

2SSB 5304 - S AMD 392
By Senator Wagoner

NOT ADOPTED 03/05/2021

1 Beginning on page 5, line 11, strike all of sections 6 through 11
2 and insert the following:

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

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

19 (2) Prior to release of an offender identified under this
20 section, a team consisting of representatives of the department of
21 corrections, the health care authority, and, as necessary, the
22 indeterminate sentence review board, divisions or administrations
23 within the department of social and health services, specifically
24 including the division of developmental disabilities, the appropriate
25 managed care organization ~~((contracted with the health care~~
26 ~~authority, the appropriate))~~ or behavioral health administrative
27 services organization, and the providers, as appropriate, shall
28 develop a plan, as determined necessary by the team, for delivery of
29 treatment and support services to the offender upon release. In
30 developing the plan, the offender shall be offered assistance in
31 executing a mental health advance directive under chapter 71.32 RCW,
32 after being fully informed of the benefits, scope, and purposes of

1 such directive. The team may include a school district representative
2 for offenders under the age of (~~twenty-one~~) 21. The team shall
3 consult with the offender's counsel, if any, and, as appropriate, the
4 offender's family and community. The team shall notify the crime
5 victim/witness program, which shall provide notice to all people
6 registered to receive notice under RCW 72.09.712 of the proposed
7 release plan developed by the team. Victims, witnesses, and other
8 interested people notified by the department may provide information
9 and comments to the department on potential safety risk to specific
10 individuals or classes of individuals posed by the specific offender.
11 The team may recommend: (a) That the offender be evaluated by (~~the~~)
12 a designated crisis responder, as defined in chapter 71.05 RCW; (b)
13 department-supervised community treatment; or (c) voluntary community
14 mental health or substance use disorder or abuse treatment.

15 (3) Prior to release of an offender identified under this
16 section, the team shall determine whether or not an evaluation by a
17 designated crisis responder is needed. If an evaluation is
18 recommended, the supporting documentation shall be immediately
19 forwarded to the appropriate designated crisis responder. The
20 supporting documentation shall include the offender's criminal
21 history, history of judicially required or administratively ordered
22 involuntary antipsychotic medication while in confinement, and any
23 known history of involuntary civil commitment.

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

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

32 (6) If the designated crisis responder determines an emergency
33 detention under chapter 71.05 RCW is necessary, the department shall
34 release the offender only to a state hospital or to a consenting
35 evaluation and treatment facility or secure withdrawal management and
36 stabilization facility. The department shall arrange transportation
37 of the offender to the hospital or facility.

38 (7) If the designated crisis responder believes that a less
39 restrictive alternative treatment is appropriate, he or she shall
40 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to

1 require the offender to appear at an evaluation and treatment
2 facility or secure withdrawal management and stabilization facility.
3 If a summons is issued, the offender shall remain within the
4 corrections facility until completion of his or her term of
5 confinement and be transported, by corrections personnel on the day
6 of completion, directly to the identified (~~evaluation and~~
7 ~~treatment~~) facility.

8 (8) The secretary shall adopt rules to implement this section.

9 **Sec. 7.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to
10 read as follows:

11 (1) The director shall contract, to the extent that funds are
12 appropriated for this purpose, for case management services and such
13 other services as the director deems necessary to assist offenders
14 identified under RCW 72.09.370 for participation in the offender
15 reentry community safety program. The contracts may be with any
16 qualified and appropriate entities. The director shall ensure the
17 authority has coverage in all counties of the state for the purposes
18 of providing offender reentry community safety program services.

19 (2) The case manager has the authority to assist these offenders
20 in obtaining the services, as set forth in the plan created under RCW
21 72.09.370(2), for up to five years. The services may include
22 coordination of mental health services, assistance with unfunded
23 medical expenses, assistance obtaining substance use disorder
24 treatment, housing, employment services, educational or vocational
25 training, independent living skills, parenting education, anger
26 management services, peer services, and such other services as the
27 case manager deems necessary.

28 (3) The legislature intends that funds appropriated for the
29 purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section
30 are to supplement and not to supplant general funding. Funds
31 appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212,
32 and this section are not to be considered available resources as
33 defined in RCW 71.24.025 and are not subject to the priorities,
34 terms, or conditions in the appropriations act established pursuant
35 to RCW 71.24.035.

36 (4) The offender reentry community safety program was formerly
37 known as the community integration assistance program.

1 **Sec. 8.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to
2 read as follows:

3 (1) A licensed or certified behavioral health agency acting in
4 the course of the (~~provider's~~) agency's duties under this
5 chapter(~~, is~~) and its individual employees are not liable for civil
6 damages resulting from the injury or death of another caused by a
7 participant in the offender reentry community safety program who is a
8 client of the (~~provider or organization~~) agency, unless the act or
9 omission of the (~~provider or organization~~) agency or employee
10 constitutes:

11 (a) Gross negligence;

12 (b) Willful or wanton misconduct; or

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

17 (2) In addition to any other requirements to report violations,
18 the licensed or certified behavioral health agency shall report an
19 offender's expressions of intent to harm or other predatory behavior,
20 regardless of whether there is an ascertainable victim, in progress
21 reports and other established processes that enable courts and
22 supervising entities to assess and address the progress and
23 appropriateness of treatment.

24 (3) A licensed or certified behavioral health agency's mere act
25 of treating a participant in the offender reentry community safety
26 program is not negligence. Nothing in this subsection alters the
27 licensed or certified behavioral health agency's normal duty of care
28 with regard to the client.

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

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

38 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.24
39 RCW to read as follows:

1 (1) The authority shall convene a reentry services work group to
2 consider ways to improve reentry services for persons with an
3 identified behavioral health services need. The work group shall:

4 (a) Advise the authority on its waiver application under section
5 6 of this act;

6 (b) Develop a plan to assure notifications of the person's
7 release date, current location, and other appropriate information are
8 provided to the person's managed care organization at least 30 days
9 before the person's scheduled release from confinement, or as soon as
10 practicable thereafter, in accordance with RCW 74.09.555;

11 (c) Consider the value of expanding, replicating, or adapting the
12 essential elements of the offender reentry community safety program
13 under RCW 72.09.370 and 71.24.470 to benefit new populations, such
14 as:

15 (i) A larger group of incarcerated persons in the department of
16 corrections than those who currently have the opportunity to
17 participate;

18 (ii) State hospital patients committed under criminal insanity
19 laws under chapter 10.77 RCW;

20 (iii) Involuntary treatment patients committed under chapter
21 71.05 RCW;

22 (iv) Persons committed to juvenile rehabilitation;

23 (v) Persons confined in jail; and

24 (vi) Other populations recommended by the work group;

25 (d) Consider whether modifications should be made to the offender
26 reentry community safety program;

27 (e) Identify potential costs and savings for the state and local
28 governments which could be realized through the use of telehealth
29 technology to provide mental and behavioral health services,
30 expansion or replication of the offender reentry community safety
31 program, or other reentry programs which are supported by evidence;

32 (f) Consider the sustainability of reentry or diversion services
33 provided by pilot programs funded by contempt fines in *Trueblood, et*
34 *al., v. Washington State DSHS*, No. 15-35462;

35 (g) Recommend a means of funding expanded reentry services; and

36 (h) Consider incorporation of peer services into the offender
37 reentry community safety program.

38 (2) The authority shall invite participation in the work group by
39 stakeholders including but not limited to representatives from:
40 Disability rights Washington; behavioral health advocacy

1 organizations; behavioral health peers; reentry community services
2 providers; community behavioral health agencies; advocates for
3 persons with developmental disabilities; the department of
4 corrections; the department of children, youth, and families; the
5 Washington association of sheriffs and police chiefs; prosecutors;
6 defense attorneys; the Washington state association of counties; King
7 county behavioral health and recovery division; the department of
8 social and health services; state hospital employees who serve
9 patients committed under chapters 10.77 and 71.05 RCW; the public
10 safety review panel under RCW 10.77.270; managed care organizations;
11 behavioral health administrative services organizations; the
12 Washington statewide reentry council; the Washington state senate;
13 the Washington state house of representatives; and the Washington
14 state institute for public policy.

15 (3) The work group must provide a progress report to the governor
16 and appropriate committees of the legislature by December 1, 2021,
17 and a final report by December 1, 2022.

18 NEW SECTION. **Sec. 10.** The Washington state institute for public
19 policy shall update its previous evaluations of the offender reentry
20 community safety program under RCW 72.09.370 and 71.24.470, and
21 broaden its cost-benefit analysis to include impacts on the use of
22 public services, and other factors. The institute shall collaborate
23 with the work group established under section 9 of this act to
24 determine research parameters and help the work group answer
25 additional research questions including, but not limited to, the
26 potential cost, benefit, and risks involved in expanding or
27 replicating the offender reentry community safety program; and what
28 modifications to the program are most likely to prove advantageous
29 based on the current state of knowledge about evidence-based,
30 research-based, and promising programs. The department of
31 corrections, health care authority, administrative office of the
32 courts, King county, and department of social and health services
33 must cooperate with the institute to facilitate access to data or
34 other resources necessary to complete this work. The institute must
35 provide a preliminary report by December 1, 2021, and a final report
36 by November 1, 2022, to the governor and relevant committees of the
37 legislature.

1 **Sec. 11.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to
2 read as follows:

3 (1) The department of corrections shall develop an individual
4 reentry plan as defined in RCW 72.09.015 for every offender who is
5 committed to the jurisdiction of the department except:

6 (a) Offenders who are sentenced to life without the possibility
7 of release or sentenced to death under chapter 10.95 RCW; and

8 (b) Offenders who are subject to the provisions of 8 U.S.C. Sec.
9 1227.

10 (2) The individual reentry plan may be one document, or may be a
11 series of individual plans that combine to meet the requirements of
12 this section.

13 (3) In developing individual reentry plans, the department shall
14 assess all offenders using standardized and comprehensive tools to
15 identify the criminogenic risks, programmatic needs, and educational
16 and vocational skill levels for each offender. The assessment tool
17 should take into account demographic biases, such as culture, age,
18 and gender, as well as the needs of the offender, including any
19 learning disabilities, substance abuse or mental health issues, and
20 social or behavior deficits.

21 (4)(a) The initial assessment shall be conducted as early as
22 sentencing, but, whenever possible, no later than (~~forty-five~~) 45
23 days of being sentenced to the jurisdiction of the department of
24 corrections.

25 (b) The offender's individual reentry plan shall be developed as
26 soon as possible after the initial assessment is conducted, but,
27 whenever possible, no later than (~~sixty~~) 60 days after completion
28 of the assessment, and shall be periodically reviewed and updated as
29 appropriate.

30 (5) The individual reentry plan shall, at a minimum, include:

31 (a) A plan to maintain contact with the inmate's children and
32 family, if appropriate. The plan should determine whether parenting
33 classes, or other services, are appropriate to facilitate successful
34 reunification with the offender's children and family;

35 (b) An individualized portfolio for each offender that includes
36 the offender's education achievements, certifications, employment,
37 work experience, skills, and any training received prior to and
38 during incarceration; and

39 (c) A plan for the offender during the period of incarceration
40 through reentry into the community that addresses the needs of the

1 offender including education, employment, substance abuse treatment,
2 mental health treatment, family reunification, and other areas which
3 are needed to facilitate a successful reintegration into the
4 community.

5 (6) (a) Prior to discharge of any offender, the department shall:

6 (i) Evaluate the offender's needs and, to the extent possible,
7 connect the offender with existing services and resources that meet
8 those needs; and

9 (ii) Connect the offender with a community justice center and/or
10 community transition coordination network in the area in which the
11 offender will be residing once released from the correctional system
12 if one exists.

13 (b) If the department recommends partial confinement in an
14 offender's individual reentry plan, the department shall maximize the
15 period of partial confinement for the offender as allowed pursuant to
16 RCW 9.94A.728 to facilitate the offender's transition to the
17 community.

18 (7) The department shall establish mechanisms for sharing
19 information from individual reentry plans to those persons involved
20 with the offender's treatment, programming, and reentry, when deemed
21 appropriate. When feasible, this information shall be shared
22 electronically.

23 (8) (a) In determining the county of discharge for an offender
24 released to community custody, the department may ~~((not))~~ approve a
25 residence location that is not in the offender's county of origin
26 ~~((unless it is determined by the))~~ if the department determines that
27 ~~the ((offender's return to his or her county of origin would be~~
28 ~~inappropriate considering))~~ residence location would be appropriate
29 based on any court-ordered condition of the offender's sentence,
30 victim safety concerns, ~~((negative influences on the offender in the~~
31 ~~community, or the))~~ and factors that increase opportunities for
32 successful reentry and long-term support including, but not limited
33 to, location of family or other sponsoring persons or organizations
34 that will support the offender, availability of appropriate
35 programming or treatment, and access to housing, employment, and
36 prosocial influences on the offender in the community.

37 (b) In implementing the provisions of this subsection, the
38 department shall approve residence locations in a manner that will
39 not cause any one county to be disproportionately impacted.

1 (c) If the offender is not returned to his or her county of
2 origin, the department shall provide the law and justice council of
3 the county in which the offender is placed with a written
4 explanation.

5 ~~((e))~~ (d)(i) For purposes of this section, except as provided
6 in (d)(ii) of this subsection, the offender's county of origin means
7 the county of the offender's residence at the time of the offender's
8 first felony conviction in Washington state.

9 (ii) If the offender is a homeless person as defined in RCW
10 43.185C.010, or the offender's residence is unknown, then the
11 offender's county of origin means the county of the offender's first
12 felony conviction in Washington state.

13 (9) Nothing in this section creates a vested right in
14 programming, education, or other services."

EFFECT: Restores the name of the Offender Reentry Community
Safety Program and restores references to offender throughout the
bill. Makes technical changes so that terminology and references are
consistent.

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