

**Public Safety & Emergency Preparedness
Committee**

HB 1912

Brief Description: Concerning facilities to house sexually violent predators.

Sponsors: Representatives Armstrong, Hunt and Moeller; by request of Department of Social and Health Services.

Brief Summary of Bill

- Extends the state's authority to pre-empt and supersede local plans, development, regulations, permitting and inspection requirements, and all other laws necessary to enable the Department of Social and Health Services (Department) to construct and operate facilities at the Special Commitment Center on McNeil Island and Secure Community Transition Facilities (SCTF) to June 30, 2017.
- Replaces emergency language in the pre-emption provisions with statements of the Department's need to site and construct facilities to house sexually violent predators.

Hearing Date: 2/11/09

Staff: Lara Zarowsky (786-7123)

Background:

Under the Community Protection Act of 1990, a sexually violent predator may be civilly committed upon the expiration of his or her criminal sentence. A sexually violent predator is a person who has been convicted of, charged with, and found not guilty by reason of insanity, or found to be incompetent to stand trial for a crime of sexual violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Sexually violent predators are committed to the custody of the Department of Social and Health Services (Department) and confined at the Special Commitment Center (SCC) for control, care, and individualized treatment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person who has been civilly committed is statutorily entitled to an annual review of his or her mental condition, including consideration of whether conditional release to a less restrictive alternative (LRA) is in the best interest of the person and would adequately protect the community. The person is also entitled to consideration of an LRA at his or her probable cause and commitment hearings.

From 1994 until 2007, the SCC operated under a federal court injunction requiring that steps be taken to ensure that constitutionally adequate mental health treatment was being provided to the residents of the SCC. One substantial area of concern for the court in issuing and maintaining the injunction was the availability of LRAs for qualified residents of the SCC.

In 2001 the Legislature authorized the Department to build the existing SCC and SCTF on McNeil Island, and enacted provisions relating to the siting of future SCTFs. There are currently two SCTFs – one located on McNeil Island, and the other located in King County.

In 2002 the Legislature enacted a comprehensive bill relating to construction at the SCC and the siting of SCTFs to house sexually violent predators, extending civil liability protection to any county or city acting in good faith in siting an SCTC. The bill also provided special siting procedures, and limitations regarding the size and location of SCTFs. For purposes of siting, constructing, and operating SCTFs and facilities at the SCC, the law specifically superseded and pre-empted local plans, development regulations, permitting and inspection requirements, and “all other laws” including the State Environmental Policy Act, the Shoreline Management Act, and the Construction Projects in State Waters Act. These pre-emption provisions expire June 30, 2009.

By statute, capacity at the SCC may not exceed a total of 400 beds. The Governor’s 2009-2011 budget includes funding for an underground utility project, and for design of a 40-bed housing addition for the SCC to be completed in 2011-2013. A second 40-bed housing project is proposed for construction in 2015-2017.

Summary of Bill:

The state’s authority to pre-empt and supersede local plans, development regulations, permitting and inspection requirements, and all other laws necessary to enable the Department to construct and operate SCTF's and facilities at the SCC, currently set to expire on June 30, 2009, is extended to June 30, 2017.

Language identifying an emergency in the existing pre-emption provisions in the Sexually Violent Predator Act, State Environmental Protection Act, Shoreline Management Act, and Construction Projects in State Waters chapters is deleted and replaced with language identifying the Department’s “need” to construct facilities to house sexually violent predators.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.