the court shall impose such conditions upon the person  
27 as are necessary to ensure the safety of the community. The court  
28 shall consider any conditions proposed by the department under RCW  
29 71.09.090(3). The court shall additionally order the department of  
30 corrections to investigate the less restrictive alternative and  
31 recommend any additional conditions to the court. These conditions  
32 shall include, but are not limited to the following: Specification of  
33 residence, prohibition of contact with potential or past victims,  
34 prohibition of alcohol and other drug use, participation in a  
35 specific course of inpatient or outpatient treatment that may include  
36 monitoring by the use of polygraph and plethysmograph, monitoring  
37 through the use of global positioning ((~~satellite [global positioning~~  
38 system])) system technology, supervision by a department of  
39 corrections community corrections officer, a requirement that the  
40 person remain within the state unless the person receives prior

1 authorization by the court, and any other conditions that the court  
2 determines are in the best interest of the person or others. A copy  
3 of the conditions of release shall be given to the person and to any  
4 designated service providers.

5 (5) (a) Prior to authorizing release to a less restrictive  
6 alternative, the court shall consider whether it is appropriate to  
7 release the person to the person's county of commitment. In making  
8 its determination, the court must consider the report and any  
9 alternative placements proposed by the department under RCW  
10 71.09.090(3). To ensure equitable distribution of releases, and  
11 prevent the disproportionate grouping of persons subject to less  
12 restrictive orders in any one county, or in any one jurisdiction or  
13 community within a county, the legislature finds it is appropriate  
14 for releases to a less restrictive alternative to occur in the  
15 person's county of commitment, unless the court determines that the  
16 person's return to his or her county of commitment would be  
17 inappropriate (~~(considering)~~) based on consideration of: Any court-  
18 issued protection orders, victim safety concerns that cannot be  
19 addressed by ordering the use of global positioning system  
20 technology, the ((availability)) unavailability of appropriate  
21 treatment or facilities that would adequately protect the community,  
22 negative influences on the person, ((or)) and the location of family  
23 or other persons or organizations offering support to the person. If  
24 the court authorizes conditional release to a county other than the  
25 county of commitment, the court shall enter specific findings  
26 concerning the decision.

27 (b) If a proposed placement plan includes a residence in a county  
28 other than the county of commitment, the state shall serve written  
29 notice of the plan on the county prosecuting attorney of the proposed  
30 county of residence at least ten days before the hearing authorizing  
31 less restrictive placement. The county prosecuting attorney may file  
32 an objection articulating any circumstances of the specific proposed  
33 placement that do not adequately protect the community. Any objection  
34 must be filed with the court no fewer than five days prior to the  
35 court's final approval of the placement. The court must consider the  
36 county prosecutor's objection prior to approving the placement.

37 (c) When the department (~~(or court)~~) assists in developing a less  
38 restrictive alternative placement under this section (~~(which is~~  
39 ~~outside of the county of commitment, and there are two or more~~  
40 ~~options for placement))~~, it shall attempt to identify a placement

1 satisfying the requirements of RCW 71.09.092 in the committed  
2 person's county of commitment. If such placement is not available, it  
3 shall endeavor to develop the placement in a manner that does not  
4 have a disproportionate effect on a single county and document its  
5 rationale for the recommended placement.

6 ((~~b~~)) (d) If the committed person is not conditionally released  
7 to his or her county of commitment, the department shall provide the  
8 law and justice council of the county in which the person is  
9 conditionally released with notice and a written explanation.

10 ((~~e~~)) (e) For purposes of this section, the person's county of  
11 commitment means the county of the court which ordered the person's  
12 commitment.

13 ((~~d~~)) (f) This subsection (5) does not apply to releases to a  
14 secure community transition facility under RCW 71.09.250.

15 (6) Any service provider designated to provide inpatient or  
16 outpatient treatment shall monthly, or as otherwise directed by the  
17 court, submit to the court, to the department of social and health  
18 services facility from which the person was released, to the  
19 prosecuting agency, and to the supervising community corrections  
20 officer, a report stating whether the person is complying with the  
21 terms and conditions of the conditional release to a less restrictive  
22 alternative.

23 (7) Each person released to a less restrictive alternative shall  
24 have his or her case reviewed by the court that released him or her  
25 no later than one year after such release and annually thereafter  
26 until the person is unconditionally discharged. Review may occur in a  
27 shorter time or more frequently, if the court, in its discretion on  
28 its own motion, or on motion of the person, the secretary, or the  
29 prosecuting agency so determines. The sole question to be determined  
30 by the court is whether the person shall continue to be conditionally  
31 released to a less restrictive alternative. The court in making its  
32 determination shall be aided by the periodic reports filed pursuant  
33 to subsection (6) of this section and the opinions of the secretary  
34 and other experts or professional persons.

35 **Sec. 5.** RCW 71.09.140 and 2012 c 257 s 12 are each amended to  
36 read as follows:

37 (1) At the earliest possible date, and in no event later than  
38 thirty days before conditional release, change of address for a  
39 person on conditional release, or unconditional discharge, except in

1 the event of escape, the department of social and health services  
2 shall send written notice of conditional release, change of address,  
3 unconditional discharge, or escape, to the following:

4 (a) The chief of police of the city, if any, in which the person  
5 will reside or in which placement will be made under a less  
6 restrictive alternative;

7 (b) The sheriff of the county in which the person will reside or  
8 in which placement will be made under a less restrictive alternative;  
9 and

10 (c) The sheriff of the county where the person was last convicted  
11 of a sexually violent offense, if the department does not know where  
12 the person will reside.

13 The department shall notify the state patrol of the release of  
14 all sexually violent predators and that information shall be placed  
15 in the Washington crime information center for dissemination to all  
16 law enforcement.

17 (2) The same notice as required by subsection (1) of this section  
18 shall be sent to the following if such notice has been requested in  
19 writing about a specific person found to be a sexually violent  
20 predator under this chapter:

21 (a) The victim or victims of any sexually violent offenses for  
22 which the person was convicted in the past or the victim's next of  
23 kin if the crime was a homicide. "Next of kin" as used in this  
24 section means a person's spouse, parents, siblings, and children;

25 (b) Any witnesses who testified against the person in his or her  
26 commitment trial under RCW 71.09.060; and

27 (c) Any person specified in writing by the prosecuting agency.

28 Information regarding victims, next of kin, or witnesses  
29 requesting the notice, information regarding any other person  
30 specified in writing by the prosecuting agency to receive the notice,  
31 and the notice are confidential and shall not be available to the  
32 committed person.

33 (3) If a person committed as a sexually violent predator under  
34 this chapter escapes from a department of social and health services  
35 facility, the department shall immediately notify, by the most  
36 reasonable and expedient means available, the chief of police of the  
37 city and the sheriff of the county in which the committed person  
38 resided immediately before his or her commitment as a sexually  
39 violent predator, or immediately before his or her incarceration for  
40 his or her most recent offense. If previously requested, the

1 department shall also notify the witnesses and the victims of the  
2 sexually violent offenses for which the person was convicted in the  
3 past or the victim's next of kin if the crime was a homicide. If the  
4 person is recaptured, the department shall send notice to the persons  
5 designated in this subsection as soon as possible but in no event  
6 later than two working days after the department learns of such  
7 recapture.

8 (4) If the victim or victims of any sexually violent offenses for  
9 which the person was convicted in the past or the victim's next of  
10 kin, or any witness is under the age of sixteen, the notice required  
11 by this section shall be sent to the parents or legal guardian of the  
12 child.

13 (5) The department of social and health services shall send the  
14 notices required by this chapter to the last address provided to the  
15 department by the requesting party. The requesting party shall  
16 furnish the department with a current address.

17 (6) Nothing in this section shall impose any liability upon a  
18 chief of police of a city or sheriff of a county for failing to  
19 request in writing a notice as provided in subsection (1) of this  
20 section.

21 **Sec. 6.** RCW 71.09.250 and 2003 c 216 s 3 are each amended to  
22 read as follows:

23 (1)(a) The secretary is authorized to site, construct, occupy,  
24 and operate (i) a secure community transition facility on McNeil  
25 Island for persons authorized to petition for a less restrictive  
26 alternative under RCW 71.09.090(1) and who are conditionally  
27 released; and (ii) a special commitment center on McNeil Island with  
28 up to four hundred four beds as a total confinement facility under  
29 this chapter, subject to appropriated funding for those purposes. The  
30 secure community transition facility shall be authorized for the  
31 number of beds needed to ensure compliance with the orders of the  
32 superior courts under this chapter and the federal district court for  
33 the western district of Washington. The total number of beds in the  
34 secure community transition facility shall be limited to twenty-four,  
35 consisting of up to fifteen transitional beds and up to nine  
36 pretransitional beds. The residents occupying the transitional beds  
37 shall be the only residents eligible for transitional services  
38 occurring in Pierce county. In no event shall more than fifteen  
39 residents of the secure community transition facility be

1 participating in off-island transitional, educational, or employment  
2 activity at the same time in Pierce county. The department shall  
3 provide the Pierce county sheriff, or his or her designee, with a  
4 list of the fifteen residents so designated, along with their  
5 photographs and physical descriptions, and the list shall be  
6 immediately updated whenever a residential change occurs. The Pierce  
7 county sheriff, or his or her designee, shall be provided an  
8 opportunity to confirm the residential status of each resident  
9 leaving McNeil Island.

10 (b) For purposes of this subsection, "transitional beds" means  
11 beds only for residents who are judged by a qualified expert to be  
12 suitable to leave the island for treatment, education, and  
13 employment.

14 (2)(a) The secretary is authorized to site, either within the  
15 secure community transition facility established pursuant to  
16 subsection (1)(a)(i) of this section, or within the special  
17 commitment center, up to nine pretransitional beds.

18 (b) Residents assigned to pretransitional beds shall not be  
19 permitted to leave McNeil Island for education, employment,  
20 treatment, or community activities in Pierce county.

21 (c) For purposes of this subsection, "pretransitional beds" means  
22 beds for residents whose progress toward a less secure residential  
23 environment and transition into more complete community involvement  
24 is projected to take substantially longer than a typical resident of  
25 the special commitment center.

26 (3) Notwithstanding RCW 36.70A.103 or any other law, this statute  
27 preempts and supersedes local plans, development regulations,  
28 permitting requirements, inspection requirements, and all other laws  
29 as necessary to enable the secretary to site, construct, occupy, and  
30 operate a secure community transition facility on McNeil Island and a  
31 total confinement facility on McNeil Island.

32 (4) To the greatest extent possible, until June 30, 2003, persons  
33 who were not civilly committed from the county in which the secure  
34 community transition facility established pursuant to subsection (1)  
35 of this section is located may not be conditionally released to a  
36 setting in that same county less restrictive than that facility.

37 (5) As of June 26, 2001, the state shall immediately cease any  
38 efforts in effect on such date to site secure community transition  
39 facilities, other than the facility authorized by subsection (1) of

1 this section, and shall instead site such facilities in accordance  
2 with the provisions of this section.

3 (6) The department must:

4 (a) Identify the minimum and maximum number of secure community  
5 transition facility beds in addition to the facility established  
6 under subsection (1) of this section that may be necessary for the  
7 period of May 2004 through May 2007 and provide notice of these  
8 numbers to all counties by August 31, 2001; and

9 (b) Develop and publish policy guidelines for the siting and  
10 operation of secure community transition facilities.

11 (7)(a) The total number of secure community transition facility  
12 beds that may be required to be sited in a county between June 26,  
13 2001, and June 30, 2008, may be no greater than the total number of  
14 persons civilly committed from that county, or detained at the  
15 special commitment center under a pending civil commitment petition  
16 from that county where a finding of probable cause had been made on  
17 April 1, 2001. The total number of secure community transition  
18 facility beds required to be sited in each county between July 1,  
19 2008, and June 30, 2015, may be no greater than the total number of  
20 persons civilly committed from that county or detained at the special  
21 commitment center under a pending civil commitment petition from that  
22 county where a finding of probable cause had been made as of July 1,  
23 2008.

24 (b) Counties and cities that provide secure community transition  
25 facility beds above the maximum number that they could be required to  
26 site under this subsection are eligible for a bonus grant under the  
27 incentive provisions in RCW 71.09.255. The county where the special  
28 commitment center is located shall receive this bonus grant for the  
29 number of beds in the facility established in subsection (1) of this  
30 section in excess of the maximum number established by this  
31 subsection.

32 (c) No secure community transition facilities in addition to the  
33 one established in subsection (1) of this section may be required to  
34 be sited in the county where the special commitment center is located  
35 until after June 30, 2008, provided however, that the county and its  
36 cities may elect to site additional secure community transition  
37 facilities and shall be eligible under the incentive provisions of  
38 RCW 71.09.255 for any additional facilities meeting the requirements  
39 of that section.



1           (8) The state is authorized to site and operate secure community  
2 transition facilities in any county in the state. In identifying  
3 potential counties within which to site a secure community transition  
4 facility, and in identifying sites within a county for the location  
5 of a secure community transition facility, the department shall work  
6 with and assist local governments to provide for the equitable  
7 distribution of such facilities. In coordinating and deciding upon  
8 the siting of a secure community transition ((facilities)) facility  
9 within a county, great weight shall be given by the county and cities  
10 within the county to:

11           (a) The number and location of existing residential facility beds  
12 operated by the department of corrections or the mental health  
13 division of the department of social and health services in each  
14 jurisdiction in the county; and

15           (b) The number of registered sex offenders classified as level II  
16 or level III and the number of sex offenders registered as homeless  
17 residing in each jurisdiction in the county.

18           (9) (a) "Equitable distribution" means siting or locating secure  
19 community transition facilities in a manner that will not cause a  
20 disproportionate grouping of similar facilities either in any one  
21 county, or in any one jurisdiction or community within a county, as  
22 relevant; and

23           (b) "Jurisdiction" means a city, town, or geographic area of a  
24 county in which distinct political or judicial authority may be  
25 exercised.

26           NEW SECTION. Sec. 7. A new section is added to chapter 71.09  
27 RCW to read as follows:

28           To facilitate the equitable geographic distribution of  
29 conditional releases under this chapter, the department shall notify  
30 the secretary of health, or the secretary's designee, whenever a sex  
31 offender treatment provider in an underserved county has been  
32 contracted to provide treatment services to persons on conditional  
33 release under this chapter, in which case the secretary of health  
34 shall waive any fees for the initial issue, renewal, and reissuance  
35 of a credential for the provider under chapter 18.155 RCW. An  
36 underserved county is any county identified by the department as  
37 having an inadequate supply of qualified sex offender treatment

1 providers to achieve equitable geographic distribution of conditional  
2 releases under this chapter.

--- **END** ---