

***Criminal Justice & Corrections  
Committee***

***HB 1078***

***Brief Description:*** *Requiring procedures for location of facilities for sexually violent predators.*

***Sponsors:*** *Representatives Romero, Alexander, O'Brien, DeBolt, Hunt, Pearson, Dunshee, Keiser, Edwards and Benson.*

***Brief Summary of Bill***

- *Requires the Department of Social and Health Services (DSHS) to establish procedures and criteria for locating facilities used for the housing or inpatient treatment of sexually violent predators conditionally released to a less restrictive alternative.*
- *Requires a public announcement at least 90 days prior to the opening of such a facility.*
- *Authorizes local jurisdictions to approve a location by a conditional or special use permitting process.*
- *Requires the Department of Community, Trade, and Economic Development (CTED) to develop model local ordinances for the conditional or special use permitting process.*

***Hearing Date:*** *2/21/01*

***Staff:*** *Jean Ann Quinn (786-7310).*

***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 of, 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 DSHS and confined at the Special Commitment Center (SCC) for control, care, and individualized treatment.*

*A person who has been civilly committed is 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. Before the court can order that a person be conditionally released to an LRA, the court must find that, among other requirements, housing available is sufficiently secure to protect the community.*

*Since 1994, the SCC has been operating under a federal court injunction requiring that steps be taken to ensure that constitutionally adequate mental health treatment is being provided to the SCC residents. In November 1999, the state was held in contempt of court for failing to take all reasonable steps toward this goal and for intentionally disregarding the requirements of the injunction. The court ordered sanctions of \$50 per day per SCC resident beginning in May of 2000. To date, the court has deferred imposition of these sanctions, finding that the SCC is making genuine efforts to bring the program into compliance. One area that continues to be a concern for the court, however, is the lack of arrangements for the transition of qualified residents into LRA's in the community. The act has been in place long enough now that a growing number of civilly committed persons are nearing the need for an LRA placement.*

*In August 2000, the DSHS formed a Secure Placement Advisory Committee and with the assistance of this committee and other public input, established criteria for the siting of LRA's housing up to three SCC residents on conditional release status. Using this criteria, 11 state- owned properties were then selected as potential sites for the location of the first such LRA. The department made a final selection from among those 11 potential sites, and also selected three possible alternatives. The local governments of some of the affected locations have since taken legal action attempting to halt the siting of these LRA's in their respective jurisdictions.*

*Local governments are authorized by the state constitution to make and enforce all local police, sanitary, and other regulations not in conflict with state general laws. This "police power" includes authority to adopt and enforce ordinances to regulate property development, including permit requirements, and to impose fines for violation of ordinances.*

*A conditional use is a use permitted in a specific zone only after review by the appropriate permitting authority and the imposition of permit conditions making the use compatible with other permitted uses in the zone. Conditions and requirements for conditional use and special use permits are specified in local ordinances.*

#### **Summary of Bill:**

*The DSHS is required to establish procedures for locating facilities that are used to house*

*or treat, on an inpatient basis, sexually violent predators who have been conditionally released to a less restrictive alternative. The procedures must include criteria for the department to use in determining whether a particular location is appropriate for this type of facility, and a public announcement of the location at least 90 days before the facility is to be used.*

*The location of these facilities may be authorized by and subject to a local conditional use or special use permit process. The local ordinance requiring the conditional use or special use permit may be adopted before or up to 60 days after the DSHS announcement to locate a facility within the jurisdiction.*

*The CTED must develop model ordinances for conditional use or special use permit processes for location of facilities to house or provide inpatient treatment for sexually violent predators eligible for release to a less restrictive alternative.*

***Appropriation:*** *None.*

***Fiscal Note:*** *Requested on February 15, 2001.*

***Effective Date:*** *Ninety days after adjournment of session in which bill is passed.*