
SECOND ENGROSSED HOUSE BILL 2168

State of Washington

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By Representatives Conway, Schoesler, O'Brien, Ballasiotes, Darneille, Kirby and Hunt

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

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

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

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

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

14 (2) "Department" means the department of social and health
15 services.

16 (3) "Equitable distribution" or "distribute equitably" means siting
17 or locating community facilities in a manner that will not cause a
18 disproportionate grouping of facilities in any single geographic
19 region, or in any community or neighborhood within a jurisdiction.

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

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

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.05 RCW
7 to read as follows:

8 (1) The department shall prepare a projected list of counties in
9 which community facilities need to be sited over the period of calendar
10 year 2002 through 2008, and every six years thereafter, and transmit
11 that list to the office of financial management. The list may be
12 updated as needed. In preparing this list, the department shall make
13 substantial efforts to provide for the equitable distribution of
14 community facilities among counties. The department shall give great
15 weight to the following factors in determining equitable distribution:

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

19 (b) The locations of other projected residential facilities owned
20 or operated by, or operated under contract with, the department in each
21 county;

22 (c) The number of juvenile registered sex offenders classified as
23 level II or III and juvenile sex offenders registered as homeless per
24 thousand persons residing in the county;

25 (d) The number of juvenile violent offenders under parole or
26 probation per thousand persons residing in the county; and

27 (e) The number of juvenile offenders sentenced or adjudicated in
28 the county per thousand persons residing in the county.

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

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

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

35 (iii) Use the criteria adopted under subsection (5) of this
36 section.

37 (b) Prior to finalizing the list of projected community facilities
38 required under subsection (1) of this section, the department shall

1 consult with the county legislative authorities of each county
2 identified on the list. The department shall also hold at least one
3 public hearing within each such county or, if known, the affected part
4 of the county.

5 (3) In identifying potential sites within a county for the location
6 of a community facility, the department shall work with local
7 governments to provide for the equitable distribution of such
8 facilities among the jurisdictions and neighborhoods within the county.
9 The department and local governments shall give great weight to the
10 following factors in determining equitable distribution:

11 (a) The locations of existing residential facilities owned or
12 operated by, or operated under contract with, the department in each
13 jurisdiction or neighborhood in the county;

14 (b) The locations of other projected residential facilities owned
15 or operated by, or operated under contract with, the department in each
16 jurisdiction or neighborhood in the county;

17 (c) The number of juvenile registered sex offenders classified as
18 level II or III and juvenile sex offenders registered as homeless per
19 thousand persons residing in each jurisdiction or neighborhood in the
20 county; and

21 (d) The number of juvenile violent offenders under parole or
22 probation per thousand persons residing in each jurisdiction or
23 neighborhood in the county.

24 (4) To carry out the purposes of subsections (1) and (3) of this
25 section, the department shall, no later than January 1, 2002, develop
26 a mapping system to identify the locations of existing and projected
27 facilities identified in subsections (1) and (3) of this section. The
28 department also shall maintain a list of the number of offenders
29 identified in subsections (1) and (3) of this section and shall
30 annually publish a report including the map and offender rates for the
31 counties and jurisdictions of the state.

32 (5) The department shall, by rule, adopt facility criteria and
33 shall consult with local governments in such rule making.

34 (6) As used in this section, the term "jurisdiction" means a city,
35 town, or unincorporated area of a county.

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

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

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

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

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

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

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

31 (i) The affected counties, cities, and towns;

32 (ii) Local government planning agencies in the affected
33 communities;

34 (iii) All newspapers of general circulation in the ((~~community~~7))
35 local area and all radio stations and television stations generally
36 available to persons in the community((~~7~~)) where the potential site is
37 located;

38 (iv) Any school district, private school, or kindergarten in which
39 the community facility would be sited or whose boundary is within two

1 miles of a proposed community facility, and institutions of higher
2 education, any library district ((in which the community facility would
3 be sited, local business or fraternal organizations that request
4 notification from the secretary or agency, and any person or property
5 owner within a one-half mile radius of the proposed community
6 facility)), and all other local government offices within a one-half
7 mile radius of the proposed site or sites;

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

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

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

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

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

33 ((+3)) (6) The secretary shall not issue a license to any service
34 provider until the service provider submits proof that the requirements
35 of this section have been met.

36 ((+4)) (7) If local government land use regulations require that
37 a special use or conditional use permit be submitted and approved
38 before a community facility can be sited, and the process for obtaining
39 such a permit includes public notice and hearing requirements similar

1 to those required under this section, the requirements of this section
2 shall not apply to the extent they would duplicate requirements under
3 the local land use regulations.

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

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

8 As used in this chapter, the following terms shall have the
9 following meanings:

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

11 (2) "Equitable distribution" or "distribute equitably" means siting
12 or locating work release facilities in a manner that will not cause a
13 disproportionate grouping of facilities in any single geographic
14 region, or in any community or neighborhood within a jurisdiction.

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

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

20 (~~(3)~~) (5) "State correctional institutions" shall mean and
21 include all state adult correctional facilities established pursuant to
22 law under the jurisdiction of the department for the treatment of
23 convicted felons sentenced to a term of confinement.

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

28 (~~(5)~~) (6) "Superintendent" (~~shall~~) means the superintendent of a
29 state correctional institution, camp or other facility now or hereafter
30 established under the jurisdiction of the department pursuant to law.

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

33 (1) The department shall prepare a projected list of counties in
34 which work release facilities need to be sited over the period of
35 calendar year 2002 through 2008, and every six years thereafter, and
36 transmit that list to the office of financial management. The list may
37 be updated as needed. In preparing this list, the department shall

1 make substantial efforts to provide for the equitable distribution of
2 work release facilities among counties. The department shall give
3 great weight to the following factors in determining equitable
4 distribution:

5 (a) The locations of existing residential facilities owned or
6 operated by, or operated under contract with, the department in each
7 county;

8 (b) The locations of other projected residential facilities owned
9 or operated by, or operated under contract with, the department in each
10 county;

11 (c) The number of adult registered sex offenders classified as
12 level II or III and adult sex offenders registered as homeless per
13 thousand persons residing in the county;

14 (d) The number of adult violent offenders under parole or probation
15 per thousand persons residing in the county; and

16 (e) The number of adult offenders sentenced or adjudicated in the
17 county per thousand persons residing in the county.

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

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

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

24 (iii) Use the criteria adopted under subsection (5) of this
25 section.

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

32 (3) In identifying potential sites within a county for the location
33 of a work release facility, the department shall work with local
34 governments to provide for the equitable distribution of such
35 facilities among the jurisdictions and neighborhoods within the county.
36 The department and local governments shall give great weight to the
37 following factors in determining equitable distribution:

1 (a) The locations of existing residential facilities owned or
2 operated by, or operated under contract with, the department in each
3 jurisdiction or neighborhood in the county;

4 (b) The locations of other projected residential facilities owned
5 or operated by, or operated under contract with, the department in each
6 jurisdiction or neighborhood in the county;

7 (c) The number of adult registered sex offenders classified as
8 level II or III and adult sex offenders registered as homeless per
9 thousand persons residing in each jurisdiction or neighborhood in the
10 county; and

11 (d) The number of adult violent offenders under parole or probation
12 per thousand persons residing in each jurisdiction or neighborhood in
13 the county.

14 (4) To carry out the purposes of subsections (1) and (3) of this
15 section, the department shall, no later than January 1, 2002, develop
16 a mapping system to identify the locations of existing and projected
17 facilities identified in subsections (1) and (3) of this section. The
18 department also shall maintain a list of the number of offenders
19 identified in subsections (1) and (3) of this section and shall
20 annually publish a report including the map and offender rates for the
21 counties and jurisdictions of the state.

22 (5) The department shall, by rule, adopt facility criteria and
23 shall consult with local governments in such rule making.

24 (6) As used in this section, the term "jurisdiction" means a city,
25 town, or unincorporated area of a county.

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

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

33 (2) The department and other state agencies responsible for siting
34 department-owned, operated, or contracted facilities shall establish a
35 process for early and continuous public participation in establishing
36 or relocating work release or other community-based facilities. This
37 process shall include public meetings in the local communities
38 affected, opportunities for written and oral comments, and wide

1 dissemination of proposals and alternatives, including at least the
2 following:

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

13 (b) (~~Notifications required under this section shall be provided~~
14 ~~to~~) To provide adequate notice of and opportunity for interested
15 persons to comment on a proposed location, the department or
16 contracting entity shall provide at least fourteen days' advance notice
17 of the public hearings to at least the following:

18 (i) The affected counties, cities, and towns;

19 (ii) Local government planning agencies in the affected
20 communities;

21 (iii) All newspapers of general circulation in the local area and
22 all (~~local~~) radio stations(~~(-)~~) and television stations(~~(- and cable~~
23 networks)) generally available to persons in the community where the
24 potential site is located;

25 (~~(-iii-)~~) (iv) Appropriate school districts, private schools,
26 kindergartens, institutions of higher education, city and county
27 libraries, and all other local government offices within a one-half
28 mile radius of the proposed site or sites;

29 (~~(-iii-)~~) (v) The local chamber of commerce, local economic
30 development agencies, and any other local organizations that request
31 such notification from the department; and

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

35 (3) The notice required under subsection (2) of this section must
36 also inform the public that any interested person or entity, including
37 a local government entity, is invited to submit written comments
38 regarding a proposed location, including comments regarding whether the
39 site meets the equitable distribution and other statutory requirements

1 for the facility. Written comments must be submitted not later than
2 thirty days following the date notice is issued pursuant to subsection
3 (2) of this section.

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

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

16 (6) If local government regulations require that a special use or
17 conditional use permit be submitted and approved before a work release
18 facility can be sited, and the process for obtaining such a permit
19 includes public notice and hearing requirements similar to those
20 required under this section, the requirements of this section shall not
21 apply to the extent they would duplicate requirements under the local
22 land use regulations.

23 NEW SECTION. Sec. 7. If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. Sec. 8. This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

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