

RCW 71.09.025 Notice to prosecuting attorney prior to release.

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020, the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to *RCW 10.77.645(7); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to *RCW 10.77.103 and 10.77.500.

(b) The agency shall provide the prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with RCW 72.09.345(4), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the filing of any action under this chapter to seek the issuance of compulsory process for the production of any records relevant to a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(e) The prosecuting agency has the authority to utilize the procedures under RCW 71.09.035 for the production of any records held by a public agency, including any agency as defined in RCW 42.56.010, relevant to a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services. [2025 c 48 s 1; 2023 c 453 s 26; 2009 c 409 s 2; 2008 c 213 s 11; 2001 c 286 s 5; 1995 c 216 s 2; 1992 c 45 s 3.]

***Reviser's note:** These RCW references have been corrected to reflect the reorganization of chapter 10.77 RCW by 2025 c 358 s 2.

Findings—2023 c 453: See note following RCW 10.77.400.

Application—Effective date—2009 c 409: See notes following RCW 71.09.020.

Recommendations—Application—Effective date—2001 c 286: See notes following RCW 71.09.015.

Severability—Application—1992 c 45: See notes following RCW 9.94A.840.