

NO. 44147-1-II

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION II

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STATE OF WASHINGTON,

Respondent,

v.

BRIAN BUCKMAN,

Appellant.

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ON APPEAL FROM THE  
SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR LEWIS COUNTY

The Honorable Nelson Hunt, Judge

OPENING BRIEF OF APPELLANT

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**A. ASSIGNMENTS OF ERROR**

1. The appellant was denied the effective assistance of counsel when his attorney stipulated to commission of five alleged violations.

2. The court erred when it revoked appellant's suspended sentence under the Special Sex Offender Sentencing Alternative.

**B. ISSUE PERTAINING TO ASSIGNMENTS OF ERROR**

1. Was the appellant denied the effective assistance of counsel under Washington Constitution, Article 1, § 22 and United States Constitution, Sixth Amendment when his trial counsel stipulated to the alleged violations? Assignments of Error 1 and 2.

**C. STATEMENT OF THE CASE**

Brian Buckman was charged by information filed in Lewis County Superior Court with one count of rape of a child in the second degree. Clerk's Papers (CP) 1-3. On January 26, 2012, Mr. Buckman entered a plea of guilty as charged. CP 4-14. Counsel moved for an examination pursuant to the Special Sex Offender Sentencing Alternative to determine amenability to treatment. CP 15-16. The matter came on for sentencing before the Honorable Nelson Hunt on March 7, 2012. Report of Proceedings (RP)

(3/7/12) at 5-17.<sup>1</sup> Defense counsel recommended a Special Sex Offender Offender Sentencing Alternative (SSOSA). RP (3/7/12) at 9. The State objected to SSOSA. RP (3/7/12) at 8. The court accepted the recommendation for SSOSA and sentenced Mr. Buckman to a maximum term of life in prison, with a minimum term of 114 months, suspended on condition that he spend six months in custody. RP (3/7/12) at 15; CP 24-37. His standard range sentence was 86 to 114 months. CP 71.

The court imposed a number of community placement conditions as part of the SSOSA sentence. CP 36. These conditions included (1) that he report to his assigned Community Corrections Officer as directed; (2) that he not consume controlled substances; (3) that he follow treatment recommendations in sexual deviancy therapy; and (4) that he does not have contact with K.B.S. CP 36.

On September 11, 2012, the State moved to revoke the SSOSA program. CP 41-45. (Motion for an Order Modifying Sentence, Revoking SSOSA and Re-Sentencing Within the Standard Range.) The prosecution alleged that Mr. Buckman had violated the conditions of the judgment and

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<sup>1</sup> The record of proceedings consists of four volumes:  
RP (3/7/12), sentencing hearing;  
RP (9/13/12), hearing;  
RP (10/10/12), revocation hearing; and

sentence by failing to report to his Community Corrections Officer. CP 41-45. The State filed a supplemental petition to revoke SSOSA on October 3, 2012, alleging that Mr. Buckman (1) had contact with K.B.S. in person on September 4, attempted contact through a third party with text messages on September 7, and attempted contact through a third party by telephone on September 9, 2012; (2) sold heroin to a confidential informant; (3) failed to register as sex offender; and (4) admitted to law enforcement that he used heroin after his release from custody. CP 46-67. (Supplemental Petition to Revoke Special Sex Offender Sentencing Alternative Pursuant to RCW 9.94A.670(11)).

At a revocation hearing on October 10, 2012, Mr. Buckman, through his attorney, stipulated that he had committed each of the five allegations. RP (10/10/12) at 3. Defense counsel argued that Mr. Buckman was “young and stupid,” that he thought the Department of Corrections or his attorney was supposed to set things up for his treatment, and that he was “begging for a second chance to get things done.” RP (10/10/12) at 7, 8.

The court found the violations occurred and revoked SSOSA and reimposed the sentence of 114 months. RP (10/10/12) at 10, 11. An order of

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RP (10/11/12) formal entry.

revocation and judgment and sentence were entered October 11, 2012. CP 69-83, 100-101. The order stated that the court found the following violations:

1. Failing to report to the Department of Corrections as directed and required by the SSOSA sentence since July 16, 2012.
2. Contacting the victim in this case on September 4, 2012 and attempting to have contact with the victim on September 7 and 9, 2012.
3. Selling \$40.00 worth of heroin to a confidential informant during the week of September 3, 2012.
4. Failing to properly register as a sex offender since being released from custody on July 11, 2012.
5. Using heroin since being released from custody on July 11, 2012.

CP 101.

Timely notice of appeal was filed November 8, 2012. CP 84-101.

This appeal follows.

**D. ARGUMENT**

1. **MR. BUCKMAN WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL.**

Under the Sixth Amendment and Article I, Section 22 of the Washington State Constitution, a criminal defendant is guaranteed the right to the effective assistance of counsel at every critical stage of the proceeding. *United States v. Cronin*, 466 U.S. 648, 658-59, 104 S. Ct. 2039, 80 L. Ed. 2d

657 (1984); *In re Davis*, 152 Wn.2d 647, 672, 101 P.3d 1 (2004); *State v. Roberts*, 142 Wn.2d 471, 515, 14 P.3d 713 (2000). Critical stages are those steps of the proceeding that hold significant consequences for the accused. *Bell v. Cone*, 535 U.S. 685, 695-96, 122 S. Ct. 1843, 152 L. Ed.2d 914 (2002). Sentencing is a critical stage. *State v. Everybodytalksabout*, 131 Wn. App. 227, 236, 126 P.3d 87 (2006); *State v. Robinson*, 153 Wn.2d 689, 694, 107 P.3d 90 (2005).

SSOSA revocation hearings are a form of sentencing because they can result in a modification to a defendant's sentence, as occurred here. SSOSA revocation hearings also hold significant consequences for the accused because they have the potential to result in the defendant being moved from community custody into total confinement. RCW 9.94A.670(10). As such, a defendant is entitled to effective assistance of counsel at a SSOSA revocation hearing.

Here, to the extent Mr. Buckman is precluded from challenging the sufficiency of State's allegation and evidence as to violations because his trial counsel admitted the violations, Mr. Buckman's counsel was ineffective. Therefore, this Court should reverse the revocation order and remand for a new revocation hearing.



The standard of review for an assertion of ineffective assistance of counsel involves a two-prong test. *State v. Thomas*, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987) (quoting *Strickland v. Washington*, 466 U.S. 668, 80 L. Ed. 2d 674, 104 S. Ct. 2052 (1984)). First, the defendant must show counsel's performance was deficient. *Thomas*, 109 Wn.2d at 225. Second, the defendant must show the deficient performance prejudiced the defense. *Id.* at 225-26.

To satisfy the first prong, the defendant must show counsel's performance fell below an objective standard of reasonableness. *State v. McNeal*, 145 Wn.2d 352, 362, 37 P.3d 280 (2002); *Strickland*, 466 U.S. at 688.

To satisfy the second prong, the defendant must show a reasonable probability that but for counsel's performance, the result would have been different. *McNeal*, 145 Wn.2d at 362; *Strickland*, 466 U.S. at 694. A reasonable probability is a probability sufficient to undermine confidence in the outcome. *Strickland*, 466 U.S. at 694. The defendant need not show that counsel's deficient performance more likely than not altered the outcome. *Id.* at 693.

Under RCW 9.94A.670(11), the trial court may revoke a SSOSA sentence at any time during the period of community custody and order execution of the sentence if (1) the defendant violates the conditions of his suspended sentence; or (2) the court finds that the defendant is failing to make satisfactory progress in treatment. The court retains its discretion, however, to sanction a violation other than by revocation of the SSOSA. *State v. Kistner*, 105 Wn. App. 967, 972 n.9, 21 P.3d 719 (2001). Under RCW 9.94B.040, the court may instead impose a number of other sanctions, including: 60 days of confinement for each violation, work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, jail time, or other sanctions available in the community. The State bears the burden of proving a defendant's noncompliance by a preponderance of the evidence. *State v. Woodward*, 116 Wn. App. 697, 67 P.3d 530 (2003); RCW 9.94B.040(3)(c).

In this case, Mr. Buckman was denied the effective assistance of counsel at his revocation hearing. Defense counsel stipulated to the violations, and did not advocate for a sixty day sentence for each violation or

other sanction as authorized by RCW 9.94B.040. RP (10/10/12) at 7-8. Instead, counsel resorted to “begging for one more chance” on the amorphous grounds that his client was “young and stupid,” rather than either challenging the violations directly or asking for a sixty day sentence for each offense or other sanction short of revocation. RP (10/10/12) at 7-8.

Defense counsel’s conduct was unreasonable. A defendant facing a revocation of a suspended sentence always has the right to contest evidence or to seek mitigation. *See, e.g., Seattle v. Lea*, 56 Wn. App. 859 at 860-861, 786 P.2d 798 (1990). Even where the worst possible outcome seems likely, a defendant may have some hope of gaining some improvement in his situation. However, essentially conceding to the maximum penalty by not contesting the allegations or presenting mitigating evidence forecloses the possibility of improving circumstances to any degree.

Mr. Buckman was prejudiced by his attorney's deficient performance. First, by conceding to the allegations, Mr. Buckman lost all opportunity to seek any concession from the prosecution (such as a recommendation to modify the suspended sentence by lowering his minimum term). Second, Mr. Buckman did not ask the court to mitigate the penalty in any way—either by imposing additional time in jail without revoking the suspended sentence, or

lowering his minimum term. When Mr. Buckman's counsel conceded to the five allegations and did not argue for mitigation, he received no benefit whatsoever. RP (10/10/12) at 7-8.

Mr. Buckman had significant grounds to request a sixty day sanction. He apparently suffers from a drug addiction, as demonstrated by his alleged use and sale of heroin. Counsel could have easily obtained a drug evaluation and psychological evaluation to determine what role, if any, Mr. Buckman's drug addiction played in failing to comply with his conditions of community placement. Counsel could have presented such evidence in support of a request for sanctions not resulting in revocation.

For these reasons, the revocation order must be reversed, Mr. Buckman's suspended sentence must be re-instated, and the case must be remanded to the superior court for a new hearing on the State's motion to revoke.

**E. CONCLUSION**

For the foregoing reasons, Mr. Buckman's revocation order must be reversed, his prison term re-suspended, and his case remanded to the superior court.

/ / /

DATED: April 17, 2013.

Respectfully submitted,  
THE TILLER LAW FIRM

*Peter B. Tiller*

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PETER B. TILLER-WSBA 20835  
Of Attorneys for Brian Buckman

#### CERTIFICATE OF SERVICE

The undersigned certifies that on April 17, 2013, that this Appellant's Opening Brief was sent by JIS link to Mr. David Ponzoha, Clerk of the Court, Court of Appeals, Division II, 950 Broadway, Ste. 300, Tacoma, WA 98402, a true and correct copy was hand delivered to Sara Beigh, Lewis County Prosecutor and a copy was mailed by U.S. mail, postage prepaid, to Brian Buckman, DOC #355481, Airway Heights Correction Center, PO Box 1899, Airway Heights, WA 99001-1899.

This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on April 17, 2013.

*Peter B. Tiller*

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PETER B. TILLER

## STATUTES

### ***RCW 9.94A.670***

Special sex offender sentencing alternative.

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply to this section only.

(a) "Sex offender treatment provider" or "treatment provider" means a certified sex offender treatment provider or a certified affiliate sex offender treatment provider as defined in RCW 18.155.020.

(b) "Substantial bodily harm" means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any body part or organ, or that causes a fracture of any body part or organ.

(c) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(2) An offender is eligible for the special sex offender sentencing alternative if:

(a) The offender has been convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense. If the conviction results from a guilty plea, the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit he or she committed all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) and *State v. Newton*, 87 Wash.2d 363, 552 P.2d 682 (1976);

(b) The offender has no prior convictions for a sex offense as defined in

RCW 9.94A.030 or any other felony sex offenses in this or any other state;

(c) The offender has no prior adult convictions for a violent offense that was committed within five years of the date the current offense was committed;

(d) The offense did not result in substantial bodily harm to the victim;

(e) The offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime; and

(f) The offender's standard sentence range for the offense includes the possibility of confinement for less than eleven years.

(3) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the offender, may order an examination to determine whether the offender is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The offender's version of the facts and the official version of the facts;

(ii) The offender's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The offender's social and employment situation; and

(v) Other evaluation measures used.

The report shall set forth the sources of the examiner's information.

(b) The examiner shall assess and report regarding the offender's

amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) Frequency and type of contact between offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions and affirmative conditions, which must include, to the extent known, an identification of specific activities or behaviors that are precursors to the offender's offense cycle, including, but not limited to, activities or behaviors such as viewing or listening to pornography or use of alcohol or controlled substances.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The examiner shall be selected by the party making the motion. The offender shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(4) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this alternative, consider whether the alternative is too lenient in light of the extent and circumstances of the offense, consider whether the offender has victims in addition to the victim of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section. If the sentence imposed



is contrary to the victim's opinion, the court shall enter written findings stating its reasons for imposing the treatment disposition. The fact that the offender admits to his or her offense does not, by itself, constitute amenability to treatment. If the court determines that this alternative is appropriate, the court shall then impose a sentence or, pursuant to RCW 9.94A.507, a minimum term of sentence, within the standard sentence range. If the sentence imposed is less than eleven years of confinement, the court may suspend the execution of the sentence as provided in this section.

(5) As conditions of the suspended sentence, the court must impose the following:

(a) A term of confinement of up to twelve months or the maximum term within the standard range, whichever is less. The court may order the offender to serve a term of confinement greater than twelve months or the maximum term within the standard range based on the presence of an aggravating circumstance listed in RCW 9.94A.535(3). In no case shall the term of confinement exceed the statutory maximum sentence for the offense. The court may order the offender to serve all or part of his or her term of confinement in partial confinement. An offender sentenced to a term of confinement under this subsection is not eligible for earned release under RCW 9.92.151 or 9.94A.728.

(b) A term of community custody equal to the length of the suspended sentence, the length of the maximum term imposed pursuant to RCW 9.94A.507, or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department under RCW 9.94A.703.

(c) Treatment for any period up to five years in duration. The court, in its discretion, shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court. If any party or the court objects to a proposed change, the offender shall not

change providers or conditions without court approval after a hearing.

(d) Specific prohibitions and affirmative conditions relating to the known precursor activities or behaviors identified in the proposed treatment plan under subsection (3)(b)(v) of this section or identified in an annual review under subsection (8)(b) of this section.

(6) As conditions of the suspended sentence, the court may impose one or more of the following:

(a) Crime-related prohibitions;

(b) Require the offender to devote time to a specific employment or occupation;

(c) Require the offender to remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(d) Require the offender to report as directed to the court and a community corrections officer;

(e) Require the offender to pay all court-ordered legal financial obligations as provided in RCW 9.94A.030;

(f) Require the offender to perform community restitution work; or

(g) Require the offender to reimburse the victim for the cost of any counseling required as a result of the offender's crime.

(7) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment.

(8)(a) The sex offender treatment provider shall submit quarterly reports on the offender's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements,

treatment activities, the offender's relative progress in treatment, and any other material specified by the court at sentencing.

(b) The court shall conduct a hearing on the offender's progress in treatment at least once a year. At least fourteen days prior to the hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. At the hearing, the court may modify conditions of community custody including, but not limited to, crime-related prohibitions and affirmative conditions relating to activities and behaviors identified as part of, or relating to precursor activities and behaviors in, the offender's offense cycle or revoke the suspended sentence.

(9) At least fourteen days prior to the treatment termination hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. Prior to the treatment termination hearing, the treatment provider and community corrections officer shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community custody conditions. The court may order an evaluation regarding the advisability of termination from treatment by a sex offender treatment provider who may not be the same person who treated the offender under subsection (5) of this section or any person who employs, is employed by, or shares profits with the person who treated the offender under subsection (5) of this section unless the court has entered written findings that such evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The offender shall pay the cost of the evaluation. At the treatment termination hearing the court may: (a) Modify conditions of community custody, and either (b) terminate treatment, or (c) extend treatment in two-year increments for up to the remaining period of community custody.

(10)(a) If a violation of conditions other than a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (5)(d) or (8)(b) of this section occurs

during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.633(1) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in subsections (7) and (9) of this section.

(b) If a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (5)(d) or (8)(b) of this section occurs during community custody, the department shall refer the violation to the court and recommend revocation of the suspended sentence as provided in subsection (11) of this section.

(11) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(12) If the offender violates a requirement of the sentence that is not a condition of the suspended sentence pursuant to subsection (5) or (6) of this section, the department may impose sanctions pursuant to RCW 9.94A.633(1).

(13) The offender's sex offender treatment provider may not be the same person who examined the offender under subsection (3) of this section or any person who employs, is employed by, or shares profits with the person who examined the offender under subsection (3) of this section, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical. Examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court finds that:

(a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; or

(b)(i) No certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and

(ii) The evaluation and treatment plan comply with this section and the rules adopted by the department of health.

(14) If the offender is less than eighteen years of age when the charge is filed, the state shall pay for the cost of initial evaluation and treatment.

***RCW 9.94B.040***

Noncompliance with condition or requirement of sentence — Procedure — Penalty.

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) In cases where conditions from a second or later sentence of community supervision begin prior to the term of the second or later sentence, the court shall treat a violation of such conditions as a violation of the sentence of community supervision currently being served.

(3) If an offender fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a)(i) Following the violation, if the offender and the department make a stipulated agreement, the department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, jail time, or other sanctions available in the community.

(ii) Within seventy-two hours of signing the stipulated agreement, the department shall submit a report to the court and the prosecuting attorney outlining the violation or violations, and sanctions imposed. Within fifteen days of receipt of the report, if the court is not satisfied with the sanctions,

the court may schedule a hearing and may modify the department's sanctions. If this occurs, the offender may withdraw from the stipulated agreement.

(iii) If the offender fails to comply with the sanction administratively imposed by the department, the court may take action regarding the original noncompliance. Offender failure to comply with the sanction administratively imposed by the department may be considered an additional violation.

(b) In the absence of a stipulated agreement, or where the court is not satisfied with the department's sanctions as provided in (a) of this subsection, the court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(c) The state has the burden of showing noncompliance by a preponderance of the evidence. If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may (i) convert a term of partial confinement to total confinement, (ii) convert community restitution obligation to total or partial confinement, (iii) convert monetary obligations, except restitution and the crime victim penalty assessment, to community restitution hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community restitution, or (iv) order one or more of the penalties authorized in (a)(i) of this subsection. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court;

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of legal financial obligations and regarding community restitution obligations; and

(e) If the violation involves a failure to undergo or comply with mental status evaluation and/or outpatient mental health treatment, the community corrections officer shall consult with the treatment provider or proposed

treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(4) The community corrections officer may obtain information from the offender's mental health treatment provider on the offender's status with respect to evaluation, application for services, registration for services, and compliance with the supervision plan, without the offender's consent, as described under RCW 71.05.630.

(5) An offender under community placement or community supervision who is civilly detained under chapter 71.05 RCW, and subsequently discharged or conditionally released to the community, shall be under the supervision of the department of corrections for the duration of his or her period of community placement or community supervision. During any period of inpatient mental health treatment that falls within the period of community placement or community supervision, the inpatient treatment provider and the supervising community corrections officer shall notify each other about the offender's discharge, release, and legal status, and shall share other relevant information.

(6) Nothing in this section prohibits the filing of escape charges if appropriate.

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**April 17, 2013 - 8:51 AM**

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