
SUBSTITUTE HOUSE BILL 2168

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Conway, Schoesler, O'Brien, Ballasiotes, Darneille, Kirby and Hunt)

Read first time 02/06/2002. Referred to Committee on .

1 AN ACT Relating to essential state community justice facilities;
2 amending RCW 72.05.020, 72.05.400, 72.65.010, 72.65.220, and
3 36.70A.200; adding a new section to chapter 72.05 RCW; adding a new
4 section to chapter 72.65 RCW; adding a new section to chapter 36.70A
5 RCW; adding a new section to chapter 36.70 RCW; and declaring an
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read
9 as follows:

10 As used in this chapter, unless the context requires otherwise:

11 (1) "Community facility" means a group care facility operated for
12 the care of juveniles committed to the department under RCW 13.40.185.
13 A county detention facility that houses juveniles committed to the
14 department under RCW 13.40.185 pursuant to a contract with the
15 department is not a community facility.

16 (2) "Department" means the department of social and health
17 services.

18 (3) "Equitable distribution" or "distribute equitably" means siting
19 or locating community facilities in a manner that reasonably reflects

1 the proportion of juveniles sentenced to the department from each
2 county or rural multicounty geographic area designated by the
3 department, and, to the extent practicable, the proportion of such
4 juveniles residing in particular jurisdictions or communities within
5 such counties or geographic areas. Equitable distribution is a policy
6 goal, not a basis for any legal challenge to the siting, construction,
7 occupancy, or operation of any facility anywhere in the state.

8 (4) "Juvenile" means a person under the age of twenty-one who has
9 been sentenced to a term of confinement under the supervision of the
10 department under RCW 13.40.185.

11 (~~(4)~~) (5) "Service provider" means the entity that operates a
12 community facility.

13 NEW SECTION. Sec. 2. A new section is added to chapter 72.05 RCW
14 to read as follows:

15 (1) The department shall prepare a projected list of counties and
16 rural multicounty geographic areas in which community facilities need
17 to be sited over the biennium beginning July 1, 2003, and every
18 biennium thereafter, and transmit the list to the office of financial
19 management and the counties on the list. The list may be updated as
20 needed. In preparing the list, the department shall make substantial
21 efforts to provide for the equitable distribution of community
22 facilities among counties. The department shall give great weight to
23 the following factors in determining equitable distribution:

24 (a) The locations of existing community facilities owned or
25 operated by, or operated under contract with, the department in each
26 county; and

27 (b) The number and proportion of juvenile offenders committed to
28 the department residing in the county or rural multicounty geographic
29 area.

30 (2)(a) In preparing the list required under subsection (1) of this
31 section, the department shall:

32 (i) Give great weight to the factors identified in subsection (1)
33 of this section;

34 (ii) Use the information contained in the most recent edition of
35 the report required under subsection (4) of this section; and

36 (iii) Use the criteria adopted under subsection (7) of this
37 section.

1 (b) Prior to finalizing the list of projected community facilities
2 required under subsection (1) of this section, the department shall
3 consult with the county legislative authorities of each county
4 identified on the list. The department shall also hold at least one
5 public hearing within each such county or rural multicounty geographic
6 area, including, if known, the affected part of the county.

7 (3) The department shall submit, along with the list required under
8 subsection (1) of this section, the operational requirements for the
9 facilities on the list to the office of financial management and the
10 counties on the list.

11 (4) To carry out the purposes of subsection (1) of this section,
12 the department shall, no later than July 1, 2003, develop a map of the
13 state that identifies the locations of existing facilities and the
14 counties or rural multicounty geographic areas needing projected
15 facilities identified in subsection (1) of this section during the
16 biennium. The department shall update the map at least once per
17 biennium. The department shall also maintain data on the number and
18 proportion of juvenile offenders identified in subsection (1)(b) of
19 this section and shall biennially publish a report including the most
20 recent version of the map and offender data for the counties and rural
21 multicounty geographic areas.

22 (5) A county, and any county designated by the department within a
23 rural multicounty geographic area, that is included on the list
24 required under subsection (1) of this section planning under RCW
25 36.70A.040 shall adopt development regulations that designate areas or
26 zones that allow the siting of each projected community facility on the
27 list within the county using its process for siting essential public
28 facilities under RCW 36.70A.200 and section 8 of this act.

29 (6) A county, and any county designated by the department within a
30 rural multicounty geographic area, that is included on the list
31 required under subsection (1) of this section not planning under RCW
32 36.70A.040 shall adopt development regulations that designate areas or
33 zones that allow the siting of each projected community facility on the
34 list within the county using the procedures established in section 9 of
35 this act.

36 (7) The department shall, by rule, adopt facility criteria and
37 shall consult with local governments in such rule making.

1 **Sec. 3.** RCW 72.05.400 and 1998 c 269 s 5 are each amended to read
2 as follows:

3 (1) Whenever the department operates, or the secretary enters a
4 contract to operate, a community facility, the community facility may
5 be operated only after the public notification and opportunities for
6 review and comment as required by this section.

7 (2) The secretary shall establish a process for early and
8 continuous public participation in establishing or relocating community
9 facilities. The process shall include, at a minimum, public meetings
10 in the local communities affected, as well as opportunities for written
11 and oral comments, in the following manner:

12 (a) If there are more than three sites initially selected as
13 potential locations and the selection process by the secretary or a
14 service provider reduces the number of possible sites for a community
15 facility to no fewer than three, the secretary or the chief operating
16 officer of the service provider shall notify the public of the possible
17 siting and hold at least two public hearings in each community where a
18 community facility may be sited at least forty-five days before a final
19 selection is made.

20 (b) When the secretary or service provider has determined the
21 community facility's location, the secretary or the chief operating
22 officer of the service provider shall hold at least one additional
23 public hearing in the community where the community facility will be
24 sited.

25 (c) When the secretary has entered negotiations with a service
26 provider and only one site is under consideration, then at least two
27 public hearings shall be held.

28 (d) To provide adequate notice of((~~7~~)) and opportunity for
29 interested persons to comment on((~~7~~)) a proposed location, the
30 secretary or the chief operating officer of the service provider shall
31 make a good faith effort to provide at least fourteen days' advance
32 notice of the ((~~meeting to~~)) public hearings to at least the following:

33 (i) The appropriate legislative authorities of the affected
34 counties, cities, and towns;

35 (ii) Local government planning agencies in the affected
36 communities;

37 (iii) All newspapers of general circulation in the ((~~community~~))
38 local area and all radio stations and television stations generally

1 available to persons in the community(~~(7)~~) where the potential site is
2 located;

3 (iv) Any school district, private school, or kindergarten in which
4 the community facility would be sited or whose boundary is within two
5 miles of a proposed community facility, any institution of higher
6 education, any library district (~~(in which the community facility would~~
7 be sited, local business or fraternal organizations that request
8 notification from the secretary or agency, and any person or property
9 owner within a one-half mile radius of the proposed community
10 facility)), and all other local government offices within a one-half
11 mile radius of the proposed site or sites;

12 (v) The local chamber of commerce, local economic development
13 agencies, and any other local organizations that request such
14 notification from the department; and

15 (vi) Written notification to all residents and property owners
16 within a one-half mile radius of the proposed site or sites.

17 (3) The notice required under subsection (2) of this section must
18 also inform the public that any interested person or entity, including
19 a local government entity, is invited to submit written comments
20 regarding a proposed location, including comments regarding whether the
21 site meets the equitable distribution and other statutory requirements
22 for the facility. Written comments must be submitted not later than
23 thirty days following the date notice is issued pursuant to subsection
24 (2) of this section.

25 (4) The department must consider the testimony received at the
26 public hearings and any written comments submitted before making a
27 final selection of the site for the location or relocation of a
28 community facility. The department shall issue a written analysis of
29 the final selection, including how the selection was consistent with
30 the requirements of section 2 of this act.

31 (5) Before initiating (~~this~~) the process in subsection (2) of
32 this section, the department shall contact local government planning
33 agencies in the communities containing the proposed community facility.
34 The department shall coordinate with local government agencies to
35 ensure that opportunities are provided for effective citizen input and
36 to reduce the duplication of notice and meetings.

37 (~~3~~) (6) The secretary shall not issue a license to any service
38 provider until the service provider submits proof that the requirements
39 of this section have been met.

1 ~~((4))~~ (7) If local government land use regulations require that
2 a special use or conditional use permit be submitted and approved
3 before a community facility can be sited, and the process for obtaining
4 the permit includes public notice and hearing requirements similar to
5 those required under this section, the requirements of this section
6 shall not apply to the extent they would duplicate requirements under
7 the local land use regulations.

8 (8) This section shall apply only to community facilities sited
9 after September 1, 1998.

10 **Sec. 4.** RCW 72.65.010 and 1992 c 7 s 56 are each amended to read
11 as follows:

12 As used in this chapter, the following terms shall have the
13 following meanings:

14 (1) "Department" ~~((shall))~~ means the department of corrections.

15 (2) "Equitable distribution" or "distribute equitably" means siting
16 or locating work release facilities in a manner that reasonably
17 reflects the proportion of offenders sentenced to the custody or
18 supervision of the department by the courts of each county or rural
19 multicounty geographic area designated by the department, and, to the
20 extent practicable, the proportion of such offenders residing in
21 particular jurisdictions or communities within such counties or rural
22 multicounty geographic areas. Equitable distribution is a policy goal,
23 not a basis for any legal challenge to the siting, construction,
24 occupancy, or operation of any facility anywhere in the state.

25 (3) "Prisoner" means a person either male or female, convicted of
26 a felony and sentenced by the superior court to a term of confinement
27 and treatment in a state correctional institution under the
28 jurisdiction of the department.

29 (4) "Secretary" ~~((shall))~~ means the secretary of corrections.

30 ~~((3))~~ (5) "State correctional institutions" shall mean and
31 include all state adult correctional facilities established pursuant to
32 law under the jurisdiction of the department for the treatment of
33 convicted felons sentenced to a term of confinement.

34 ~~((4))~~ "Prisoner" shall mean a person either male or female,
35 convicted of a felony and sentenced by the superior court to a term of
36 confinement and treatment in a state correctional institution under the
37 jurisdiction of the department.

1 (5)) (6) "Superintendent" (~~shall~~) means the superintendent of a
2 state correctional institution, camp or other facility now or hereafter
3 established under the jurisdiction of the department pursuant to law.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 72.65 RCW
5 to read as follows:

6 (1) The department shall prepare a projected list of counties and
7 rural multicounty geographic areas in which work release facilities
8 need to be sited over the biennium beginning July 1, 2003, and every
9 biennium thereafter, and transmit the list to the office of financial
10 management and the counties on the list. The list may be updated as
11 needed. In preparing the list, the department shall make substantial
12 efforts to provide for the equitable distribution of work release
13 facilities among counties. The department shall give great weight to
14 the following factors in determining equitable distribution:

15 (a) The locations of existing residential facilities owned or
16 operated by, or operated under contract with, the department in each
17 county; and

18 (b) The number and proportion of adult offenders sentenced to the
19 custody or supervision of the department by the courts of the county or
20 rural multicounty geographic area.

21 (2)(a) In preparing the list required under subsection (1) of this
22 section, the department shall:

23 (i) Give great weight to the factors identified in subsection (1)
24 of this section;

25 (ii) Use the information contained in the most recent edition of
26 the report required under subsection (4) of this section; and

27 (iii) Use the criteria adopted under subsection (7) of this
28 section.

29 (b) Prior to finalizing the list of projected work release
30 facilities required under subsection (1) of this section, the
31 department shall consult with the county legislative authorities of
32 each county identified on the list. The department also shall hold at
33 least one public hearing within each such county or rural multicounty
34 geographic area, including, if known, the affected part of the county
35 or rural multicounty geographic area.

36 (3) The department shall submit, along with the list required under
37 subsection (1) of this section, the operational requirements for the

1 facilities on the list to the office of financial management and the
2 counties on the list.

3 (4) To carry out the purposes of subsection (1) of this section,
4 the department shall, no later than July 1, 2003, develop a map of the
5 state that identifies the locations of existing facilities and the
6 counties or rural multicounty geographic areas needing projected
7 facilities identified in subsection (1) of this section during the
8 biennium. The department shall update the map at least once per
9 biennium. The department shall also maintain data on the number and
10 proportion of offenders identified in subsection (1)(b) of this section
11 and shall biennially publish a report including the most recent version
12 of the map and offender data for the counties and rural multicounty
13 geographic areas.

14 (5) A county, and any county designated by the department within a
15 rural multicounty geographic area, that is included on the list
16 required under subsection (1) of this section planning under RCW
17 36.70A.040 shall adopt development regulations that designate areas or
18 zones that allow the siting of each projected work release facility on
19 the list within the county using its process for siting essential
20 public facilities under RCW 36.70A.200 and section 8 of this act.

21 (6) A county, and any county designated by the department within a
22 rural multicounty geographic area, that is included on the list
23 required under subsection (1) of this section not planning under RCW
24 36.70A.040 shall adopt development regulations that designate areas or
25 zones that allow the siting of each projected work release facility on
26 the list within the county using the procedures established in section
27 9 of this act.

28 (7) The department shall, by rule, adopt facility criteria and
29 shall consult with local governments in such rule making.

30 **Sec. 6.** RCW 72.65.220 and 1997 c 348 s 1 are each amended to read
31 as follows:

32 (1) The department or a private or public entity under contract
33 with the department may establish or relocate for the operation of a
34 work release or other community-based facility only after (~~public~~
35 ~~notifications and local public meetings have been completed consistent~~
36 ~~with~~) meeting the requirements of this section.

37 (2) The department and other state agencies responsible for siting
38 department-owned, operated, or contracted facilities shall establish a

1 process for early and continuous public participation in establishing
2 or relocating work release or other community-based facilities. This
3 process shall include public meetings in the local communities
4 affected, opportunities for written and oral comments, and wide
5 dissemination of proposals and alternatives, including at least the
6 following:

7 (a) When the department or a private or public entity under
8 contract with the department has selected three or fewer sites for
9 final consideration of a department-owned, operated, or contracted work
10 release or other community-based facility, the department or
11 contracting organization shall make public notification and conduct at
12 least two public hearings in each of the local communities (~~of the~~
13 ~~final three or fewer proposed sites~~) where such a facility may be
14 sited at least forty-five days before a final selection is made. An
15 additional public hearing after public notification shall also be
16 conducted in the local community selected as the final proposed site.

17 (b) (~~Notifications required under this section shall be provided~~
18 ~~to~~) To provide adequate notice of and opportunity for interested
19 persons to comment on a proposed location, the department or
20 contracting entity shall make a good faith effort to provide at least
21 fourteen days' advance notice of the public hearings to at least the
22 following:

23 (i) The appropriate legislative authorities of the affected
24 counties, cities, and towns;

25 (ii) Local government planning agencies in the affected
26 communities;

27 (iii) All newspapers of general circulation in the local area and
28 all (~~local~~) radio stations(~~(,)~~) and television stations(~~(, and cable~~
29 networks)) generally available to persons in the community where the
30 potential site is located;

31 (~~(ii)~~) (iv) Appropriate school districts, private schools,
32 kindergartens, institutions of higher education, city and county
33 libraries, and all other local government offices within a one-half
34 mile radius of the proposed site or sites;

35 (~~(iii)~~) (v) The local chamber of commerce, local economic
36 development agencies, and any other local organizations that request
37 such notification from the department; and

1 (~~(iv) In writing~~) (vi) Written notification to all residents
2 (~~and/or~~) and property owners within a one-half mile radius of the
3 proposed site or sites.

4 (3) The notice required under subsection (2) of this section must
5 also inform the public that any interested person or entity, including
6 a local government entity, is invited to submit written comments
7 regarding a proposed location, including comments regarding whether the
8 site meets the equitable distribution and other statutory requirements
9 for the facility. Written comments must be submitted not later than
10 thirty days following the date notice is issued pursuant to subsection
11 (2) of this section.

12 (4) The department must consider the testimony received at the
13 public hearings and any written comments submitted before making a
14 final selection of the site for the location or relocation of a work
15 release facility. The department shall issue a written analysis of the
16 final selection, including how the selection was consistent with the
17 requirements of section 5 of this act.

18 (5) When the department contracts for the operation of a work
19 release or other community-based facility that is not owned or operated
20 by the department, the department shall require as part of its contract
21 that the contracting entity comply with all the public notification and
22 public hearing requirements as provided in this section for each
23 located and relocated work release or other community-based facility.

24 (6) If local government regulations require that a special use or
25 conditional use permit be submitted and approved before a work release
26 facility can be sited, and the process for obtaining the permit
27 includes public notice and hearing requirements similar to those
28 required under this section, the requirements of this section shall not
29 apply to the extent they would duplicate requirements under the local
30 land use regulations.

31 **Sec. 7.** RCW 36.70A.200 and 2001 2nd sp.s. c 12 s 205 are each
32 amended to read as follows:

33 (1) The comprehensive plan of each county and city that is planning
34 under RCW 36.70A.040 shall include a process for identifying and siting
35 essential public facilities. Essential public facilities include those
36 facilities that are typically difficult to site, such as airports,
37 state education facilities and state or regional transportation
38 facilities as defined in RCW 47.06.140, state and local correctional

1 facilities, solid waste handling facilities, and in-patient facilities
2 including substance abuse facilities, mental health facilities, group
3 homes, and secure community transition facilities as defined in RCW
4 71.09.020.

5 (2) Each county and city planning under RCW 36.70A.040 shall, not
6 later than the deadline specified in RCW 36.70A.130, establish a
7 process, or amend its existing process, for identifying and siting
8 essential public facilities, and adopt or amend its development
9 regulations as necessary to provide for the siting of secure community
10 transition facilities consistent with statutory requirements applicable
11 to these facilities.

12 (3) Any city or county not planning under RCW 36.70A.040 shall, not
13 later than the deadline specified in RCW 36.70A.130, establish a
14 process for siting secure community transition facilities and adopt or
15 amend its development regulations as necessary to provide for the
16 siting of such facilities consistent with statutory requirements
17 applicable to these facilities.

18 (4) Each county planning under RCW 36.70A.040, in cooperation with
19 the cities located in whole or in part within the county, and each city
20 planning under RCW 36.70A.040 shall, when it next amends its
21 comprehensive plan, but in no case later than the deadline specified in
22 RCW 36.70A.130, establish a process, or amend its existing process, for
23 identifying and siting essential public facilities, and adopt or amend
24 its development regulations as necessary to provide for the siting of
25 community facilities as defined in RCW 72.05.020 and work release and
26 other facilities operated by or under contract with the department of
27 corrections. When siting a community facility under chapter 72.05 RCW
28 or a work release facility under chapter 72.65 RCW, a county or city
29 shall follow, in addition to requirements of the process for siting
30 essential public facilities established under this section, the
31 requirements established in section 8 of this act.

32 (5) The office of financial management shall maintain a list of
33 those essential state public facilities that are required or likely to
34 be built within the next six years. The office of financial management
35 may at any time add facilities to the list.

36 ~~((+5))~~ (6) No local comprehensive plan or development regulation
37 may preclude the siting of essential public facilities.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A RCW
2 to read as follows:

3 (1) When providing for the siting of an essential public facility
4 that is a community facility under chapter 72.05 RCW, a county or city
5 planning under this chapter shall:

6 (a) Involve the department of social and health services in the
7 siting process;

8 (b) Make a substantial effort to provide for the equitable
9 distribution of community facilities by giving great weight to the
10 factors in section 2(1) (a) and (b) of this act; and

11 (c) Ensure that any location identified is consistent with the
12 operational requirements established by the department of social and
13 health services under section 2(3) of this act.

14 (2) When providing for the siting of an essential public facility
15 that is a work release facility under chapter 72.65 RCW, a county or
16 city planning under this chapter shall:

17 (a) Involve the department of corrections in the siting process;

18 (b) Make a substantial effort to provide for the equitable
19 distribution of work release facilities by giving great weight to the
20 factors in section 5(1) (a) and (b) of this act; and

21 (c) Ensure that any location identified is consistent with the
22 operational requirements established by the department of corrections
23 under section 5(3) of this act.

24 (3)(a) As part of the permitting process for a community facility
25 under chapter 72.05 RCW, a county or city may not impose upon the
26 department of social and health services any requirements beyond the
27 operational requirements established under section 2(3) of this act and
28 the facility criteria established under section 2(7) of this act.

29 (b) As part of the permitting process for a work release facility
30 under chapter 72.65 RCW, a county or city may not impose upon the
31 department of corrections any requirements beyond the operational
32 requirements established under section 5(3) of this act and the
33 facility criteria established under section 5(7) of this act.

34 (4) Any conditional use permit, special use permit, or any other
35 development application process necessary to site a community facility
36 or work release facility may not exceed one hundred twenty days and
37 must include an appeal process.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70 RCW
2 to read as follows:

3 (1) When providing for the siting of a community facility under
4 chapter 72.05 RCW, a county or city planning under this chapter shall:

5 (a) Involve the department of social and health services in the
6 siting process;

7 (b) Make a substantial effort to provide for the equitable
8 distribution of community facilities by giving great weight to the
9 factors in section 2(1) (a) and (b) of this act; and

10 (c) Ensure that any location identified is consistent with the
11 operational requirements established by the department of social and
12 health services under section 2(3) of this act.

13 (2) When providing for the siting of a work release facility under
14 chapter 72.65 RCW, a county and city planning under this chapter shall:

15 (a) Involve the department of corrections in the siting process;

16 (b) Make a substantial effort to provide for the equitable
17 distribution of work release facilities by giving great weight to the
18 factors in section 5(1) (a) and (b) of this act; and

19 (c) Ensure that any location identified is consistent with the
20 operational requirements established by the department of corrections
21 under section 5(3) of this act.

22 (3)(a) As part of the permitting process for a community facility
23 under chapter 72.05 RCW, a county or city may not impose upon the
24 department of social and health services any requirements beyond the
25 operational requirements established under section 2(3) of this act and
26 the facility criteria established under section 2(7) of this act.

27 (b) As part of the permitting process for a work release facility
28 under chapter 72.65 RCW, a county or city may not impose upon the
29 department of corrections any requirements beyond the operational
30 requirements established under section 5(3) of this act and the
31 facility criteria established under section 5(7) of this act.

32 (4) Any conditional use permit, special use permit, or any other
33 development application process necessary to site a community facility
34 or work release facility may not exceed one hundred twenty days and
35 must include an appeal process.

36 NEW SECTION. **Sec. 10.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and takes effect
6 immediately.

--- END ---