

***Criminal Justice & Corrections
Committee***

HB 1532

Brief Description: *Regulating siting of essential state community justice facilities.*

Sponsors: *Representatives Conway, Ballasiotes, Kirby, O'Brien, Fisher, Veloria and Darneille.*

Brief Summary of Bill

- *Defines "essential state community justice facilities" within the Growth Management Act as essential public facilities to include the Department of Corrections (DOC) work/training release facilities and the Department of Social and Health Services (DSHS) juvenile group care facilities and less restrictive alternative housing facilities for sexually violent predators.*
- *Requires the DSHS and the DOC to consider certain factors to ensure equitable distribution of these facilities.*
- *Requires the DSHS and the DOC to provide counties with projections for the number of these facilities that may be sited within the next five years and siting criteria for each facility.*
- *Requires counties and their cities to use these projections within a county-wide planning policy process to develop policies for siting these facilities and allocating distribution of these facilities within their jurisdictions.*
- *Establishes specific siting criteria for less restrictive alternative housing facilities for sexually violent predators, based on criteria developed by the DSHS.*

Hearing Date: *2/21/01*

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

Background:

The Department of Corrections Community- Based Facilities. The DOC operates work/training release programs at various locations around the state. The DOC also contracts with a number of private sector businesses to operate several of the programs. The DOC, or any entity operating under contract with the DOC, is required to provide notice to the public relating to the establishment or relocation of a work release or other community-based facility. The process requires public notification, public meetings, opportunity for public comment, and the wide dissemination of proposals.

Juvenile Rehabilitation Administration Community Facilities. Community facilities are group home facilities operated by the DSHS (through the Juvenile Rehabilitation Administration (JRA)), or operated by a service provider under contract with the DSHS, for the care of certain juveniles committed to the JRA as a result of a criminal offense. The DSHS, or any entity operating under contract with the DSHS, is required to have a process for involving the community in the siting of JRA group homes. This includes public notification, public meetings, and an opportunity for public comment whenever the DSHS establishes or relocates a community facility. Each community also has a community placement oversight committee to review and make recommendations regarding the placement of juveniles in these facilities.

Less Restrictive Alternatives for Sexually Violent Predators. 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 is available that 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 the 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.

The Growth Management Act Process. The GMA requires a county and its cities to plan if the county meets certain population and growth criteria and allows counties not meeting these criteria to choose to plan under the GMA. Currently, 29 of 39 counties plan under the GMA.

The GMA requires all counties and cities in the state to take certain actions, including designation and protection of critical areas and designation of natural resource lands. The GMA imposes additional requirements on counties and cities planning under the GMA (GMA jurisdictions), including: (1) adoption of county-wide planning policies to coordinate comprehensive planning among counties and their cities; (2) designation of urban growth areas; (3) adoption of a comprehensive plan with certain required elements; and (4) adoption of implementing development regulations. By September 1, 2002, and every five years thereafter, the GMA jurisdictions must review their comprehensive plans and development regulations for consistency with the GMA requirements and must revise their plans and regulations if necessary.

The GMA jurisdictions must include a process for identifying and siting essential public facilities. Essential public facilities are described in the GMA as those public facilities that are typically difficult to site and include, among other facilities, state and local correctional facilities, mental health facilities, and group homes. The Office of Financial Management (OFM) is required to maintain a list of essential state public facilities that are required or likely to be built within six years. No GMA plan or development regulation may preclude the siting of essential public facilities.

Summary of Bill:

Essential state community justice facilities. The DOC work/training release facilities and the DSHS juvenile rehabilitation administration community facilities and less restrictive alternative housing facilities for sexually violent predators are defined as essential state community justice facilities,– whether owned and operated by the respective departments, or operated under contract with such departments. Essential state community justice facilities are essential public facilities– under the GMA.

By July 1, 2002, and every five years thereafter, the DSHS and the DOC (the departments) must provide each county in the state with a projection for the number of essential state community justice facilities under their respective jurisdictions that will be sited in that county during the next five years. In developing the projections, the departments must make efforts to ensure that the facilities are equitably distributed among the counties considering the locations of other existing and projected essential state community justice

facilities and the number of offenders to be served in relation to the number of offenders sentenced in the county. The OFM must maintain a list of all essential state public facilities, including essential state community justice facilities, that are required or likely to be built within the next five years.

The departments must also provide the counties with siting criteria for each of the projected facilities. With respect to juvenile group care facilities and the DOC work/training release facilities, the siting criteria must include requirements regarding cost parameters; building features; security devices and emergency response times; proximity to public transportation, educational, vocational, or employment opportunities, and treatment providers; staffing; and program needs as appropriate to the specific facility. The siting criteria also must include a distance requirement of not less than 1000 feet from schools, school bus stops, licensed child care homes and centers, parks, and places of worship.

Siting criteria for a less restrictive alternative facility housing up to three residents who have been ordered conditionally released from the SCC, whether owned by DSHS or operated under contract with the DSHS, must require the following: (1) an average response time of five minutes or less by law enforcement or qualified publicly employed staff; (2) an average response time by fire safety and emergency medical personnel that is no longer than the average of the local community; (3) specified security devices, such as alarm systems, sirens, cellular phone services, listening devices, and camera systems; (4) that the facility not be located within line of sight of, adjacent to, or in direct proximity to schools, school bus stops, preschools, licensed child care centers, parks, playgrounds and recreational centers, or places of worship; (5) a location within an approximate one-hour commute to a city or town with a population of 25,000 or more; and (6) a location where qualified treatment providers available.

The Growth Management Act Process. By September 1, 2003, a county and its cities planning under the GMA (GMA jurisdictions) must adopt county-wide planning policies for siting essential state community justice facilities within each county and its cities. The DOC and the DSHS must be notified of this county-wide planning policy process and invited to participate. The county-wide planning policy related to essential state community justice facilities must address at least the following: (1) the location of existing essential state community justice facilities; (2) the social, economic, and other impacts of existing and projected essential state community justice facilities on communities; (3) the incremental social, economic, and other impacts on siting new essential state community justice facilities in communities with existing essential state community justice facilities; (4) a proposed allocation of projected essential state community justice facilities among the county and its cities; and (5) coordination of development regulations to ensure the proposed allocation can be achieved.

The Department of Community, Trade and Economic Development is required to adopt guidelines by July 1, 2002, to guide and assist the GMA jurisdictions in adopting county-wide planning policies related to essential state community justice facilities.

Appropriation: None.

Fiscal Note: Requested on February 15, 2001.

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