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**SUBSTITUTE SENATE BILL 6493**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens, Harper, Kline, Carrell, and Shin)

READ FIRST TIME 02/03/12.

1       AN ACT Relating to sexually violent predator civil commitment  
2 cases; amending RCW 2.70.020, 71.09.040, 71.09.050, 71.09.080,  
3 71.09.090, 71.09.110, 71.09.120, and 71.09.140; adding a new section to  
4 chapter 2.70 RCW; adding new sections to chapter 71.09 RCW; creating  
5 new sections; and providing an effective date.

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

7       **Sec. 1.** RCW 2.70.020 and 2008 c 313 s 4 are each amended to read  
8 as follows:

9       The director shall:

10       (1) Administer all state-funded services in the following program  
11 areas:

12       (a) Trial court criminal indigent defense, as provided in chapter  
13 10.101 RCW;

14       (b) Appellate indigent defense, as provided in this chapter;

15       (c) Representation of indigent parents qualified for appointed  
16 counsel in dependency and termination cases, as provided in RCW  
17 13.34.090 and 13.34.092;

18       (d) Extraordinary criminal justice cost petitions, as provided in  
19 RCW 43.330.190;

1 (e) Compilation of copies of DNA test requests by persons convicted  
2 of felonies, as provided in RCW 10.73.170;

3 (f) Representation of indigent respondents qualified for appointed  
4 counsel in sexually violent predator civil commitment cases, as  
5 provided in chapter 71.09 RCW;

6 (2) Submit a biennial budget for all costs related to the office's  
7 program areas;

8 (3) Establish administrative procedures, standards, and guidelines  
9 for the office's program areas, including cost-efficient systems that  
10 provide for authorized recovery of costs;

11 (4) Provide oversight and technical assistance to ensure the  
12 effective and efficient delivery of services in the office's program  
13 areas;

14 (5) Recommend criteria and standards for determining and verifying  
15 indigency. In recommending criteria for determining indigency, the  
16 director shall compile and review the indigency standards used by other  
17 state agencies and shall periodically submit the compilation and report  
18 to the legislature on the appropriateness and consistency of such  
19 standards;

20 (6) Collect information regarding indigent defense services funded  
21 by the state and report annually to the advisory committee, the  
22 legislature, and the supreme court;

23 (7) Coordinate with the supreme court and the judges of each  
24 division of the court of appeals to determine how appellate attorney  
25 services should be provided.

26 The office of public defense shall not provide direct  
27 representation of clients.

28 NEW SECTION. Sec. 2. A new section is added to chapter 2.70 RCW  
29 to read as follows:

30 In providing indigent defense services for sexually violent  
31 predator civil commitment cases under chapter 71.09 RCW, the director  
32 shall:

33 (1) In accordance with state contracting laws, contract with  
34 persons admitted to practice law in this state and organizations  
35 employing persons admitted to practice law in this state for the  
36 provision of legal services to indigent persons;

1 (2) Establish annual contract fees for defense legal services  
2 within amounts appropriated based on Washington state bar association  
3 standards, attorney rules of professional conduct, court rules, court  
4 orders, data gathered regarding current prosecution and defense  
5 practices around the state, and the director's experience in providing  
6 defense services in other types of cases;

7 (3) Consistent with Washington state bar association standards,  
8 attorney rules of professional conduct, court rules, and court orders,  
9 establish procedures for the reimbursement of expert witness and other  
10 professional and investigative costs;

11 (4) Review and analyze existing caseload standards and make  
12 recommendations for updating caseload standards to the Washington state  
13 bar association as appropriate;

14 (5) Periodically, with the first report due December 1, 2013,  
15 submit a report to the chief justice of the supreme court, the  
16 governor, and the legislature, with all pertinent data on the operation  
17 of indigent defense services for commitment proceedings under this  
18 section, including:

19 (a) The costs and projected needs for maintaining adequate indigent  
20 defense services;

21 (b) The time to trial for all commitment trial proceedings  
22 including a list of the number of continuances granted, the party that  
23 requested the continuance, the county where the proceeding is being  
24 heard, and, if available, the reason the continuance was granted;

25 (c) Recommendations for policy changes, including changes in  
26 statutes and changes in court rules, which may be appropriate for the  
27 improvement of sexually violent predator civil commitment proceedings.

28 NEW SECTION. Sec. 3. (1) All powers, duties, and functions of the  
29 department of social and health services and the special commitment  
30 center pertaining to indigent defense under chapter 71.09 RCW are  
31 transferred to the office of public defense.

32 (2)(a) The office of public defense may request any written  
33 materials in the possession of the department of social and health  
34 services and the special commitment center pertaining to the powers,  
35 functions, and duties transferred, which shall be delivered to the  
36 custody of the office of public defense. Materials may be transferred  
37 electronically and/or in hard copy, as agreed by the agencies. All

1 funds, credits, or other assets held in connection with the powers,  
2 functions, and duties transferred shall be assigned to the office of  
3 public defense.

4 (b) Any appropriations made to the department of social and health  
5 services for carrying out the powers, functions, and duties transferred  
6 shall, on July 1, 2012, be transferred and credited to the office of  
7 public defense.

8 (3) Notwithstanding the effective date of this section, if  
9 implementation of office of public defense contracts would result in  
10 the substitution of counsel within one hundred eighty days of a  
11 scheduled trial date, the director of the office of public defense may  
12 continue defense services with existing counsel to facilitate  
13 continuity of effective representation and avoid further continuance of  
14 a trial. When existing counsel is maintained, payment to complete the  
15 trial shall be prorated based on standard contract fees established by  
16 the office of public defense under section 2 of this act and, at the  
17 director's discretion, may include extraordinary compensation based on  
18 attorney documentation and consistent with Washington state bar  
19 association standards and attorney rules of professional conduct.

20 **Sec. 4.** RCW 71.09.040 and 2009 c 409 s 4 are each amended to read  
21 as follows:

22 (1) Upon the filing of a petition under RCW 71.09.030, the judge  
23 shall determine whether probable cause exists to believe that the  
24 person named in the petition is a sexually violent predator. If such  
25 determination is made the judge shall direct that the person be taken  
26 into custody and notify the office of public defense of the potential  
27 need for representation.

28 (2) Within seventy-two hours after a person is taken into custody  
29 pursuant to subsection (1) of this section, the court shall provide the  
30 person with notice of, and an opportunity to appear in person at, a  
31 hearing to contest probable cause as to whether the person is a  
32 sexually violent predator. In order to assist the person at the  
33 hearing, within twenty-four hours of service of the petition, the  
34 prosecuting agency shall provide to the person or his or her counsel a  
35 copy of all materials provided to the prosecuting agency by the  
36 referring agency pursuant to RCW 71.09.025, or obtained by the  
37 prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d). At this

1 hearing, the court shall (a) verify the person's identity, and (b)  
2 determine whether probable cause exists to believe that the person is  
3 a sexually violent predator. At the probable cause hearing, the state  
4 may rely upon the petition and certification for determination of  
5 probable cause filed pursuant to RCW 71.09.030. The state may  
6 supplement this with additional documentary evidence or live testimony.  
7 The person may be held in total confinement at the county jail until  
8 the trial court renders a decision after the conclusion of the seventy-  
9 two hour probable cause hearing. The county shall be entitled to  
10 reimbursement for the cost of housing and transporting the person  
11 pursuant to rules adopted by the secretary.

12 (3) At the probable cause hearing, the person shall have the  
13 following rights in addition to the rights previously specified: (a)  
14 To be represented by counsel, and if the person is indigent as defined  
15 in RCW 10.101.010, to have office of public defense contracted counsel  
16 appointed as provided in RCW 10.101.020; (b) to present evidence on his  
17 or her behalf; (c) to cross-examine witnesses who testify against him  
18 or her; (d) to view and copy all petitions and reports in the court  
19 file. The court must permit a witness called by either party to  
20 testify by telephone. Because this is a special proceeding, discovery  
21 pursuant to the civil rules shall not occur until after the hearing has  
22 been held and the court has issued its decision.

23 (4) If the probable cause determination is made, the judge shall  
24 direct that the person be transferred to an appropriate facility for an  
25 evaluation as to whether the person is a sexually violent predator.  
26 The evaluation shall be conducted by a person deemed to be  
27 professionally qualified to conduct such an examination pursuant to  
28 rules developed by the department of social and health services. In  
29 adopting such rules, the department of social and health services shall  
30 consult with the department of health and the department of  
31 corrections. In no event shall the person be released from confinement  
32 prior to trial. A witness called by either party shall be permitted to  
33 testify by telephone.

34 **Sec. 5.** RCW 71.09.050 and 2010 1st sp.s. c 28 s 1 are each amended  
35 to read as follows:

36 (1) Within forty-five days after the completion of any hearing held  
37 pursuant to RCW 71.09.040, the court shall conduct a trial to determine

1 whether the person is a sexually violent predator. The trial may be  
2 continued upon the request of either party and a showing of good cause,  
3 or by the court on its own motion in the due administration of justice,  
4 and when the respondent will not be substantially prejudiced. (~~The~~  
5 ~~department is responsible for the cost of one expert or professional~~  
6 ~~person to conduct an evaluation on the prosecuting agency's behalf.~~)  
7 At all stages of the proceedings under this chapter, any person subject  
8 to this chapter shall be entitled to the assistance of counsel, and if  
9 the person is indigent as defined in RCW 10.101.010, the court, as  
10 provided in RCW 10.101.020, shall appoint office of public defense  
11 contracted counsel to assist him or her. The person shall be confined  
12 in a secure facility for the duration of the trial.

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

27 (3) The person, the prosecuting agency, or the judge shall have the  
28 right to demand that the trial be before a twelve-person jury. If no  
29 demand is made, the trial shall be before the court.

30 **Sec. 6.** RCW 71.09.080 and 2010 c 218 s 2 are each amended to read  
31 as follows:

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

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

6 (b) A person who is prohibited from possessing or accessing a  
7 personal computer under (a) of this subsection shall be permitted to  
8 access a limited functioning personal computer capable of word  
9 processing and limited data storage on the computer only that does not  
10 have: (i) Internet access capability; (ii) an optical drive, external  
11 drive, universal serial bus port, or similar drive capability; or (iii)  
12 the capability to display photographs, images, videos, or motion  
13 pictures, or similar display capability from any drive or port  
14 capability listed under (b)(ii) of this subsection.

15 (3) Any person committed pursuant to this chapter has the right to  
16 adequate care and individualized treatment. The department of social  
17 and health services shall keep records detailing all medical, expert,  
18 and professional care and treatment received by a committed person, and  
19 shall keep copies of all reports of periodic examinations made pursuant  
20 to this chapter. All such records and reports shall be made available  
21 upon request only to: The committed person, his or her attorney, the  
22 prosecuting ((attorney)) agency, the court, the protection and advocacy  
23 agency, or another expert or professional person who, upon proper  
24 showing, demonstrates a need for access to such records.

25 (4) At the time a person is taken into custody or transferred into  
26 a facility pursuant to a petition under this chapter, the professional  
27 person in charge of such facility or his or her designee shall take  
28 reasonable precautions to inventory and safeguard the personal property  
29 of the persons detained or transferred. A copy of the inventory,  
30 signed by the staff member making it, shall be given to the person  
31 detained and shall, in addition, be open to inspection to any  
32 responsible relative, subject to limitations, if any, specifically  
33 imposed by the detained person. For purposes of this subsection,  
34 "responsible relative" includes the guardian, conservator, attorney,  
35 spouse, parent, adult child, or adult brother or sister of the person.  
36 The facility shall not disclose the contents of the inventory to any  
37 other person without consent of the patient or order of the court.

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

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

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

19 **Sec. 7.** RCW 71.09.090 and 2011 2nd sp.s. c 7 s 2 are each amended  
20 to read as follows:

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

33 (2)(a) Nothing contained in this chapter shall prohibit the person  
34 from otherwise petitioning the court for conditional release to a less  
35 restrictive alternative or unconditional discharge without the  
36 secretary's approval. The secretary shall provide the committed person  
37 with an annual written notice of the person's right to petition the

1 court for conditional release to a less restrictive alternative or  
2 unconditional discharge over the secretary's objection. The notice  
3 shall contain a waiver of rights. The secretary shall file the notice  
4 and waiver form and the annual report with the court. If the person  
5 does not affirmatively waive the right to petition, the court shall set  
6 a show cause hearing to determine whether probable cause exists to  
7 warrant a hearing on whether the person's condition has so changed  
8 that: (i) He or she no longer meets the definition of a sexually  
9 violent predator; or (ii) conditional release to a proposed less  
10 restrictive alternative would be in the best interest of the person and  
11 conditions can be imposed that would adequately protect the community.

12 (b) The committed person shall have a right to have an attorney  
13 represent him or her at the show cause hearing, which may be conducted  
14 solely on the basis of affidavits or declarations, but the person is  
15 not entitled to be present at the show cause hearing. At the show  
16 cause hearing, the prosecuting (~~(attorney or attorney general)~~) agency  
17 shall present prima facie evidence establishing that the committed  
18 person continues to meet the definition of a sexually violent predator  
19 and that a less restrictive alternative is not in the best interest of  
20 the person and conditions cannot be imposed that adequately protect the  
21 community. In making this showing, the state may rely exclusively upon  
22 the annual report prepared pursuant to RCW 71.09.070. The committed  
23 person may present responsive affidavits or declarations to which the  
24 state may reply.

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

37 (d) If the court has not previously considered the issue of release  
38 to a less restrictive alternative, either through a trial on the merits

1 or through the procedures set forth in RCW 71.09.094(1), the court  
2 shall consider whether release to a less restrictive alternative would  
3 be in the best interests of the person and conditions can be imposed  
4 that would adequately protect the community, without considering  
5 whether the person's condition has changed. The court may not find  
6 probable cause for a trial addressing less restrictive alternatives  
7 unless a proposed less restrictive alternative placement meeting the  
8 conditions of RCW 71.09.092 is presented to the court at the show cause  
9 hearing.

10 (3)(a) At the hearing resulting from subsection (1) or (2) of this  
11 section, the committed person shall be entitled to be present and to  
12 the benefit of all constitutional protections that were afforded to the  
13 person at the initial commitment proceeding. The prosecuting agency  
14 shall represent the state and shall have a right to a jury trial and to  
15 have the committed person evaluated by experts chosen by the state.  
16 (~~The department is responsible for the cost of one expert or~~  
17 ~~professional person to conduct an evaluation on the prosecuting~~  
18 ~~agency's behalf.)) The committed person shall also have the right to  
19 a jury trial and the right to have experts evaluate him or her on his  
20 or her behalf and the court shall appoint an expert if the person is  
21 indigent and requests an appointment.~~

22 (b) Whenever any indigent person is subjected to an evaluation  
23 under (a) of this subsection, the (~~department~~) office of public  
24 defense is responsible for the cost of one expert or professional  
25 person conducting an evaluation on the person's behalf. When the  
26 person wishes to be evaluated by a qualified expert or professional  
27 person of his or her own choice, such expert or professional person  
28 must be permitted to have reasonable access to the person for the  
29 purpose of such evaluation, as well as to all relevant medical and  
30 psychological records and reports. In the case of a person who is  
31 indigent, the court shall, upon the person's request, assist the person  
32 in 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 services  
35 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 state  
38 to prove beyond a reasonable doubt that the committed person's

1 condition remains such that the person continues to meet the definition  
2 of a sexually violent predator. Evidence of the prior commitment trial  
3 and disposition is admissible. The recommitment proceeding shall  
4 otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

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

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

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

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

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

36 (c) For purposes of this section, a change in a single demographic  
37 factor, without more, does not establish probable cause for a new trial  
38 proceeding under subsection (3) of this section. As used in this

1 section, a single demographic factor includes, but is not limited to,  
2 a change in the chronological age, marital status, or gender of the  
3 committed person.

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

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

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.09 RCW  
11 to read as follows:

12 The following activities are beyond the scope of representation of  
13 an attorney under contract with the office of public defense pursuant  
14 to chapter 2.70 RCW for the purposes of providing indigent defense  
15 services in sexually violent predator civil commitment proceedings:

16 (1) Investigation or legal representation challenging the  
17 conditions of confinement at the special commitment center or any  
18 secure community transition facility;

19 (2) Investigation or legal representation for making requests under  
20 the public records act, chapter 42.56 RCW;

21 (3) Legal representation or advice regarding filing a grievance  
22 with the department as part of its grievance policy or procedure;

23 (4) Legal representation during a period not covered as part of the  
24 civil commitment process; and

25 (5) Such other activities as may be excluded by policy or contract  
26 with the office of public defense.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.09 RCW  
28 to read as follows:

29 (1) The office of public defense is responsible for the cost of one  
30 expert or professional person conducting an evaluation on an indigent  
31 person's behalf as provided in RCW 71.09.050, 71.09.070, or 71.09.090.

32 (2) Expert evaluations are capped at ten thousand dollars, to  
33 include all professional fees, travel, per diem, and other costs.  
34 Partial evaluations are capped at five thousand five hundred dollars  
35 and expert services apart from an evaluation, exclusive of testimony at  
36 trial or depositions, are capped at six thousand dollars.

1 (3) The office of public defense will pay for the costs related to  
2 the evaluation of an indigent person by an additional examiner or in  
3 excess of the stated fee caps only upon a finding by the superior court  
4 that such appointment or extraordinary fees are for good cause.

5 **Sec. 10.** RCW 71.09.110 and 2010 1st sp.s. c 28 s 3 are each  
6 amended to read as follows:

7 The department of social and health services shall be responsible  
8 for ~~((all))~~ the costs relating to the ~~((evaluation and))~~ treatment of  
9 persons committed to their custody whether in a secure facility or  
10 under a less restrictive alternative ~~((under any provision of))~~ as  
11 provided in this chapter. ~~((The secretary shall adopt rules to contain~~  
12 ~~costs relating to reimbursement for evaluation services.))~~  
13 Reimbursement may be obtained by the department for the cost of care  
14 and treatment of persons committed to its custody whether in a secure  
15 facility or under a less restrictive alternative pursuant to RCW  
16 43.20B.330 through 43.20B.370.

17 **Sec. 11.** RCW 71.09.120 and 1990 c 3 s 1012 are each amended to  
18 read as follows:

19 (1) In addition to any other information required to be released  
20 under this chapter, the department is authorized, pursuant to RCW  
21 4.24.550, to release relevant information that is necessary to protect  
22 the public, concerning a specific sexually violent predator committed  
23 under this chapter.

24 (2) The department and the courts are authorized to release to the  
25 office of public defense records needed to implement the office's  
26 administration of public defense in these cases, including research,  
27 reports, and other functions as required by RCW 2.70.020 and section 2  
28 of this act. The office of public defense shall maintain the  
29 confidentiality of all confidential information included in the  
30 records.

31 (3) The inspection or copying of any nonexempt public record by  
32 persons residing in a civil commitment facility for sexually violent  
33 predators may be enjoined following procedures identified in RCW  
34 42.56.565. The injunction may be requested by:

35 (a) An agency or its representative;

36 (b) A person named in the record or his or her representative;

1        (c) A person to whom the request specifically pertains or his or  
2 her representative.

3        **Sec. 12.** RCW 71.09.140 and 1995 c 216 s 17 are each amended to  
4 read as follows:

5        (1) At the earliest possible date, and in no event later than  
6 thirty days before conditional release or unconditional discharge,  
7 except in the event of escape, the department of social and health  
8 services shall send written notice of conditional release,  
9 unconditional discharge, or escape, to the following:

10        (a) The chief of police of the city, if any, in which the person  
11 will reside or in which placement will be made under a less restrictive  
12 alternative;

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

15        (c) The sheriff of the county where the person was last convicted  
16 of a sexually violent offense, if the department does not know where  
17 the person will reside.

18        The department shall notify the state patrol of the release of all  
19 sexually violent predators and that information shall be placed in the  
20 Washington crime information center for dissemination to all law  
21 enforcement.

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 predator  
25 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 kin  
28 if the crime was a homicide. "Next of kin" as used in this section  
29 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 ~~((attorney))~~  
33 agency.

34        Information regarding victims, next of kin, or witnesses requesting  
35 the notice, information regarding any other person specified in writing  
36 by the prosecuting ~~((attorney))~~ agency to receive the notice, and the

1 notice are confidential and shall not be available to the committed  
2 person.

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

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

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

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

28 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
29 this act, referencing this act by bill or chapter number, is not  
30 provided by June 30, 2012, in the omnibus appropriations act, this act  
31 is null and void.

32 NEW SECTION. **Sec. 14.** This act takes effect July 1, 2012.

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