

HOUSE BILL ANALYSIS
ESSB 5760

Title: An act relating to mentally ill offenders.

Brief Description: Authorizing courts to order evaluation and treatment of mentally ill offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Deccio, Thibaudeau, Winsley, and Kohl).

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Hearing Date: February 20, 1998.

Prepared By: Yvonne Walker, Research Analyst (786-7841).

Background: Pre-sentence Reports. Before imposing a sentence upon an offender, the court usually conducts a pre-sentence hearing. At that time, the court may order the Department of Corrections to complete a pre-sentence report to assist in the trial court in sentencing an offender after he or she has been convicted. Pre-sentence reports usually include prior convictions, prior arrests, employment history, education history, and family and social background.

Community Placement & Community Supervision. “Community placement” refers to a period of supervision over a prisoner after release from state prison. “Community supervision” includes up to one year in the county jail and one year of supervision in the community.

As part of a community placement or a community supervision sentence, the court may order an offender, in addition to crime-related prohibitions, to: participate in employment; participate in education programs; undergo outpatient substance abuse treatment; remain in a specific geographical residence; report to the court or community corrections officer; pay specific fees; and perform community service work. Offenders are not required to undergo psychiatric evaluations or participate in available outpatient psychiatric treatment programs as part of their court ordered community placement or community supervision sentences.

Violations of Community Placement & Community Supervision Conditions. If an offender violates his or her conditions of community placement or community supervision, the court may modify its original order of judgement or sentence and impose further punishment. Some of these punishments include: work release, electronic monitoring, day reporting, curfew, inpatient treatment, community service, and even possible jail time.

Summary:

Community corrections officers are permitted to intervene and require compliance if the judgement and sentence requires outpatient psychiatric treatment as one of the offender's community supervision or community placement conditions.

Pre-sentence Reports. If a court believes a person might be mentally ill then the court must order a pre-sentence report even, if, at the time of the crime, the defendant lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime. The evaluation will be performed by the Department of Corrections and may be included as part of an offender's pre-sentence report.

The term "mentally ill" includes persons considered acutely mentally ill, chronically mentally ill adults, and severely emotionally disturbed children.

Community Placement & Community Supervision. After review of the offender's pre-sentence report and evaluations ordered under the incompetency and insanity statutes, the court may order further psychiatric evaluations and treatment as part of the offender's community placement or supervision sentence if the court determines that strong grounds exist for assessing the offender as mentally ill, and the mental illness is likely to have influenced the offense.

Violations of Community Placement & Community Supervision Conditions. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. When a violation concerns an offender's failure to participate in a mental status evaluation or a treatment program, the assigned community corrections officer may consult the service provider treating the offender. The officer may obtain any necessary information from the service provider regarding the status of the offender's treatment without the offender's consent.

The officer must continue to enforce offender mental health orders in the less-restrictive means as alternative measure to incarceration. However, offenders who continually fail to receive psychiatric services and their behavior poses a serious threat to themselves or society may be involuntarily committed to treatment or be subject to sanctions for violating the sentence by the court.

Rules Authority:

No.

Fiscal Note:

Requested.

Effective Date:

Ninety days after adjournment of session in which bill is passed.