

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5163

Chapter 236, Laws of 2021

67th Legislature
2021 Regular Session

CONDITIONALLY RELEASED SEXUALLY VIOLENT PREDATORS—PLACEMENT AND
TREATMENT

EFFECTIVE DATE: July 25, 2021

Passed by the Senate April 19, 2021
Yeas 27 Nays 22

DENNY HECK

President of the Senate

Passed by the House April 8, 2021
Yeas 61 Nays 37

LURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 10, 2021 3:32 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5163** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 10, 2021

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5163

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

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. Nothing in this section precludes the department from
8 expressing professional judgment regarding the suitability of
9 discharge for the protection of a resident's safety or community
10 safety. Individualized and ongoing discharge planning requires, at a
11 minimum, and as part of a person's treatment plan, the following are
12 addressed based on information known to the department and in
13 accordance with policies developed by the department to implement
14 this subsection:

15 (a) The resident's known physical health, functioning, and any
16 need for health aid devices;

17 (b) The resident's known intellectual or cognitive level of
18 functioning and need for specialized programming;

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

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

22 (e) The resident's known ability to perform life skills and
23 activities of daily living independently and the resident's known
24 need for any disability accommodations;

25 (f) A summary of the known community services and supports the
26 resident needs for a safe life in the community and the type of
27 providers of such services and support; and

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

32 (5) At the time a person is taken into custody or transferred
33 into a facility pursuant to a petition under this chapter, the
34 professional person in charge of such facility or his or her designee
35 shall take reasonable precautions to inventory and safeguard the
36 personal property of the persons detained or transferred. A copy of
37 the inventory, signed by the staff member making it, shall be given
38 to the person detained and shall, in addition, be open to inspection
39 to any responsible relative, subject to limitations, if any,
40 specifically imposed by the detained person. For purposes of this

1 subsection, "responsible relative" includes the guardian,
2 conservator, attorney, spouse, parent, adult child, or adult brother
3 or sister of the person. The facility shall not disclose the contents
4 of the inventory to any other person without consent of the patient
5 or order of the court.

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

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

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

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

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

1 (b) If the secretary determines that the person's condition has
2 so changed that conditional release to a less restrictive alternative
3 is in the best interest of the person and conditions can be imposed
4 that adequately protect the community, then the secretary shall
5 authorize the person to petition the court for conditional release to
6 a less restrictive alternative. Upon receipt of the petition, the
7 court shall order the department to identify a less restrictive
8 alternative placement that satisfies RCW 71.09.092 (1) through (4).
9 Once identified, notice of the placement shall be filed with the
10 court and served upon: The prosecuting agency responsible for the
11 initial commitment; any person or persons identified in RCW
12 71.09.140(2)(a) who have opted to receive notifications under this
13 chapter; and the person and his or her counsel. If the department
14 cannot identify a placement available to the person that satisfies
15 RCW 71.09.092 (1) through (4) within 90 days, the department shall
16 provide a written certification to the court, the prosecuting agency
17 responsible for the initial commitment, and the person and his or her
18 counsel, detailing the efforts of the department to identify a
19 qualifying placement. Upon the department's certification, the person
20 may propose a placement that satisfies RCW 71.09.092 (1) through (3).
21 After a less restrictive placement has been proposed by either the
22 department or the person, the court shall within 45 days order a
23 hearing.

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

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

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

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

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

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

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

30 (c)(~~i~~) If the court at the show cause hearing determines that
31 either: (~~(i)~~) (A) The state has failed to present prima facie
32 evidence that the committed person continues to meet the definition
33 of a sexually violent predator (~~and that no proposed less~~
34 ~~restrictive alternative is in the best interest of the person and~~
35 ~~conditions cannot be imposed that would adequately protect the~~
36 ~~community~~); or (~~(ii)~~) (B) probable cause exists to believe that
37 the person's condition has so changed that(~~(A) The~~) the person no
38 longer meets the definition of a sexually violent predator(~~(B)~~
39 ~~release to a proposed less restrictive alternative would be in the~~
40 ~~best interest of the person and conditions can be imposed that would~~

1 ~~adequately protect the community~~)), then the court shall set a
2 hearing on ~~((either or both issues))~~ the issue of unconditional
3 discharge.

4 (ii) If the court at the show cause hearing determines that the
5 state has failed to present prima facie evidence that no proposed
6 less restrictive alternative is in the best interest of the person
7 and conditions cannot be imposed that would adequately protect the
8 community, the court shall enter an order directing the department to
9 propose a less restrictive alternative that satisfies RCW 71.09.092
10 (1) through (4). If the department cannot identify a placement
11 available to the person that satisfies RCW 71.09.092 (1) through (4)
12 within 90 days, the department shall provide a written certification
13 to the court, the prosecuting agency responsible for the initial
14 commitment, and the person and his or her counsel, detailing the
15 efforts of the department to identify a qualifying placement. Upon
16 the department's certification, the person may propose a placement
17 that satisfies RCW 71.09.092 (1) through (3). After a less
18 restrictive placement has been proposed by either the department or
19 the person, the court shall set a hearing on the issue of conditional
20 release.

21 (iii) If the court at the show cause hearing determines, based on
22 the evidence submitted by the person, that probable cause exists to
23 believe that release to a less restrictive alternative would be in
24 the best interest of the person and conditions can be imposed that
25 would adequately protect the community, the court shall set a hearing
26 on the issue of conditional release if the person presents the court
27 with a specific placement that satisfies the requirements of RCW
28 71.09.092.

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

1 ~~unless a proposed less restrictive alternative placement meeting the~~
2 ~~conditions of RCW 71.09.092 is presented to the court at the show~~
3 ~~cause hearing.)~~

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

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

36 (c) If the issue at the hearing is whether the person should be
37 unconditionally discharged, the burden of proof shall be upon the
38 state to prove beyond a reasonable doubt that the committed person's
39 condition remains such that the person continues to meet the
40 definition of a sexually violent predator. Evidence of the prior

1 commitment trial and disposition is admissible. The recommitment
2 proceeding shall otherwise proceed as set forth in RCW 71.09.050 and
3 71.09.060.

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

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

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

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

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

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

1 (5) When the court enters an order for unconditional discharge of
2 a person from an immediately preceding less restrictive placement,
3 the court must direct the clerk to transmit a copy of the order to
4 the department of corrections for discharge process and termination
5 of cause.

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

9 (~~(6)~~) (7) During any period of confinement pursuant to a
10 criminal conviction, or for any period of detention awaiting trial on
11 criminal charges, this section is suspended.

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

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

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

3 (1) If the court or jury determines that conditional release to a
4 less restrictive alternative is in the best interest of the person
5 and includes conditions that would adequately protect the community,
6 and the court determines that the minimum conditions set forth in RCW
7 71.09.092 and in this section are met, the court shall enter judgment
8 and direct a conditional release.

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

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

27 (4) (a) Prior to authorizing any release to a less restrictive
28 alternative, the court shall impose such conditions upon the person
29 as are necessary to ensure the safety of the community. In imposing
30 conditions, the court must impose a restriction on the proximity of
31 the person's residence to public or private schools providing
32 instruction to kindergarten or any grades one through 12 in
33 accordance with RCW 72.09.340. Courts shall require a minimum
34 distance restriction of 500 feet on the proximity of the person's
35 residence to child care facilities and public or private schools
36 providing instruction to kindergarten or any grades one through 12.
37 The court shall order the department of corrections to investigate
38 the less restrictive alternative and, within 60 days of the order to
39 investigate, recommend any additional conditions to the court. These
40 conditions shall be individualized to address the person's specific

1 risk factors and criminogenic needs and may include, but are not
2 limited to the following: Specification of residence or restrictions
3 on residence including distance restrictions, specification of
4 contact with a reasonable number of individuals upon the person's
5 request who are verified by the department of corrections to be
6 appropriate social contacts, prohibition of contact with potential or
7 past victims, prohibition of alcohol and other drug use,
8 participation in a specific course of inpatient or outpatient
9 treatment that may include monitoring by the use of polygraph and
10 plethysmograph, monitoring through the use of global positioning
11 (~~satellite [global positioning system]~~) system technology,
12 supervision by a department of corrections community corrections
13 officer, a requirement that the person remain within the state unless
14 the person receives prior authorization by the court, and any other
15 conditions that the court determines are in the best interest of the
16 person or others. A copy of the conditions of release shall be given
17 to the person and to any designated service providers.

18 (b) To the greatest extent possible, the person, person's
19 counsel, prosecuting agency responsible for the initial commitment,
20 treatment provider, supervising community corrections officer, and
21 appropriate clinical staff of the special commitment center shall
22 meet and collaborate to craft individualized, narrowly tailored, and
23 empirically based conditions to present to the court to help
24 facilitate the person's successful transition to the community.

25 (5) (a) Prior to authorizing release to a less restrictive
26 alternative proposed by the department, the court shall consider
27 whether (~~it is appropriate to release the person to the person's~~
28 ~~county of commitment~~) the person's less restrictive alternative
29 placement is in accordance with fair share principles. To ensure
30 equitable distribution of releases, and prevent the disproportionate
31 grouping of persons subject to less restrictive orders in any one
32 county, or in any one jurisdiction or community within a county, the
33 legislature finds it is appropriate for releases to a less
34 restrictive alternative to occur in (~~the person's county of~~
35 ~~commitment, unless~~) a manner that adheres to fair share principles.
36 The legislature recognizes that there may be reasons why the
37 department may not recommend that a person be released to his or her
38 county of commitment, including availability of individualized
39 resources, the person's support needs, or when the court determines
40 that the person's return to his or her county of commitment would be

1 inappropriate considering any court-issued protection orders, victim
2 safety concerns that cannot be addressed through use of global
3 positioning system technology, the ((availability)) unavailability of
4 appropriate treatment or facilities that would adequately protect the
5 community, negative influences on the person, ((~~or~~)) and the location
6 of family or other persons or organizations offering support to the
7 person. If the court authorizes conditional release based on the
8 department's proposal to a county other than the county of
9 commitment, the court shall enter specific findings regarding its
10 decision and identify whether the release remains in line with fair
11 share principles.

12 (b) (i) When the department ((~~or court assists in developing a~~))
13 develops a less restrictive alternative placement under this section
14 ((which is outside of the county of commitment, and there are two or
15 more options for placement, it shall endeavor to develop the
16 placement in a manner that does not have a disproportionate effect on
17 a single county)), it shall attempt to identify a placement
18 satisfying the requirements of RCW 71.09.092 that is aligned with
19 fair share principles. The department shall document its rationale
20 for the recommended placement.

21 (ii) If the department does not support or recommend conditional
22 release to a less restrictive alternative due to a clinical
23 determination, the department shall document its objection and
24 certify that the department is developing the less restrictive
25 alternative pursuant to a court order and not because of a clinical
26 determination.

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

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

33 ~~((b))~~ (c) If the committed person is not conditionally released
34 to his or her county of commitment, the department shall provide the
35 law and justice council of the county in which the person is
36 conditionally released with notice and a written explanation,
37 including whether the department remains in compliance with fair
38 share principles regarding releases under this chapter.

1 ~~((e))~~ (d) For purposes of this section, the person's county of
2 commitment means the county of the court which ordered the person's
3 commitment.

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

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

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

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

11 (iii) Regular contacts with providers of court-ordered treatment
12 services;

13 (iv) Community escorts, if needed;

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

16 (vi) Financial support for necessary housing;

17 (vii) Life skills training and disability accommodations, if
18 needed; and

19 (viii) Assistance in pursuing benefits, education, and
20 employment.

21 (b) At the time the department of corrections is ordered to
22 investigate a proposed less restrictive alternative placement,
23 subject to the availability of amounts appropriated for this specific
24 purpose, the department shall assign a social worker to assist the
25 person with discharge planning, pursuing benefits, and coordination
26 of care prior to release.

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

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

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

1 (7) Any service provider designated to provide inpatient or
2 outpatient treatment shall monthly, or as otherwise directed by the
3 court, submit to the court, to the department of social and health
4 services facility from which the person was released, to the
5 prosecuting agency, and to the supervising community corrections
6 officer, a report stating whether the person is complying with the
7 terms and conditions of the conditional release to a less restrictive
8 alternative.

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

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

27 (1) In the event of an escape by a person committed under this
28 chapter from a state institution or the disappearance of such a
29 person while on conditional release, the superintendent or community
30 corrections officer shall notify the following as appropriate: Local
31 law enforcement officers, other governmental agencies, the person's
32 relatives, and any other appropriate persons about information
33 necessary for the public safety or to assist in the apprehension of
34 the person.

35 (2) If a person committed under this chapter disappears while on
36 conditional release, the department of corrections may enter a
37 warrant for the person's arrest for up to 96 hours pending entry of a
38 bench warrant by the court.

1 (3) The department of corrections, its officers, agents, and
2 employees are not liable for the acts of individuals on conditional
3 release unless the department of corrections, its officers, agents,
4 and employees acted with gross negligence.

5 (4) The department, its officers, agents, and employees are not
6 liable for the acts of individuals on conditional release unless the
7 department, its officers, agents, and employees acted with gross
8 negligence.

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

11 (1)(a) At the earliest possible date, and in no event later than
12 ((thirty)) 30 days before conditional release, change of address for
13 a person on conditional release, or unconditional discharge, except
14 in the event of escape, the department of social and health services
15 shall send written notice of conditional release, unconditional
16 discharge, or escape, to the following:

17 ((a)) (i) The chief of police of the city, if any, in which the
18 person will reside or in which placement will be made under a less
19 restrictive alternative;

20 ((b)) (ii) The sheriff of the county in which the person will
21 reside or in which placement will be made under a less restrictive
22 alternative; and

23 ((c)) (iii) The sheriff of the county where the person was last
24 convicted of a sexually violent offense, if the department does not
25 know where the person will reside.

26 The department shall notify the state patrol of the release of
27 all sexually violent predators and that information shall be placed
28 in the Washington crime information center for dissemination to all
29 law enforcement.

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

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

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

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

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

8 Information regarding victims, next of kin, or witnesses
9 requesting the notice, information regarding any other person
10 specified in writing by the prosecuting agency to receive the notice,
11 and the notice are confidential and shall not be available to the
12 committed person.

13 (3) If a person committed as a sexually violent predator under
14 this chapter escapes from a department of social and health services
15 facility, the department shall immediately notify, by the most
16 reasonable and expedient means available, the chief of police of the
17 city and the sheriff of the county in which the committed person
18 resided immediately before his or her commitment as a sexually
19 violent predator, or immediately before his or her incarceration for
20 his or her most recent offense. If previously requested, the
21 department shall also notify the witnesses and the victims of the
22 sexually violent offenses for which the person was convicted in the
23 past or the victim's next of kin if the crime was a homicide. If the
24 person is recaptured, the department shall send notice to the persons
25 designated in this subsection as soon as possible but in no event
26 later than two working days after the department learns of such
27 recapture.

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

33 (5) The department of social and health services shall send the
34 notices required by this chapter to the last address provided to the
35 department by the requesting party. The requesting party shall
36 furnish the department with a current address.

37 (6) Nothing in this section shall impose any liability upon a
38 chief of police of a city or sheriff of a county for failing to
39 request in writing a notice as provided in subsection (1) of this
40 section.

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

3 (1)(a) The secretary is authorized to site, construct, occupy,
4 and operate (i) a secure community transition facility on McNeil
5 Island for persons authorized to petition for a less restrictive
6 alternative under RCW 71.09.090(1) and who are conditionally
7 released; and (ii) a special commitment center on McNeil Island with
8 up to four hundred four beds as a total confinement facility under
9 this chapter, subject to appropriated funding for those purposes. The
10 secure community transition facility shall be authorized for the
11 number of beds needed to ensure compliance with the orders of the
12 superior courts under this chapter and the federal district court for
13 the western district of Washington. The total number of beds in the
14 secure community transition facility shall be limited to (~~((twenty-~~
15 ~~four))~~ 24, consisting of up to (~~((fifteen))~~) 15 transitional beds and
16 up to nine pretransitional beds. The residents occupying the
17 transitional beds shall be the only residents eligible for
18 transitional services occurring in Pierce county. In no event shall
19 more than (~~((fifteen))~~) 15 residents of the secure community transition
20 facility be participating in off-island transitional, educational, or
21 employment activity at the same time in Pierce county. The department
22 shall provide the Pierce county sheriff, or his or her designee, with
23 a list of the (~~((fifteen))~~) 15 residents so designated, along with
24 their photographs and physical descriptions, and the list shall be
25 immediately updated whenever a residential change occurs. The Pierce
26 county sheriff, or his or her designee, shall be provided an
27 opportunity to confirm the residential status of each resident
28 leaving McNeil Island.

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

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

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

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

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

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

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

22 (6) The department must:

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

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

30 (7)(a) The total number of secure community transition facility
31 beds that may be required to be sited in a county between June 26,
32 2001, and June 30, 2008, may be no greater than the total number of
33 persons civilly committed from that county, or detained at the
34 special commitment center under a pending civil commitment petition
35 from that county where a finding of probable cause had been made on
36 April 1, 2001. The total number of secure community transition
37 facility beds required to be sited in each county between July 1,
38 2008, and June 30, 2015, may be no greater than the total number of
39 persons civilly committed from that county or detained at the special
40 commitment center under a pending civil commitment petition from that

1 county where a finding of probable cause had been made as of July 1,
2 2008.

3 (b) Counties and cities that provide secure community transition
4 facility beds above the maximum number that they could be required to
5 site under this subsection are eligible for a bonus grant under the
6 incentive provisions in RCW 71.09.255. The county where the special
7 commitment center is located shall receive this bonus grant for the
8 number of beds in the facility established in subsection (1) of this
9 section in excess of the maximum number established by this
10 subsection.

11 (c) No secure community transition facilities in addition to the
12 one established in subsection (1) of this section may be required to
13 be sited in the county where the special commitment center is located
14 until after June 30, 2008, provided however, that the county and its
15 cities may elect to site additional secure community transition
16 facilities and shall be eligible under the incentive provisions of
17 RCW 71.09.255 for any additional facilities meeting the requirements
18 of that section.

19 (8) After the department demonstrates the need for additional bed
20 capacity to the appropriate committees of the legislature, and
21 receives approval and funding from the appropriate committees of the
22 legislature to build additional bed capacity, the state is authorized
23 to site and operate secure community transition facilities and other
24 conditional release and transitional facilities in any county in the
25 state in accordance with RCW 71.09.315. In identifying potential
26 counties and sites within a county for the location of a secure
27 community transition facility or other conditional release and
28 transitional facilities, the department shall work with and assist
29 local governments to provide for the equitable distribution of such
30 facilities. In coordinating and deciding upon the siting of secure
31 community transition facilities or other conditional release and
32 transitional facilities within a county, great weight shall be given
33 by the county and cities within the county to:

34 (a) The number and location of existing residential facility beds
35 operated by the department of corrections or the mental health
36 division of the department of social and health services in each
37 jurisdiction in the county; and

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

1 (9) (a) "Equitable distribution" means siting or locating secure
2 community transition facilities and other conditional release and
3 transitional facilities in a manner that will not cause a
4 disproportionate grouping of similar facilities either in any one
5 county, or in any one jurisdiction or community within a county, as
6 relevant; and

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

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

12 To facilitate the primary role of the department in identifying
13 less restrictive alternative placements under RCW 71.09.090 and
14 discharge planning under RCW 71.09.080, subject to the availability
15 of amounts appropriated for this specific purpose, the department
16 shall conduct a study to explore the development of conditional
17 release and transition facilities, which may include community-based
18 state-operated living alternatives similar to the state-operated
19 living alternative program operated by the developmental disabilities
20 administration. Any facilities or placements developed under this
21 section may be identified through a request for proposal process or
22 through direct state acquisition and development. Any contracts with
23 facilities or placements entered into under this section shall
24 include a provision requiring oversight by the department to ensure
25 the programs are operating appropriately.

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

28 (1) In accordance with RCW 71.09.090 and 71.09.096, the
29 department shall have the primary responsibility for developing a
30 less restrictive alternative placement. To ensure the department has
31 sufficient less restrictive alternative placements to choose from
32 that satisfy the requirements of RCW 71.09.092, subject to the
33 availability of amounts appropriated for this specific purpose, the
34 department shall use a request for proposal process to solicit and
35 contract with housing and treatment providers from across the state
36 and facilitate fair share principles among the counties. In order to
37 increase the number of housing options for individuals qualifying for
38 a less restrictive alternative, the department shall have oversight

1 of the vendors and providers who contract with the state, including
2 the authority to inspect and ensure compliance, negotiate the rates
3 charged for services, ensure adequate living conditions of housing
4 locations, and terminate contracts. The department shall maintain a
5 statewide accounting of the contracted community housing and
6 treatment providers in each county and provide a biannual report to
7 the legislature and governor by December 1st on the availability and
8 adequacy of less restrictive alternative placements and the
9 department's compliance with fair share principles.

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

15 (a) Considerations for evaluating a proposed vendor's application
16 for less restrictive alternative housing services shall include
17 applicable state and local zoning and building codes, general housing
18 requirements, availability of public services, and other
19 considerations identified in accordance with RCW 71.09.315. The
20 department shall require the housing provider to provide proof that
21 the facility is in compliance with all local zoning and building
22 codes.

23 (i) General housing requirements include running water,
24 electricity, bedroom and living space of adequate size, and no mold
25 or infestations.

26 (ii) Availability of public services include availability of
27 chaperones and whether the placement is within a reasonable distance
28 to a grocery store, bank, public transportation options, and offices
29 for public services and benefits.

30 (iii) Other considerations include whether the placement is
31 consistent with fair share principles across the counties, whether
32 the placement is within reasonable distance to other current or
33 planned components of the less restrictive alternative, whether the
34 placement is within reasonable distance to employment opportunities,
35 and the reliability of global positioning system technology.

36 (b) Factors for evaluating less restrictive alternative options
37 for a specific individual include sex offender treatment
38 considerations, criminogenic needs and risk factors, protective
39 factors, and the specific needs of the client.

1 (i) Sex offender treatment considerations include whether the
2 housing is within a reasonable distance from the treatment provider,
3 whether the treatment provider is a good therapeutic match with the
4 client, and whether the treatment provider has relevant experience
5 and background to treat the client if the client has special needs.

6 (ii) Criminogenic needs and risk factors include consideration of
7 the person's specific needs and risk factors in evaluating less
8 restrictive alternative options.

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

12 (iv) Consideration of the client's specific needs includes
13 assessing the availability of personal care assistance and in-home
14 care assistance, and whether housing is within a reasonable distance
15 of mental health, medical treatment options, and substance use
16 disorder treatment options.

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

19 (1) The department shall enter into a memorandum of understanding
20 with the department of licensing to allow residents in total
21 confinement at the special commitment center to obtain a state
22 identification card through a written identification verification
23 letter completed by the special commitment center and delivered to
24 the department of licensing.

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

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

30 (1) Subject to the availability of amounts appropriated for this
31 specific purpose, the department, the sex offender policy board, and
32 department of health shall convene a work group to develop
33 recommendations to increase the availability and quality of sex
34 offender treatment providers to meet the growing number of persons
35 qualifying for conditional release to a less restrictive alternative.
36 The work group shall gather data on best practices in other states
37 and make recommendations whether sex offender treatment providers
38 should be required to contract with the department; whether annual or

1 biannual trainings by the department should be mandatory for
2 prospective and existing sex offender treatment providers; whether
3 the department should provide competitive wages for services or pay
4 that is commensurate with the years of experience or education level
5 of the treatment provider; and whether the department should provide
6 other incentives such as a cost-of-living pay increase or
7 compensating providers for the cost of mandated trainings associated
8 with the sex offender treatment provider license under chapter 18.155
9 RCW. A report shall be submitted to the legislature by December 1,
10 2021.

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

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

14 (1) In accordance with RCW 9.94A.8673, the sex offender policy
15 board shall meet quarterly during the 2021-2023 biennium to continue
16 its review of sexually violent predators and less restrictive
17 alternative policies and best practices, collaborate with
18 stakeholders and the department, provide outreach to providers and
19 stakeholders, and monitor implementation of this act. The board shall
20 also explore and make recommendations whether to continue or remove
21 the prohibition on a less restrictive alternative from including a
22 placement in the community protection program pursuant to RCW
23 71A.12.230. The board shall provide semiannual updates to the
24 appropriate committees of the legislature during the 2021-2023
25 biennium.

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

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

29 (1) In accordance with section 14 of this act, the sex offender
30 policy board shall meet quarterly during the 2021-2023 biennium to
31 continue its review of sexually violent predators and less
32 restrictive alternative policies and best practices, collaborate with
33 stakeholders and the department, provide outreach to providers and
34 stakeholders, and monitor implementation of this act. The board shall
35 provide semiannual updates to the appropriate committees of the
36 legislature during the 2021-2023 biennium.

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

Passed by the Senate April 19, 2021.
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--- **END** ---