
HOUSE BILL 1457

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By Representatives Griffey, Couture, Burnett, Graham, Leavitt, Davis, Caldier, Jacobsen, Klicker, Eslick, and Simmons

Read first time 01/21/25. Referred to Committee on Community Safety.

1 AN ACT Relating to improving community safety by requiring
2 electronic monitoring of sexually violent predators granted
3 conditional release to a less restrictive alternative; and amending
4 RCW 71.09.096.

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

6 **Sec. 1.** RCW 71.09.096 and 2021 c 236 s 6 are each amended to
7 read as follows:

8 (1) If the court or jury determines that conditional release to a
9 less restrictive alternative is in the best interest of the person
10 and includes conditions that would adequately protect the community,
11 and the court determines that the minimum conditions set forth in RCW
12 71.09.092 and in this section are met, the court shall enter judgment
13 and direct a conditional release.

14 (2) The court shall impose any additional conditions necessary to
15 ensure compliance with treatment and to protect the community. If the
16 court finds that conditions do not exist that will both ensure the
17 person's compliance with treatment and protect the community, then
18 the person shall be remanded to the custody of the department of
19 social and health services for control, care, and treatment in a
20 secure facility as designated in RCW 71.09.060(1).

1 (3) If the service provider designated by the court to provide
2 inpatient or outpatient treatment or to monitor or supervise any
3 other terms and conditions of a person's placement in a less
4 restrictive alternative is other than the department of social and
5 health services or the department of corrections, then the service
6 provider so designated must agree in writing to provide such
7 treatment, monitoring, or supervision in accord with this section.
8 Any person providing or agreeing to provide treatment, monitoring, or
9 supervision services pursuant to this chapter may be compelled to
10 testify and any privilege with regard to such person's testimony is
11 deemed waived.

12 (4)(a) Prior to authorizing any release to a less restrictive
13 alternative, the court shall impose such conditions upon the person
14 as are necessary to ensure the safety of the community, which must
15 include, at minimum, the condition that the person will be subject to
16 electronic monitoring that, to the extent feasible, provides real-
17 time tracking, programmable inclusion and exclusion zones, and the
18 ability to provide notifications if the person tampers with the
19 monitoring device or enters an exclusion zone. In imposing
20 conditions, the court must impose a restriction on the proximity of
21 the person's residence to public or private schools providing
22 instruction to kindergarten or any grades one through 12 in
23 accordance with RCW 72.09.340. Courts shall require a minimum
24 distance restriction of 500 feet on the proximity of the person's
25 residence to child care facilities and public or private schools
26 providing instruction to kindergarten or any grades one through 12.
27 The court shall order the department of corrections to investigate
28 the less restrictive alternative and, within 60 days of the order to
29 investigate, recommend any additional conditions to the court. These
30 conditions shall be individualized to address the person's specific
31 risk factors and criminogenic needs and may include, but are not
32 limited to ~~((+,+))~~, the following: Specification of residence or
33 restrictions on residence including distance restrictions,
34 specification of contact with a reasonable number of individuals upon
35 the person's request who are verified by the department of
36 corrections to be appropriate social contacts, prohibition of contact
37 with potential or past victims, prohibition of alcohol and other drug
38 use, participation in a specific course of inpatient or outpatient
39 treatment that may include monitoring by the use of polygraph and
40 plethysmograph, monitoring through the use of global positioning

1 system technology, supervision by a department of corrections
2 community corrections officer, a requirement that the person remain
3 within the state unless the person receives prior authorization by
4 the court, and any other conditions that the court determines are in
5 the best interest of the person or others. A copy of the conditions
6 of release shall be given to the person and to any designated service
7 providers.

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

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

39 (b) (i) When the department develops a less restrictive
40 alternative placement under this section, it shall attempt to

1 identify a placement satisfying the requirements of RCW 71.09.092
2 that is aligned with fair share principles. The department shall
3 document its rationale for the recommended placement.

4 (ii) If the department does not support or recommend conditional
5 release to a less restrictive alternative due to a clinical
6 determination, the department shall document its objection and
7 certify that the department is developing the less restrictive
8 alternative pursuant to a court order and not because of a clinical
9 determination.

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

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

16 (c) If the committed person is not conditionally released to his
17 or her county of commitment, the department shall provide the law and
18 justice council of the county in which the person is conditionally
19 released with notice and a written explanation, including whether the
20 department remains in compliance with fair share principles regarding
21 releases under this chapter.

22 (d) For purposes of this section, the person's county of
23 commitment means the county of the court which ordered the person's
24 commitment.

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

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

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

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

32 (iii) Regular contacts with providers of court-ordered treatment
33 services;

34 (iv) Community escorts, if needed;

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

37 (vi) Financial support for necessary housing;

38 (vii) Life skills training and disability accommodations, if
39 needed; and

1 (viii) Assistance in pursuing benefits, education, and
2 employment.

3 (b) At the time the department of corrections is ordered to
4 investigate a proposed less restrictive alternative placement,
5 subject to the availability of amounts appropriated for this specific
6 purpose, the department shall assign a social worker to assist the
7 person with discharge planning, pursuing benefits, and coordination
8 of care prior to release.

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

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

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

23 (7) Any service provider designated to provide inpatient or
24 outpatient treatment shall monthly, or as otherwise directed by the
25 court, submit to the court, to the department of social and health
26 services facility from which the person was released, to the
27 prosecuting agency, and to the supervising community corrections
28 officer, a report stating whether the person is complying with the
29 terms and conditions of the conditional release to a less restrictive
30 alternative.

31 (8) Each person released to a less restrictive alternative shall
32 have his or her case reviewed by the court that released him or her
33 no later than one year after such release and annually thereafter
34 until the person is unconditionally discharged. Review may occur in a
35 shorter time or more frequently, if the court, in its discretion on
36 its own motion, or on motion of the person, the secretary, or the
37 prosecuting agency so determines. The questions to be determined by
38 the court are whether the person shall continue to be conditionally
39 released to a less restrictive alternative, and if so, whether a
40 modification to the person's less restrictive alternative order is

1 appropriate to ensure the conditional release remains in the best
2 interest of the person and adequate to protect the victim and the
3 community. The court in making its determination shall be aided by
4 the periodic reports filed pursuant to subsection (7) of this section
5 and the opinions of the secretary and other experts or professional
6 persons.

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