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**SECOND SUBSTITUTE SENATE BILL 5163**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Rolfes, Dhingra, Saldaña, and Wilson, C.)

READ FIRST TIME 02/22/21.

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, 71.09.130, 71.09.140, and 71.09.250;  
4 reenacting and amending RCW 71.09.020; adding new sections to chapter  
5 71.09 RCW; adding a new section to chapter 9.94A RCW; creating a new  
6 section; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that in 2008, the  
9 sex offender policy board was established to provide a more  
10 coordinated and integrated response to sex offender management in  
11 Washington state. The legislature further finds that in March 2020,  
12 the board was convened to review policies and practices related to  
13 sexually violent predators. The legislature recognizes that the board  
14 released a report and a series of recommendations regarding  
15 improvement to the current practice in order to ensure a successful  
16 transition for individuals convicted of sex offenses from total  
17 confinement back into the community. The legislature resolves to  
18 increase community safety through successful transition by enacting  
19 the recommendations of the board and other related policies.

1       **Sec. 2.** RCW 71.09.020 and 2015 c 278 s 2 are each reenacted and  
2 amended to read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Department" means the department of social and health  
6 services.

7       (2) "Fair share principles" and "fair share principles of  
8 release" means that each county has adequate options for conditional  
9 release housing placements in a number generally equivalent to the  
10 number of residents from that county who are subject to total  
11 confinement pursuant to this chapter.

12       (3) "Health care facility" means any hospital, hospice care  
13 center, licensed or certified health care facility, health  
14 maintenance organization regulated under chapter 48.46 RCW, federally  
15 qualified health maintenance organization, federally approved renal  
16 dialysis center or facility, or federally approved blood bank.

17       ~~((3))~~ (4) "Health care practitioner" means an individual or  
18 firm licensed or certified to engage actively in a regulated health  
19 profession.

20       ~~((4))~~ (5) "Health care services" means those services provided  
21 by health professionals licensed pursuant to RCW 18.120.020(4).

22       ~~((5))~~ (6) "Health profession" means those licensed or regulated  
23 professions set forth in RCW 18.120.020(4).

24       ~~((6))~~ (7) "Less restrictive alternative" means court-ordered  
25 treatment in a setting less restrictive than total confinement which  
26 satisfies the conditions set forth in RCW 71.09.092. A less  
27 restrictive alternative may not include placement in the community  
28 protection program as pursuant to RCW 71A.12.230.

29       ~~((7))~~ (8) "Likely to engage in predatory acts of sexual  
30 violence if not confined in a secure facility" means that the person  
31 more probably than not will engage in such acts if released  
32 unconditionally from detention on the sexually violent predator  
33 petition. Such likelihood must be evidenced by a recent overt act if  
34 the person is not totally confined at the time the petition is filed  
35 under RCW 71.09.030.

36       ~~((8))~~ (9) "Mental abnormality" means a congenital or acquired  
37 condition affecting the emotional or volitional capacity which  
38 predisposes the person to the commission of criminal sexual acts in a  
39 degree constituting such person a menace to the health and safety of  
40 others.

1       (~~(9)~~) (10) "Personality disorder" means an enduring pattern of  
2 inner experience and behavior that deviates markedly from the  
3 expectations of the individual's culture, is pervasive and  
4 inflexible, has onset in adolescence or early adulthood, is stable  
5 over time and leads to distress or impairment. Purported evidence of  
6 a personality disorder must be supported by testimony of a licensed  
7 forensic psychologist or psychiatrist.

8       (~~(10)~~) (11) "Predatory" means acts directed towards: (a)  
9 Strangers; (b) individuals with whom a relationship has been  
10 established or promoted for the primary purpose of victimization; or  
11 (c) persons of casual acquaintance with whom no substantial personal  
12 relationship exists.

13       (~~(11)~~) (12) "Prosecuting agency" means the prosecuting attorney  
14 of the county where the person was convicted or charged or the  
15 attorney general if requested by the prosecuting attorney, as  
16 provided in RCW 71.09.030.

17       (~~(12)~~) (13) "Recent overt act" means any act, threat, or  
18 combination thereof that has either caused harm of a sexually violent  
19 nature or creates a reasonable apprehension of such harm in the mind  
20 of an objective person who knows of the history and mental condition  
21 of the person engaging in the act or behaviors.

22       (~~(13)~~) (14) "Risk potential activity" or "risk potential  
23 facility" means an activity or facility that provides a higher  
24 incidence of risk to the public from persons conditionally released  
25 from the special commitment center. Risk potential activities and  
26 facilities include: Public and private schools, school bus stops,  
27 licensed day care and licensed preschool facilities, public parks,  
28 publicly dedicated trails, sports fields, playgrounds, recreational  
29 and community centers, churches, synagogues, temples, mosques, public  
30 libraries, public and private youth camps, and others identified by  
31 the department following the hearings on a potential site required in  
32 RCW 71.09.315. For purposes of this chapter, "school bus stops" does  
33 not include bus stops established primarily for public transit.

34       (~~(14)~~) (15) "Secretary" means the secretary of social and  
35 health services or the secretary's designee.

36       (~~(15)~~) (16) "Secure community transition facility" means a  
37 residential facility for persons civilly committed and conditionally  
38 released to a less restrictive alternative under this chapter. A  
39 secure community transition facility has supervision and security,  
40 and either provides or ensures the provision of sex offender

1 treatment services. Secure community transition facilities include  
2 but are not limited to the facility established pursuant to RCW  
3 71.09.250(1)(a)(i) and any community-based facilities established  
4 under this chapter and operated by the secretary or under contract  
5 with the secretary.

6 ~~((16))~~ (17) "Secure facility" means a residential facility for  
7 persons civilly confined under the provisions of this chapter that  
8 includes security measures sufficient to protect the community. Such  
9 facilities include total confinement facilities, secure community  
10 transition facilities, and any residence used as a court-ordered  
11 placement under RCW 71.09.096.

12 ~~((17))~~ (18) "Sexually violent offense" means an act committed  
13 on, before, or after July 1, 1990, that is: (a) An act defined in  
14 Title 9A RCW as rape in the first degree, rape in the second degree  
15 by forcible compulsion, rape of a child in the first or second  
16 degree, statutory rape in the first or second degree, indecent  
17 liberties by forcible compulsion, indecent liberties against a child  
18 under age fourteen, incest against a child under age fourteen, or  
19 child molestation in the first or second degree; (b) a felony offense  
20 in effect at any time prior to July 1, 1990, that is comparable to a  
21 sexually violent offense as defined in (a) of this subsection, or any  
22 federal or out-of-state conviction for a felony offense that under  
23 the laws of this state would be a sexually violent offense as defined  
24 in this subsection; (c) an act of murder in the first or second  
25 degree, assault in the first or second degree, assault of a child in  
26 the first or second degree, kidnapping in the first or second degree,  
27 burglary in the first degree, residential burglary, or unlawful  
28 imprisonment, which act, either at the time of sentencing for the  
29 offense or subsequently during civil commitment proceedings pursuant  
30 to this chapter, has been determined beyond a reasonable doubt to  
31 have been sexually motivated, as that term is defined in RCW  
32 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is  
33 an attempt, criminal solicitation, or criminal conspiracy to commit  
34 one of the felonies designated in (a), (b), or (c) of this  
35 subsection.

36 ~~((18))~~ (19) "Sexually violent predator" means any person who  
37 has been convicted of or charged with a crime of sexual violence and  
38 who suffers from a mental abnormality or personality disorder which  
39 makes the person likely to engage in predatory acts of sexual  
40 violence if not confined in a secure facility.

1       (~~(19)~~) (20) "Total confinement facility" means a secure  
2 facility that provides supervision and sex offender treatment  
3 services in a total confinement setting. Total confinement facilities  
4 include the special commitment center and any similar facility  
5 designated as a total confinement facility by the secretary.

6       (~~(20)~~) (21) "Treatment" means the sex offender specific  
7 treatment program at the special commitment center or a specific  
8 course of sex offender treatment pursuant to RCW 71.09.092 (1) and  
9 (2).

10       **Sec. 3.** RCW 71.09.080 and 2012 c 257 s 6 are each amended to  
11 read as follows:

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

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

22       (b) A person who is prohibited from possessing or accessing a  
23 personal computer under (a) of this subsection shall be permitted to  
24 access a limited functioning personal computer capable of word  
25 processing and limited data storage on the computer only that does  
26 not have: (i) Internet access capability; (ii) an optical drive,  
27 external drive, universal serial bus port, or similar drive  
28 capability; or (iii) the capability to display photographs, images,  
29 videos, or motion pictures, or similar display capability from any  
30 drive or port capability listed under (b)(ii) of this subsection.

31       (3) Any person committed pursuant to this chapter has the right  
32 to adequate care (~~and~~), individualized treatment, and the  
33 development of an ongoing, clinically appropriate discharge plan as  
34 part of the treatment process. The department of social and health  
35 services shall keep records detailing all medical, expert, and  
36 professional care and treatment received by a committed person, and  
37 shall keep copies of all reports of periodic examinations made  
38 pursuant to this chapter. All such records and reports shall be made  
39 available upon request only to: The committed person, his or her

1 attorney, the prosecuting agency, the court, the protection and  
2 advocacy agency, or another expert or professional person who, upon  
3 proper showing, demonstrates a need for access to such records.

4 (4) The right to the development of a discharge plan under  
5 subsection (3) of this section does not guarantee that any particular  
6 person will be determined appropriate for discharge at any particular  
7 time. Individualized and ongoing discharge planning requires, at a  
8 minimum, and as part of a person's treatment plan, the following are  
9 addressed based on information known to the department and in  
10 accordance with policies developed by the department to implement  
11 this subsection:

12 (a) The resident's physical health, functioning, and any need for  
13 health aid devices;

14 (b) The resident's intellectual or cognitive level of functioning  
15 and need for specialized programming;

16 (c) The resident's history of substance use and abuse;

17 (d) The resident's known history of risky or impulsive behaviors,  
18 criminogenic needs, and treatment interventions to address them;

19 (e) The resident's ability to perform life skills and activities  
20 of daily living independently and the resident's need for any  
21 disability accommodations;

22 (f) A summary of the community services and supports the resident  
23 needs for a safe life in the community and the type of providers of  
24 such services and support; and

25 (g) A plan to mitigate the needs identified in this subsection  
26 that also addresses ways to develop or increase social supports,  
27 recreation opportunities, gainful employment, and if applicable,  
28 spiritual opportunities.

29 (5) At the time a person is taken into custody or transferred  
30 into a facility pursuant to a petition under this chapter, the  
31 professional person in charge of such facility or his or her designee  
32 shall take reasonable precautions to inventory and safeguard the  
33 personal property of the persons detained or transferred. A copy of  
34 the inventory, signed by the staff member making it, shall be given  
35 to the person detained and shall, in addition, be open to inspection  
36 to any responsible relative, subject to limitations, if any,  
37 specifically imposed by the detained person. For purposes of this  
38 subsection, "responsible relative" includes the guardian,  
39 conservator, attorney, spouse, parent, adult child, or adult brother  
40 or sister of the person. The facility shall not disclose the contents

1 of the inventory to any other person without consent of the patient  
2 or order of the court.

3 ~~((+5))~~ (6) Nothing in this chapter prohibits a person presently  
4 committed from exercising a right presently available to him or her  
5 for the purpose of obtaining release from confinement, including the  
6 right to petition for a writ of habeas corpus.

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

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

22 **Sec. 4.** RCW 71.09.090 and 2018 c 131 s 2 are each amended to  
23 read as follows:

24 (1) (a) If the secretary determines that the person's condition  
25 has so changed that ~~((either: (a) The))~~ the person no longer meets  
26 the definition of a sexually violent predator ~~((; or (b) conditional  
27 release to a less restrictive alternative is in the best interest of  
28 the person and conditions can be imposed that adequately protect the  
29 community))~~, the secretary shall authorize the person to petition the  
30 court for ~~((conditional release to a less restrictive alternative  
31 or))~~ unconditional discharge. The petition shall be filed with the  
32 court and served upon the prosecuting agency responsible for the  
33 initial commitment. The court, upon receipt of the petition for  
34 ~~((conditional release to a less restrictive alternative or))~~  
35 unconditional discharge, shall within ~~((forty-five))~~ 45 days order a  
36 hearing.

37 (b) If the secretary determines that the person's condition has  
38 so changed that conditional release to a less restrictive alternative  
39 is in the best interest of the person and conditions can be imposed

1 that adequately protect the community, then the secretary shall  
2 authorize the person to petition the court for conditional release to  
3 a less restrictive alternative. Upon receipt of the petition, the  
4 court shall order the department to, within 90 days, identify a less  
5 restrictive alternative placement that satisfies RCW 71.09.092 (1)  
6 through (4). Once identified, notice of the placement shall be filed  
7 with the court and served upon the prosecuting agency responsible for  
8 the initial commitment as well as the person and his or her counsel.  
9 If the department cannot identify a placement available to the person  
10 that satisfies RCW 71.09.092 (1) through (4) within 90 days, the  
11 department shall provide a written certification to the court, the  
12 prosecuting agency responsible for the initial commitment, and the  
13 person and his or her counsel, detailing the efforts of the  
14 department to identify a qualifying placement. Upon the department's  
15 certification, the person may propose a placement that satisfies RCW  
16 71.09.092 (1) through (3). After a less restrictive placement has  
17 been proposed by either the department or the person, the court shall  
18 within 45 days order a hearing.

19 (2)(a) Nothing contained in this chapter shall prohibit the  
20 person from otherwise petitioning the court for conditional release  
21 to a less restrictive alternative or unconditional discharge without  
22 the secretary's approval. The secretary shall provide the committed  
23 person with an annual written notice of the person's right to  
24 petition the court for conditional release to a less restrictive  
25 alternative or unconditional discharge over the secretary's  
26 objection. The notice shall contain a waiver of rights. The secretary  
27 shall file the notice and waiver form and the annual report with the  
28 court. If the person does not affirmatively waive the right to  
29 petition, the court shall set a show cause hearing to determine  
30 whether probable cause exists to warrant a hearing on whether the  
31 person's condition has so changed that: (i) He or she no longer meets  
32 the definition of a sexually violent predator; or (ii) conditional  
33 release to a proposed less restrictive alternative would be in the  
34 best interest of the person and conditions can be imposed that would  
35 adequately protect the community.

36 (b)(i) The committed person shall have a right to have an  
37 attorney represent him or her at the show cause hearing, which may be  
38 conducted solely on the basis of affidavits or declarations, but the  
39 person is not entitled to be present at the show cause hearing. At  
40 the show cause hearing, the prosecuting agency shall present prima



1 facie evidence establishing: (A) That the committed person continues  
2 to meet the definition of a sexually violent predator; and (B) that a  
3 less restrictive alternative is not in the best interest of the  
4 person and conditions cannot be imposed that adequately protect the  
5 community.

6 (ii)(A) If the state produces prima facie evidence that the  
7 committed person continues to be a sexually violent predator, then  
8 the state's burden under (b)(i)(A) of this subsection is met and an  
9 unconditional release trial may not be ordered unless the committed  
10 person produces evidence satisfying: Subsection (4)(a) of this  
11 section; and subsection (4)(b) (i) or (ii) of this section.

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

17 (I) Produces evidence satisfying: Subsection (4)(a) of this  
18 section; and subsection (4)(b) (i) or (ii) of this section; and

19 (II) Presents the court with a specific placement satisfying the  
20 requirements of RCW 71.09.092.

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

25 (c)(i) If the court at the show cause hearing determines that  
26 either: ~~((+))~~ (A) The state has failed to present prima facie  
27 evidence that the committed person continues to meet the definition  
28 of a sexually violent predator ~~((and that no proposed less  
29 restrictive alternative is in the best interest of the person and  
30 conditions cannot be imposed that would adequately protect the  
31 community))~~; or ~~((+))~~ (B) probable cause exists to believe that  
32 the person's condition has so changed that ~~((:-(A) The))~~ the person no  
33 longer meets the definition of a sexually violent predator ~~((; or (B)  
34 release to a proposed less restrictive alternative would be in the  
35 best interest of the person and conditions can be imposed that would  
36 adequately protect the community))~~, then the court shall set a  
37 hearing on ~~((either or both issues))~~ the issue of unconditional  
38 discharge.

39 (ii) If the court at the show cause hearing determines that the  
40 state has failed to present prima facie evidence that no proposed

1 less restrictive alternative is in the best interest of the person  
2 and conditions cannot be imposed that would adequately protect the  
3 community, the court shall enter an order directing the department to  
4 propose a less restrictive alternative that satisfies RCW 71.09.092  
5 (1) through (4) within 90 days. If the department cannot identify a  
6 placement available to the person that satisfies RCW 71.09.092 (1)  
7 through (4) within 90 days, the department shall provide a written  
8 certification to the court, the prosecuting agency responsible for  
9 the initial commitment, and the person and his or her counsel,  
10 detailing the efforts of the department to identify a qualifying  
11 placement. Upon the department's certification, the person may  
12 propose a placement that satisfies RCW 71.09.092 (1) through (3).  
13 After a less restrictive placement has been proposed by either the  
14 department or the person, the court shall set a hearing on the issue  
15 of conditional release.

16 (iii) If the court at the show cause hearing determines, based on  
17 the evidence submitted by the person, that probable cause exists to  
18 believe that release to a less restrictive alternative would be in  
19 the best interest of the person and conditions can be imposed that  
20 would adequately protect the community, the court shall set a hearing  
21 on the issue of conditional release if the person presents the court  
22 with a specific placement that satisfies the requirements of RCW  
23 71.09.092.

24 (d) If the court has not previously considered the issue of  
25 release to a less restrictive alternative, either through a trial on  
26 the merits or through the procedures set forth in RCW 71.09.094(1),  
27 or if an immediately preceding less restrictive alternative was  
28 revoked due to the loss of adequate housing or treatment for reasons  
29 other than noncompliance with housing requirements, treatment, or  
30 other conditions of the less restrictive alternative, the court shall  
31 consider whether release to a less restrictive alternative would be  
32 in the best interests of the person and conditions can be imposed  
33 that would adequately protect the community, without considering  
34 whether the person's condition has changed. (~~The court may not find~~  
35 ~~probable cause for a trial addressing less restrictive alternatives~~  
36 ~~unless a proposed less restrictive alternative placement meeting the~~  
37 ~~conditions of RCW 71.09.092 is presented to the court at the show~~  
38 ~~cause hearing.))~~

39 (3) (a) At the hearing resulting from subsection (1) or (2) of  
40 this section, the committed person shall be entitled to be present

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

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

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

39 (d) If the issue at the hearing is whether the person should be  
40 conditionally released to a less restrictive alternative, the burden

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

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

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

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

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

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

36 (5) When the court enters an order for unconditional discharge of  
37 a person from an immediately preceding less restrictive placement,  
38 the court must direct the clerk to transmit a copy of the order to  
39 the department of corrections for discharge process and termination  
40 of cause.

1        (6) The jurisdiction of the court over a person civilly committed  
2 pursuant to this chapter continues until such time as the person is  
3 unconditionally discharged.

4        ~~((+6+))~~ (7) During any period of confinement pursuant to a  
5 criminal conviction, or for any period of detention awaiting trial on  
6 criminal charges, this section is suspended.

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

9        Before the court may enter an order directing conditional release  
10 to a less restrictive alternative, it must find the following: (1)  
11 The person will be treated by a treatment provider who is qualified  
12 to provide such treatment in the state of Washington under chapter  
13 18.155 RCW; (2) the treatment provider has presented a specific  
14 course of treatment and has agreed to assume responsibility for such  
15 treatment and will report progress to the court on a regular basis,  
16 and will report violations immediately to the court, the prosecutor,  
17 the supervising community corrections officer, and the superintendent  
18 of the special commitment center; (3) housing exists in Washington  
19 that is sufficiently secure to protect the community, and the person  
20 or agency providing housing to the conditionally released person has  
21 agreed in writing to accept the person, to provide the level of  
22 security required by the court, and immediately to report to the  
23 court, the prosecutor, the supervising community corrections officer,  
24 and the superintendent of the special commitment center if the person  
25 leaves the housing to which he or she has been assigned without  
26 authorization; (4) if the department has proposed housing that is  
27 outside of the county of commitment, a documented effort was made by  
28 the department to ensure that placement is consistent with fair share  
29 principles of release; (5) the person is willing to comply with the  
30 treatment provider and all requirements imposed by the treatment  
31 provider and by the court; and ~~((+5+))~~ (6) the person will be under  
32 the supervision of the department of corrections and is willing to  
33 comply with supervision requirements imposed by the department of  
34 corrections.

35        **Sec. 6.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to  
36 read as follows:

37        (1) If the court or jury determines that conditional release to a  
38 less restrictive alternative is in the best interest of the person

1 and includes conditions that would adequately protect the community,  
2 and the court determines that the minimum conditions set forth in RCW  
3 71.09.092 and in this section are met, the court shall enter judgment  
4 and direct a conditional release.

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

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

23 (4) (a) Prior to authorizing any release to a less restrictive  
24 alternative, the court shall impose such conditions upon the person  
25 as are necessary to ensure the safety of the community. In imposing  
26 conditions, the court must consider whether it is necessary to impose  
27 a restriction on the proximity of the person's residence to public or  
28 private schools providing instruction to kindergarten or any grades  
29 one through 12 in accordance with RCW 72.09.340. The court shall  
30 order the department of corrections to investigate the less  
31 restrictive alternative and, within 60 days of the order to  
32 investigate, recommend any additional conditions to the court. These  
33 conditions shall be individualized to address the person's specific  
34 risk factors and criminogenic needs and may include, but are not  
35 limited to the following: Specification of residence or restrictions  
36 on residence, specification of contact with a reasonable number of  
37 individuals upon the person's request who are verified by the  
38 department of corrections to be appropriate social contacts,  
39 prohibition of contact with potential or past victims, prohibition of  
40 alcohol and other drug use, participation in a specific course of

1 inpatient or outpatient treatment that may include monitoring by the  
2 use of polygraph and plethysmograph, monitoring through the use of  
3 global positioning (~~(satellite [global positioning system])~~) system  
4 technology, supervision by a department of corrections community  
5 corrections officer, a requirement that the person remain within the  
6 state unless the person receives prior authorization by the court,  
7 and any other conditions that the court determines are in the best  
8 interest of the person or others. A copy of the conditions of release  
9 shall be given to the person and to any designated service providers.

10 (b) To the greatest extent possible, the person, person's  
11 counsel, prosecuting agency responsible for the initial commitment,  
12 treatment provider, supervising community corrections officer, and  
13 appropriate clinical staff of the special commitment center shall  
14 meet and collaborate to craft individualized, narrowly tailored, and  
15 empirically based conditions to present to the court to help  
16 facilitate the person's successful transition to the community.

17 (5) (a) Prior to authorizing release to a less restrictive  
18 alternative proposed by the department, the court shall consider  
19 whether (~~it is appropriate to release the person to the person's~~  
20 ~~county of commitment~~) the person's less restrictive alternative  
21 placement is in accordance with fair share principles. To ensure  
22 equitable distribution of releases, and prevent the disproportionate  
23 grouping of persons subject to less restrictive orders in any one  
24 county, or in any one jurisdiction or community within a county, the  
25 legislature finds it is appropriate for releases to a less  
26 restrictive alternative to occur in (~~the person's county of~~  
27 ~~commitment, unless~~) a manner that adheres to fair share principles.  
28 The legislature recognizes that there may be reasons why the  
29 department may not recommend that a person be released to his or her  
30 county of commitment, including availability of individualized  
31 resources, the person's support needs, or when the court determines  
32 that the person's return to his or her county of commitment would be  
33 inappropriate considering any court-issued protection orders, victim  
34 safety concerns that cannot be addressed through use of global  
35 positioning system technology, the ((availability)) unavailability of  
36 appropriate treatment or facilities that would adequately protect the  
37 community, negative influences on the person, ((~~or~~)) and the location  
38 of family or other persons or organizations offering support to the  
39 person. If the court authorizes conditional release based on the  
40 department's proposal to a county other than the county of

1 commitment, the court shall enter specific findings regarding its  
2 decision and identify whether the release remains in line with fair  
3 share principles.

4 (b) (i) When the department ((or court assists in developing a))  
5 develops a less restrictive alternative placement under this section  
6 ((which is outside of the county of commitment, and there are two or  
7 more options for placement, it shall endeavor to develop the  
8 placement in a manner that does not have a disproportionate effect on  
9 a single county)), it shall attempt to identify a placement  
10 satisfying the requirements of RCW 71.09.092 that is aligned with  
11 fair share principles. The department shall document its rationale  
12 for the recommended placement.

13 (ii) If the department does not support or recommend conditional  
14 release to a less restrictive alternative due to a clinical  
15 determination, the department shall document its objection and  
16 certify that the department is developing the less restrictive  
17 alternative pursuant to a court order and not because of a clinical  
18 determination.

19 (iii) When the department develops or proposes a less restrictive  
20 alternative placement under this chapter, it shall be considered a  
21 predisposition recommendation.

22 (iv) In developing, modifying, and enforcing less restrictive  
23 alternatives, the department shall be deemed to be performing a  
24 quasi-judicial function.

25 ((b)) (c) If the committed person is not conditionally released  
26 to his or her county of commitment, the department shall provide the  
27 law and justice council of the county in which the person is  
28 conditionally released with notice and a written explanation,  
29 including whether the department remains in compliance with fair  
30 share principles regarding releases under this chapter.

31 ((e)) (d) For purposes of this section, the person's county of  
32 commitment means the county of the court which ordered the person's  
33 commitment.

34 ((d)) (e) This subsection (5) does not apply to releases to a  
35 secure community transition facility under RCW 71.09.250.

36 (6) (a) When ordered by the court, the department must provide  
37 less restrictive alternative treatment that includes, at a minimum:

38 (i) The services identified in the person's discharge plan as  
39 outlined in RCW 71.09.080(4);

40 (ii) The assignment of a community care coordinator;



1 (iii) Regular contacts with providers of court-ordered treatment  
2 services;

3 (iv) Community escorts, if needed;

4 (v) A transition plan that addresses the person's access to  
5 continued services upon unconditional discharge;

6 (vi) Financial support for necessary housing;

7 (vii) Life skills training and disability accommodations, if  
8 needed; and

9 (viii) Assistance in pursuing benefits, education, and  
10 employment.

11 (b) At the time the department of corrections is ordered to  
12 investigate a proposed less restrictive alternative placement,  
13 subject to the availability of amounts appropriated for this specific  
14 purpose, the department shall assign a social worker to assist the  
15 person with discharge planning, pursuing benefits, and coordination  
16 of care prior to release.

17 (i) The social worker shall assist the person with completing  
18 applications for benefits prior to the person's release from total  
19 confinement.

20 (ii) To promote continuity of care and the individual's success  
21 in the community, the department social worker shall be responsible  
22 for initiating a clinical transition of care between the last  
23 treating clinician at the special commitment center and the person's  
24 designated community treatment provider. This transition between one  
25 clinical setting to another shall occur no later than 15 days before  
26 an individual's release from the special commitment center.

27 (iii) If applicable, the social worker shall assist the person  
28 with locating any needed disability accommodations in the community  
29 and with obtaining resources to help address the person's identified  
30 life skills needs prior to release from total confinement.

31 (7) Any service provider designated to provide inpatient or  
32 outpatient treatment shall monthly, or as otherwise directed by the  
33 court, submit to the court, to the department of social and health  
34 services facility from which the person was released, to the  
35 prosecuting agency, and to the supervising community corrections  
36 officer, a report stating whether the person is complying with the  
37 terms and conditions of the conditional release to a less restrictive  
38 alternative.

39 ((+7)) (8) Each person released to a less restrictive  
40 alternative shall have his or her case reviewed by the court that

1 released him or her no later than one year after such release and  
2 annually thereafter until the person is unconditionally discharged.  
3 Review may occur in a shorter time or more frequently, if the court,  
4 in its discretion on its own motion, or on motion of the person, the  
5 secretary, or the prosecuting agency so determines. The (~~sole~~  
6 ~~question~~) questions to be determined by the court (~~is~~) are whether  
7 the person shall continue to be conditionally released to a less  
8 restrictive alternative, and if so, whether a modification to the  
9 person's less restrictive alternative order is appropriate to ensure  
10 the conditional release remains in the best interest of the person  
11 and adequate to protect the community. The court in making its  
12 determination shall be aided by the periodic reports filed pursuant  
13 to subsection (~~(+6)~~) (7) of this section and the opinions of the  
14 secretary and other experts or professional persons.

15 **Sec. 7.** RCW 71.09.130 and 1995 c 216 s 16 are each amended to  
16 read as follows:

17 (1) In the event of an escape by a person committed under this  
18 chapter from a state institution or the disappearance of such a  
19 person while on conditional release, the superintendent or community  
20 corrections officer shall notify the following as appropriate: Local  
21 law enforcement officers, other governmental agencies, the person's  
22 relatives, and any other appropriate persons about information  
23 necessary for the public safety or to assist in the apprehension of  
24 the person.

25 (2) If a person committed under this chapter disappears while on  
26 conditional release, the department of corrections may enter a  
27 warrant for the person's arrest for up to 72 hours pending entry of a  
28 bench warrant by the court.

29 (3) The department of corrections, its officers, agents, and  
30 employees are not liable for the acts of individuals on conditional  
31 release unless the department of corrections, its officers, agency,  
32 and employees acted with gross negligence.

33 **Sec. 8.** RCW 71.09.140 and 2012 c 257 s 12 are each amended to  
34 read as follows:

35 (1) (a) At the earliest possible date, and in no event later than  
36 (~~(thirty)~~) 30 days before conditional release, change of address for  
37 a person on conditional release, or unconditional discharge, except  
38 in the event of escape, the department of social and health services

1 shall send written notice of conditional release, unconditional  
2 discharge, or escape, to the following:

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

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

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

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

16 (b) A return to total confinement or to a secure community  
17 transition facility pending revocation or modification proceedings is  
18 not considered a change of address for purposes of (a) of this  
19 subsection, and an additional community notification process is not  
20 required, unless conditional release is revoked under RCW 71.09.098  
21 or the return lasts longer than 90 days.

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

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

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

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

33 Information regarding victims, next of kin, or witnesses  
34 requesting the notice, information regarding any other person  
35 specified in writing by the prosecuting agency to receive the notice,  
36 and the notice are confidential and shall not be available to the  
37 committed person.

38 (3) If a person committed as a sexually violent predator under  
39 this chapter escapes from a department of social and health services  
40 facility, the department shall immediately notify, by the most

1 reasonable and expedient means available, the chief of police of the  
2 city and the sheriff of the county in which the committed person  
3 resided immediately before his or her commitment as a sexually  
4 violent predator, or immediately before his or her incarceration for  
5 his or her most recent offense. If previously requested, the  
6 department shall also notify the witnesses and the victims of the  
7 sexually violent offenses for which the person was convicted in the  
8 past or the victim's next of kin if the crime was a homicide. If the  
9 person is recaptured, the department shall send notice to the persons  
10 designated in this subsection as soon as possible but in no event  
11 later than two working days after the department learns of such  
12 recapture.

13 (4) If the victim or victims of any sexually violent offenses for  
14 which the person was convicted in the past or the victim's next of  
15 kin, or any witness is under the age of (~~sixteen~~) 16, the notice  
16 required by this section shall be sent to the parents or legal  
17 guardian of the child.

18 (5) The department of social and health services shall send the  
19 notices required by this chapter to the last address provided to the  
20 department by the requesting party. The requesting party shall  
21 furnish the department with a current address.

22 (6) Nothing in this section shall impose any liability upon a  
23 chief of police of a city or sheriff of a county for failing to  
24 request in writing a notice as provided in subsection (1) of this  
25 section.

26 **Sec. 9.** RCW 71.09.250 and 2003 c 216 s 3 are each amended to  
27 read as follows:

28 (1)(a) The secretary is authorized to site, construct, occupy,  
29 and operate (i) a secure community transition facility on McNeil  
30 Island for persons authorized to petition for a less restrictive  
31 alternative under RCW 71.09.090(1) and who are conditionally  
32 released; and (ii) a special commitment center on McNeil Island with  
33 up to four hundred four beds as a total confinement facility under  
34 this chapter, subject to appropriated funding for those purposes. The  
35 secure community transition facility shall be authorized for the  
36 number of beds needed to ensure compliance with the orders of the  
37 superior courts under this chapter and the federal district court for  
38 the western district of Washington. The total number of beds in the  
39 secure community transition facility shall be limited to (~~twenty-~~

1 ~~four~~) 24, consisting of up to (~~fifteen~~) 15 transitional beds and  
2 up to nine pretransitional beds. The residents occupying the  
3 transitional beds shall be the only residents eligible for  
4 transitional services occurring in Pierce county. In no event shall  
5 more than (~~fifteen~~) 15 residents of the secure community transition  
6 facility be participating in off-island transitional, educational, or  
7 employment activity at the same time in Pierce county. The department  
8 shall provide the Pierce county sheriff, or his or her designee, with  
9 a list of the (~~fifteen~~) 15 residents so designated, along with  
10 their photographs and physical descriptions, and the list shall be  
11 immediately updated whenever a residential change occurs. The Pierce  
12 county sheriff, or his or her designee, shall be provided an  
13 opportunity to confirm the residential status of each resident  
14 leaving McNeil Island.

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

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

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

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

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

37 (4) To the greatest extent possible, until June 30, 2003, persons  
38 who were not civilly committed from the county in which the secure  
39 community transition facility established pursuant to subsection (1)

1 of this section is located may not be conditionally released to a  
2 setting in that same county less restrictive than that facility.

3 (5) As of June 26, 2001, the state shall immediately cease any  
4 efforts in effect on such date to site secure community transition  
5 facilities, other than the facility authorized by subsection (1) of  
6 this section, and shall instead site such facilities in accordance  
7 with the provisions of this section.

8 (6) The department must:

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

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

16 (7)(a) The total number of secure community transition facility  
17 beds that may be required to be sited in a county between June 26,  
18 2001, and June 30, 2008, may be no greater than the total number of  
19 persons civilly committed from that county, or detained at the  
20 special commitment center under a pending civil commitment petition  
21 from that county where a finding of probable cause had been made on  
22 April 1, 2001. The total number of secure community transition  
23 facility beds required to be sited in each county between July 1,  
24 2008, and June 30, 2015, may be no greater than the total number of  
25 persons civilly committed from that county or detained at the special  
26 commitment center under a pending civil commitment petition from that  
27 county where a finding of probable cause had been made as of July 1,  
28 2008.

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

37 (c) No secure community transition facilities in addition to the  
38 one established in subsection (1) of this section may be required to  
39 be sited in the county where the special commitment center is located  
40 until after June 30, 2008, provided however, that the county and its

1 cities may elect to site additional secure community transition  
2 facilities and shall be eligible under the incentive provisions of  
3 RCW 71.09.255 for any additional facilities meeting the requirements  
4 of that section.

5 (8) After the department demonstrates the need for additional bed  
6 capacity to the appropriate committees of the legislature, and  
7 receives approval and funding from the appropriate committees of the  
8 legislature to build additional bed capacity, the state is authorized  
9 to site and operate secure community transition facilities and other  
10 conditional release and transitional facilities in any county in the  
11 state in accordance with RCW 71.09.315. In identifying potential  
12 counties and sites within a county for the location of a secure  
13 community transition facility or other conditional release and  
14 transitional facilities, the department shall work with and assist  
15 local governments to provide for the equitable distribution of such  
16 facilities. In coordinating and deciding upon the siting of secure  
17 community transition facilities or other conditional release and  
18 transitional facilities within a county, great weight shall be given  
19 by the county and cities within the county to:

20 (a) The number and location of existing residential facility beds  
21 operated by the department of corrections or the mental health  
22 division of the department of social and health services in each  
23 jurisdiction in the county; and

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

27 (9) (a) "Equitable distribution" means siting or locating secure  
28 community transition facilities and other conditional release and  
29 transitional facilities in a manner that will not cause a  
30 disproportionate grouping of similar facilities either in any one  
31 county, or in any one jurisdiction or community within a county, as  
32 relevant; and

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

36 NEW SECTION. Sec. 10. A new section is added to chapter 71.09  
37 RCW to read as follows:

38 To facilitate the primary role of the department in identifying  
39 less restrictive alternative placements under RCW 71.09.090 and

1 discharge planning under RCW 71.09.080, subject to the availability  
2 of amounts appropriated for this specific purpose, the department  
3 shall conduct a study to explore the development of conditional  
4 release and transition facilities, which may include community-based  
5 state-operated living alternatives similar to the state-operated  
6 living alternative program operated by the developmental disabilities  
7 administration. Any facilities or placements developed under this  
8 section may be identified through a request for proposal process or  
9 through direct state acquisition and development. Any contracts with  
10 facilities or placements entered into under this section shall  
11 include a provision requiring oversight by the department to ensure  
12 the programs are operating appropriately.

13 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.09  
14 RCW to read as follows:

15 (1) In accordance with RCW 71.09.090 and 71.09.096, the  
16 department shall have the primary responsibility for developing a  
17 less restrictive alternative placement. To ensure the department has  
18 sufficient less restrictive alternative placements to choose from  
19 that satisfy the requirements of RCW 71.09.092, subject to the  
20 availability of amounts appropriated for this specific purpose, the  
21 department shall use a request for proposal process to solicit and  
22 contract with housing and treatment providers from across the state  
23 and facilitate fair share principles among the counties. Any secure  
24 community transition facilities developed under this section shall  
25 include written verification from the applicable local planning  
26 department to document the facilities comply with applicable building  
27 and zoning codes and must be identified in accordance with RCW  
28 71.09.315. In order to increase the number of housing options for  
29 individuals qualifying for a less restrictive alternative, the  
30 department shall have oversight of the vendors and providers who  
31 contract with the state, including the authority to inspect and  
32 ensure compliance, negotiate the rates charged for services, ensure  
33 adequate living conditions of housing locations, and terminate  
34 contracts. The department shall maintain a statewide accounting of  
35 the contracted community housing and treatment providers in each  
36 county and provide a biannual report to the legislature and governor  
37 by December 1st on the availability and adequacy of less restrictive  
38 alternative placements and the department's compliance with fair  
39 share principles.



1 (2) To facilitate its duties required under this section, the  
2 department shall use the following housing matrix and considerations  
3 as a guide to planning and developing less restrictive alternative  
4 placements. The following considerations may not be used as a reason  
5 to deny a less restrictive alternative placement.

6 (a) Considerations for evaluating a proposed vendor's application  
7 for less restrictive alternative housing services shall include  
8 applicable state and written verification from the applicable local  
9 planning department to document the facilities comply with applicable  
10 zoning and building codes, general housing requirements, availability  
11 of public services, and other considerations identified in accordance  
12 with RCW 71.09.315.

13 (i) General housing requirements include running water,  
14 electricity, bedroom and living space of adequate size, and no mold  
15 or infestations.

16 (ii) Availability of public services include availability of  
17 chaperones and whether the placement is within a reasonable distance  
18 to a grocery store, bank, public transportation options, and offices  
19 for public services and benefits.

20 (iii) Other considerations include whether the placement is  
21 consistent with fair share principles across the counties, whether  
22 the placement is within reasonable distance to other current or  
23 planned components of the less restrictive alternative, whether the  
24 placement is within reasonable distance to employment opportunities,  
25 and the reliability of global positioning system technology.

26 (b) Factors for evaluating less restrictive alternative options  
27 for a specific individual include sex offender treatment  
28 considerations, criminogenic needs and risk factors, protective  
29 factors, and the specific needs of the client.

30 (i) Sex offender treatment considerations include whether the  
31 housing is within a reasonable distance from the treatment provider,  
32 whether the treatment provider is a good therapeutic match with the  
33 client, and whether the treatment provider has relevant experience  
34 and background to treat the client if the client has special needs.

35 (ii) Criminogenic needs and risk factors include consideration of  
36 the person's specific needs and risk factors in evaluating less  
37 restrictive alternative options.

38 (iii) Protective factors include whether housing is within a  
39 reasonable distance of family, friends, potential hobbies, potential  
40 employment, and educational opportunities.

1 (iv) Consideration of the client's specific needs includes  
2 assessing the availability of personal care assistance and in-home  
3 care assistance, and whether housing is within a reasonable distance  
4 of mental health, medical treatment options, and substance use  
5 disorder treatment options.

6 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.09  
7 RCW to read as follows:

8 (1) The department shall enter into a memorandum of understanding  
9 with the department of licensing to allow residents in total  
10 confinement at the special commitment center to obtain a state  
11 identification card through a written identification verification  
12 letter completed by the special commitment center and delivered to  
13 the department of licensing.

14 (2) The process shall occur upon the person's initial detention  
15 at the special commitment center. The process shall reoccur when the  
16 person's state identification card expires.

17 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.09  
18 RCW to read as follows:

19 (1) Subject to the availability of amounts appropriated for this  
20 specific purpose, the department, the sex offender policy board, and  
21 department of health shall convene a work group to develop  
22 recommendations to increase the availability and quality of sex  
23 offender treatment providers to meet the growing number of persons  
24 qualifying for conditional release to a less restrictive alternative.  
25 The work group shall gather data on best practices in other states  
26 and make recommendations whether sex offender treatment providers  
27 should be required to contract with the department; whether annual or  
28 biannual trainings by the department should be mandatory for  
29 prospective and existing sex offender treatment providers; whether  
30 the department should provide competitive wages for services or pay  
31 that is commensurate with the years of experience or education level  
32 of the treatment provider; and whether the department should provide  
33 other incentives such as a cost-of-living pay increase or  
34 compensating providers for the cost of mandated trainings associated  
35 with the sex offender treatment provider license under chapter 18.155  
36 RCW. A report shall be submitted to the legislature by December 1,  
37 2021.

38 (2) This section expires June 30, 2022.

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

3        (1) In accordance with RCW 9.94A.8673, the sex offender policy  
4    board shall meet quarterly during the 2021-2023 biennium to continue  
5    its review of sexually violent predators and less restrictive  
6    alternative policies and best practices, collaborate with  
7    stakeholders and the department, provide outreach to providers and  
8    stakeholders, and monitor implementation of this act. The board shall  
9    also explore and make recommendations whether to continue or remove  
10   the prohibition on a less restrictive alternative from including a  
11   placement in the community protection program pursuant to RCW  
12   71A.12.230. The board shall provide semiannual updates to the  
13   appropriate committees of the legislature during the 2021-2023  
14   biennium.

15        (2) This section expires June 30, 2023.

16        NEW SECTION.    **Sec. 15.**    A new section is added to chapter 9.94A  
17    RCW to read as follows:

18        (1) In accordance with section 14 of this act, the sex offender  
19    policy board shall meet quarterly during the 2021-2023 biennium to  
20    continue its review of sexually violent predators and less  
21    restrictive alternative policies and best practices, collaborate with  
22    stakeholders and the department, provide outreach to providers and  
23    stakeholders, and monitor implementation of this act. The board shall  
24    provide semiannual updates to the appropriate committees of the  
25    legislature during the 2021-2023 biennium.

26        (2) This section expires June 30, 2023.

--- END ---