



Testimony to the Senate Judiciary Committee In Support of SB416

March 5, 2020

Chairman Wilborn and Committee Members,

The Problem The Bill Addresses

Persons in DOC custody as a sexually violent crime offender and found to meet the criteria to face a court hearing for determination as a sexually violent predator spend a significant amount of time in county jails awaiting their trials in this pending civil case. This occurs after the completion of their DOC incarceration for the criminal sentence. During their time in county jails, there is little or no programming available to treat their alleged sexually violent predator traits, which is the purpose of the sexually violent predator program.

Current Process

The current statutes require DOC to make notice to the Attorney General of a person who may meet the criteria of a sexually violent predator 90 days prior to release. When notified by DOC, the Attorney General conducts a review of the case file and determines if the evidence supports filing the civil court action. The 90-days is designed to provide the time needed to make that determination and to file the civil action, not to complete the court proceedings.

What the Bill Does

SB416 addresses the length of time a person released from prison is held in a county jail pending the court determination of the sexually violent predator case. The bill proposes decreasing the time in the county jails awaiting hearings by starting the process of determining whether the person meets the sexually violent predator criteria earlier during their DOC incarceration period. This will result in allowing many of these offenders to have the court determination of their civil commitment as a sexually violent predator determined prior to their release from prison, or at least having the court process further along its path when transferred to the county jail.

Why This is Important

The purpose of the Sexually Violent Program is to protect the public from sexually violent predators by holding the person for treatment in a civil capacity after completing their criminal sentence. The hope is to provide continuing treatment to the person and bring them to a point they may safely return to society.

First and foremost, reducing their time in the county jail will get them to the treatment programs with less or no delay upon their release from prison. County jails are not able to provide the very specialized sexually violent predator treatment programming with local mental health resources. This causes a delay in getting them the very treatment we are claiming they need.

Decreasing the county jail time removes a cost burden to the counties. The average cost of holding these persons in the county jail is about \$100/day. We average about 20 people being held on a daily basis at an annual cost of approximately \$730,000 to county taxpayers. These costs can be an extreme burden, especially in counties with small populations and if one of these has an extreme medical issue it can be even more devastating. When we survey our jails on the SVP detainees, we find we are typically holding at least 2 in the state with medical costs exceeding a \$100/day.

Other States

The 90-day notice currently provided in Kansas law is the shortest period used by any of the states and is used in only 4 states. Only four states hold the person in county jails other than when they are transferred to the county for a court hearing. At least one of those compensate the counties for the cost of the detention in the county jail. Most hold the person in a state operated “secure facility” operated by their state mental health system pending the court outcome.

Summary

The length of time between release from DOC and admission to the SVP unit at Larned State Hospital can be dramatically reduced or, in some cases eliminated, by moving the time of notice to the Attorney General forward by enough time to allow most court determinations to be completed prior to prison release. This is also better for the person involved by eliminating the gap or delay in the start of SVP treatment and potentially shortens the time they may be safely returned to society.

The overall cost of housing and care for persons awaiting sexually violent predator determination will not be significantly changed by this bill. That cost will be borne by the taxpayers no matter how we change the process. However, if this bill is passed, the cost will be spread over the taxpayers statewide instead of a small set of taxpayers in the various counties. This can be significant to counties with small populations.

The annual cost of holding and care of each person being held pending sexually violent predator court determination would average about \$0.013 per resident spread over the state. While that cost for any single county would range from \$0.065 per resident to \$28.12 per resident depending on the county population.¹ Catastrophic medical expenses are encountered every couple of years and have cost from between \$35,000 annual average to over \$200,000. Again, this cost can be devastating for small population counties.²

We respectfully urge you to move this bill favorably for passage.

Sheriff Jeffrey Easter, Sedgwick County
Legislative Liaison

Change to Sexually Violent Predator Determination Process

Current Process Timeline



Proposed Process Timeline



Legend



¹ Average annual cost for holding and care is \$36,500 or \$0.013 per person in the state (2,911,505). If borne by the most populated county (Johnson, 560,000) that averages \$0.065 per person, if borne by the least populated county (Greeley, 1,298) it averages \$28.12 per person.

² A \$70,000 catastrophic medical bill cost is about \$0.024 per person in the state (2,911,505). If borne by the most populated county (Johnson, 560,000) that averages \$0.125 per person, if borne by the least populated county (Greeley, 1,298) it averages \$53.93 per person.