

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6594

Chapter 68, Laws of 2002

57th Legislature
2002 Regular Session

SECURE COMMUNITY TRANSITION FACILITIES

EFFECTIVE DATE: 3/21/02

Passed by the Senate March 12, 2002
YEAS 29 NAYS 15

BRAD OWEN

President of the Senate

Passed by the House March 8, 2002
YEAS 55 NAYS 41

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6594** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved March 21, 2002

FILED

March 21, 2002 - 2:16 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6594

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Carlson, Costa, Hargrove and Long; by request of Jt Select Comm on the Equitable Distrib of Secure Community Transition Facil)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to the implementation of the recommendations of the
2 joint select committee on the equitable distribution of secure
3 community transition facilities; amending RCW 36.70A.200, 71.09.020,
4 71.09.285, 71.09.305, 71.09.255, and 36.70A.103; adding a new section
5 to chapter 4.24 RCW; adding new sections to chapter 71.09 RCW; adding
6 a new section to chapter 34.05 RCW; adding a new section to chapter
7 43.21C RCW; adding a new section to chapter 90.58 RCW; adding a new
8 section to chapter 77.55 RCW; creating a new section; providing
9 expiration dates; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** The purpose of this act is to:

12 (1) Enable the legislature to act upon the recommendations of the
13 joint select committee on the equitable distribution of secure
14 community transition facilities established in section 225, chapter 12,
15 Laws of 2001 2nd sp. sess.; and

16 (2) Harmonize the preemption provisions in RCW 71.09.250 with the
17 preemption provisions applying to future secure community transition
18 facilities to reflect the joint select committee's recommendation that

1 the preemption granted for future secure community transition
2 facilities be the same throughout the state.

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

5 (1) The comprehensive plan of each county and city that is planning
6 under RCW 36.70A.040 shall include a process for identifying and siting
7 essential public facilities. Essential public facilities include those
8 facilities that are typically difficult to site, such as airports,
9 state education facilities and state or regional transportation
10 facilities as defined in RCW 47.06.140, state and local correctional
11 facilities, solid waste handling facilities, and in-patient facilities
12 including substance abuse facilities, mental health facilities, group
13 homes, and secure community transition facilities as defined in RCW
14 71.09.020.

15 (2) Each county and city planning under RCW 36.70A.040 shall, not
16 later than (~~the deadline specified in RCW 36.70A.130~~) September 1,
17 2002, establish a process, or amend its existing process, for
18 identifying and siting essential public facilities(~~(7)~~) and adopt or
19 amend its development regulations as necessary to provide for the
20 siting of secure community transition facilities consistent with
21 statutory requirements applicable to these facilities.

22 (3) Any city or county not planning under RCW 36.70A.040 shall, not
23 later than (~~the deadline specified in RCW 36.70A.130~~) September 1,
24 2002, establish a process for siting secure community transition
25 facilities and adopt or amend its development regulations as necessary
26 to provide for the siting of such facilities consistent with statutory
27 requirements applicable to these facilities.

28 (4) The office of financial management shall maintain a list of
29 those essential state public facilities that are required or likely to
30 be built within the next six years. The office of financial management
31 may at any time add facilities to the list.

32 (5) No local comprehensive plan or development regulation may
33 preclude the siting of essential public facilities.

34 (6) No person may bring a cause of action for civil damages based
35 on the good faith actions of any county or city to provide for the
36 siting of secure community transition facilities in accordance with
37 this section and with the requirements of chapter 12, Laws of 2001 2nd
38 sp. sess. For purposes of this subsection, "person" includes, but is

1 not limited to, any individual, agency as defined in RCW 42.17.020,
2 corporation, partnership, association, and limited liability entity.

3 (7) Counties or cities siting facilities pursuant to subsection (2)
4 or (3) of this section shall comply with section 7 of this act.

5 (8) The failure of a county or city to act by the deadlines
6 established in subsections (2) and (3) of this section is not:

7 (a) A condition that would disqualify the county or city for
8 grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

9 (b) A consideration for grants or loans provided under RCW
10 43.17.250(2); or

11 (c) A basis for any petition under RCW 36.70A.280 or for any
12 private cause of action.

13 NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW
14 to read as follows:

15 (1) Law enforcement shall respond to a call regarding a resident of
16 a secure community transition facility as a high priority call.

17 (2) No law enforcement officer responding reasonably and in good
18 faith to a call regarding a resident of a secure community transition
19 facility shall be held liable nor shall the city or county employing
20 the officer be held liable, in any cause of action for civil damages
21 based on the acts of the resident or the actions of the officer during
22 the response.

23 **Sec. 4.** RCW 71.09.020 and 2001 2nd sp.s. c 12 s 102 are each
24 amended to read as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

27 (1) "Department" means the department of social and health
28 services.

29 (2) "Less restrictive alternative" means court-ordered treatment in
30 a setting less restrictive than total confinement which satisfies the
31 conditions set forth in RCW 71.09.092.

32 (3) "Likely to engage in predatory acts of sexual violence if not
33 confined in a secure facility" means that the person more probably than
34 not will engage in such acts if released unconditionally from detention
35 on the sexually violent predator petition. Such likelihood must be
36 evidenced by a recent overt act if the person is not totally confined
37 at the time the petition is filed under RCW 71.09.030.

1 (4) "Mental abnormality" means a congenital or acquired condition
2 affecting the emotional or volitional capacity which predisposes the
3 person to the commission of criminal sexual acts in a degree
4 constituting such person a menace to the health and safety of others.

5 (5) "Predatory" means acts directed towards: (a) Strangers; (b)
6 individuals with whom a relationship has been established or promoted
7 for the primary purpose of victimization; or (c) persons of casual
8 acquaintance with whom no substantial personal relationship exists.

9 (6) "Recent overt act" means any act or threat that has either
10 caused harm of a sexually violent nature or creates a reasonable
11 apprehension of such harm in the mind of an objective person who knows
12 of the history and mental condition of the person engaging in the act.

13 (7) "Risk potential activity" or "risk potential facility" means an
14 activity or facility that provides a higher incidence of risk to the
15 public from persons conditionally released from the special commitment
16 center. Risk potential activities and facilities include: Public and
17 private schools, school bus stops, licensed day care and licensed
18 preschool facilities, public parks, publicly dedicated trails, sports
19 fields, playgrounds, recreational and community centers, churches,
20 synagogues, temples, mosques, ~~((and))~~ public libraries, and others
21 identified by the department following the hearings on a potential site
22 required in RCW 71.09.315. For purposes of this chapter, "school bus
23 stops" does not include bus stops established primarily for public
24 transit.

25 (8) "Secretary" means the secretary of social and health services
26 or the secretary's designee.

27 (9) "Secure facility" means a residential facility for persons
28 civilly confined under the provisions of this chapter that includes
29 security measures sufficient to protect the community. Such facilities
30 include total confinement facilities, secure community transition
31 facilities, and any residence used as a court-ordered placement under
32 RCW 71.09.096.

33 (10) "Secure community transition facility" means a residential
34 facility for persons civilly committed and conditionally released to a
35 less restrictive alternative under this chapter. A secure community
36 transition facility has supervision and security, and either provides
37 or ensures the provision of sex offender treatment services. Secure
38 community transition facilities include but are not limited to the
39 facilities established pursuant to RCW 71.09.250 and any

1 community-based facilities established under this chapter and operated
2 by the secretary or under contract with the secretary.

3 (11) "Sexually violent offense" means an act committed on, before,
4 or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as
5 rape in the first degree, rape in the second degree by forcible
6 compulsion, rape of a child in the first or second degree, statutory
7 rape in the first or second degree, indecent liberties by forcible
8 compulsion, indecent liberties against a child under age fourteen,
9 incest against a child under age fourteen, or child molestation in the
10 first or second degree; (b) a felony offense in effect at any time
11 prior to July 1, 1990, that is comparable to a sexually violent offense
12 as defined in (a) of this subsection, or any federal or out-of-state
13 conviction for a felony offense that under the laws of this state would
14 be a sexually violent offense as defined in this subsection; (c) an act
15 of murder in the first or second degree, assault in the first or second
16 degree, assault of a child in the first or second degree, kidnapping in
17 the first or second degree, burglary in the first degree, residential
18 burglary, or unlawful imprisonment, which act, either at the time of
19 sentencing for the offense or subsequently during civil commitment
20 proceedings pursuant to this chapter, has been determined beyond a
21 reasonable doubt to have been sexually motivated, as that term is
22 defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28
23 RCW, that is an attempt, criminal solicitation, or criminal conspiracy
24 to commit one of the felonies designated in (a), (b), or (c) of this
25 subsection.

26 (12) "Sexually violent predator" means any person who has been
27 convicted of or charged with a crime of sexual violence and who suffers
28 from a mental abnormality or personality disorder which makes the
29 person likely to engage in predatory acts of sexual violence if not
30 confined in a secure facility.

31 (13) "Total confinement facility" means a facility that provides
32 supervision and sex offender treatment services in a total confinement
33 setting. Total confinement facilities include the special commitment
34 center and any similar facility designated as a secure facility by the
35 secretary.

36 **Sec. 5.** RCW 71.09.285 and 2001 2nd sp.s. c 12 s 213 are each
37 amended to read as follows:

1 (1) Except with respect to the secure community transition facility
2 established pursuant to RCW 71.09.250, the secretary shall develop
3 policy guidelines that balance the average response time of emergency
4 services to the general area of a proposed secure community transition
5 facility against the proximity of the proposed site to risk potential
6 activities and facilities in existence at the time the site is listed
7 for consideration.

8 (2) In ~~((balancing the competing criteria of proximity and response
9 time the policy guidelines shall endeavor to achieve an average law
10 enforcement response time not greater than five minutes and in))~~ no
11 case shall the policy guidelines permit location of a facility adjacent
12 to, immediately across a street or parking lot from, or within the line
13 of sight of a risk potential activity or facility in existence at the
14 time a site is listed for consideration. "Within the line of sight"
15 means that it is possible to reasonably visually distinguish and
16 recognize individuals.

17 (3) The policy guidelines shall require that great weight be given
18 to sites that are the farthest removed from any risk potential
19 activity.

20 (4) The policy guidelines shall specify how distance from the
21 location is measured and any variations in the measurement based on the
22 size of the property within which a proposed facility is to be located.

23 (5) The policy guidelines shall establish a method to analyze and
24 compare the criteria for each site in terms of public safety and
25 security, site characteristics, and program components. In making a
26 decision regarding a site following the analysis and comparison, the
27 secretary shall give priority to public safety and security
28 considerations. The analysis and comparison of the criteria are to be
29 documented and made available at the public hearings prescribed in RCW
30 71.09.315.

31 (6) Policy guidelines adopted by the secretary under this section
32 shall be considered by counties and cities when providing for the
33 siting of secure community transition facilities as required under RCW
34 36.70A.200.

35 **Sec. 6.** RCW 71.09.305 and 2001 2nd sp.s. c 12 s 217 are each
36 amended to read as follows:

37 (1) Unless otherwise ordered by the court:

1 (a) Residents of a secure community transition facility shall wear
2 electronic monitoring devices at all times. To the extent that
3 electronic monitoring devices that employ global positioning system
4 technology are available and funds for this purpose are appropriated by
5 the legislature, the department shall use these devices.

6 (b) At least one staff member, or other court-authorized and
7 department-approved person must escort each resident when the resident
8 leaves the secure community transition facility for appointments,
9 employment, or other approved activities. Escorting persons must
10 supervise the resident closely and maintain close proximity to the
11 resident. The escort must immediately notify the department of any
12 serious violation, as defined in RCW 71.09.325, by the resident and
13 must immediately notify law enforcement of any violation of law by the
14 resident. The escort may not be a relative of the resident or a person
15 with whom the resident has, or has had, a dating relationship as
16 defined in RCW 26.50.010.

17 (2) Staff members of the special commitment center and any other
18 total confinement facility and any secure community transition facility
19 must be trained in self-defense and appropriate crisis responses
20 including incident de-escalation. Prior to escorting a person outside
21 of a facility, staff members must also have training in the offense
22 pattern of the offender they are escorting. ~~((The escort may not be a~~
23 ~~relative of the resident.))~~

24 (3) Any escort must carry a cellular telephone or a similar device
25 at all times when escorting a resident of a secure community transition
26 facility.

27 (4) The department shall require training in offender pattern,
28 self-defense, and incident response for all court-authorized escorts
29 who are not employed by the department or the department of
30 corrections.

31 NEW SECTION. Sec. 7. A new section is added to chapter 71.09 RCW
32 to read as follows:

33 The minimum requirements set out in RCW 71.09.285 through 71.09.340
34 are minimum requirements to be applied by the department. Nothing in
35 this section is intended to prevent a city or county from adopting
36 development regulations, as defined in RCW 36.70A.030, unless the
37 proposed regulation imposes requirements more restrictive than those
38 specifically addressed in RCW 71.09.285 through 71.09.340. Regulations

1 that impose requirements more restrictive than those specifically
2 addressed in these sections are void. Nothing in these sections
3 prevents the department from adding requirements to enhance public
4 safety.

5 **Sec. 8.** RCW 71.09.255 and 2001 2nd sp.s. c 12 s 204 are each
6 amended to read as follows:

7 (1) Upon receiving the notification required by RCW 71.09.250,
8 counties must promptly notify the cities within the county of the
9 maximum number of secure community transition facility beds that may be
10 required and the projected number of beds to be needed in that county.

11 (2) The incentive grants and payments provided under this section
12 are subject to the following provisions:

13 (a) Counties and the cities within the county must notify each
14 other of siting plans to promote the establishment and equitable
15 distribution of secure community transition facilities;

16 (b) Development regulations, ordinances, plans, laws, and criteria
17 established for siting must be consistent with statutory requirements
18 and rules applicable to siting and operating secure community
19 transition facilities;

20 (c) The minimum size for any facility is three beds; and

21 (d) The department must approve any sites selected.

22 (3) Any county or city that makes a commitment to initiate the
23 process to site one or more secure community transition facilities by
24 (~~February 1, 2002~~) one hundred twenty days after the effective date
25 of this act, shall receive a planning grant as proposed and approved by
26 the department of community, trade, and economic development.

27 (4) Any county or city that has issued all necessary permits by May
28 1, 2003, for one or more secure community transition facilities that
29 comply with the requirements of this section shall receive an incentive
30 grant in the amount of fifty thousand dollars for each bed sited.

31 (5) To encourage the rapid permitting of sites, any county or city
32 that has issued all necessary permits by January 1, 2003, for one or
33 more secure community transition facilities that comply with the
34 requirements of this section shall receive a bonus in the amount of
35 twenty percent of the amount provided under subsection (4) of this
36 section.

37 (6) Any county or city that establishes secure community transition
38 facility beds in excess of the maximum number that could be required to

1 be sited in that county shall receive a bonus payment of one hundred
2 thousand dollars for each bed established in excess of the maximum
3 requirement.

4 (7) No payment shall be made under subsection (4), (5), or (6) of
5 this section until all necessary permits have been issued.

6 (8) The funds available to counties and cities under this section
7 are contingent upon funds being appropriated by the legislature.

8 NEW SECTION. Sec. 9. A new section is added to chapter 71.09 RCW
9 to read as follows:

10 (1) After October 1, 2002, notwithstanding RCW 36.70A.103 or any
11 other law, this section preempts and supersedes local plans,
12 development regulations, permitting requirements, inspection
13 requirements, and all other laws as necessary to enable the department
14 to site, construct, renovate, occupy, and operate secure community
15 transition facilities within the borders of the following:

16 (a) Any county that had five or more persons civilly committed from
17 that county, or detained at the special commitment center under a
18 pending civil commitment petition from that county where a finding of
19 probable cause has been made, on April 1, 2001, if the department
20 determines that the county has not met the requirements of RCW
21 36.70A.200 with respect to secure community transition facilities.
22 This subsection does not apply to the county in which the secure
23 community transition facility authorized under RCW 71.09.250(1) is
24 located; and

25 (b) Any city located within a county listed in (a) of this
26 subsection that the department determines has not met the requirements
27 of RCW 36.70A.200 with respect to secure community transition
28 facilities.

29 (2) The department's determination under subsection (1)(a) or (b)
30 of this section is final and is not subject to appeal under chapter
31 34.05 or 36.70A RCW.

32 (3) When siting a facility in a county or city that has been
33 preempted under this section, the department shall consider the policy
34 guidelines established under RCW 71.09.275 and 71.09.290 and shall hold
35 the hearings required in RCW 71.09.315.

36 (4) Nothing in this section prohibits the department from:

37 (a) Siting a secure community transition facility in a city or
38 county that has complied with the requirements of RCW 36.70A.200 with

1 respect to secure community transition facilities, including a city
2 that is located within a county that has been preempted. If the
3 department sites a secure community transition facility in such a city
4 or county, the department shall use the process established by the city
5 or county for siting such facilities; or

6 (b) Consulting with a city or county that has been preempted under
7 this section regarding the siting of a secure community transition
8 facility.

9 (5)(a) A preempted city or county may propose public safety
10 measures specific to any finalist site to the department. The measures
11 must be consistent with the location of the facility at that finalist
12 site. The proposal must be made in writing by the date of:

13 (i) The second hearing under RCW 71.09.315(2)(a) when there are
14 three finalist sites; or

15 (ii) The first hearing under RCW 71.09.315(2)(b) when there is only
16 one site under consideration.

17 (b) The department shall respond to the city or county in writing
18 within fifteen business days of receiving the proposed measures. The
19 response shall address all proposed measures.

20 (c) If the city or county finds that the department's response is
21 inadequate, the city or county may notify the department in writing
22 within fifteen business days of the specific items which it finds
23 inadequate. If the city or county does not notify the department of a
24 finding that the response is inadequate within fifteen business days,
25 the department's response shall be final.

26 (d) If the city or county notifies the department that it finds the
27 response inadequate and the department does not revise its response to
28 the satisfaction of the city or county within seven business days, the
29 city or county may petition the governor to designate a person with law
30 enforcement expertise to review the response under RCW 34.05.479.

31 (e) The governor's designee shall hear a petition filed under this
32 subsection and shall make a determination within thirty days of hearing
33 the petition. The governor's designee shall consider the department's
34 response, and the effectiveness and cost of the proposed measures, in
35 relation to the purposes of this chapter. The determination by the
36 governor's designee shall be final and may not be the basis for any
37 cause of action in civil court.

38 (f) The city or county shall bear the cost of the petition to the
39 governor's designee. If the city or county prevails on all issues, the

1 department shall reimburse the city or county costs incurred, as
2 provided under chapter 34.05 RCW.

3 (g) Neither the department's consideration and response to public
4 safety conditions proposed by a city or county nor the decision of the
5 governor's designee shall affect the preemption under this section or
6 the department's authority to site, construct, renovate, occupy, and
7 operate the secure community transition facility at that finalist site
8 or at any finalist site.

9 (6) Until June 30, 2009, the secretary shall site, construct,
10 occupy, and operate a secure community transition facility sited under
11 this section in an environmentally responsible manner that is
12 consistent with the substantive objectives of chapter 43.21C RCW, and
13 shall consult with the department of ecology as appropriate in carrying
14 out the planning, construction, and operations of the facility. The
15 secretary shall make a threshold determination of whether a secure
16 community transition facility sited under this section would have a
17 probable significant, adverse environmental impact. If the secretary
18 determines that the secure community transition facility has such an
19 impact, the secretary shall prepare an environmental impact statement
20 that meets the requirements of RCW 43.21C.030 and 43.21C.031 and the
21 rules promulgated by the department of ecology relating to such
22 statements. Nothing in this subsection shall be the basis for any
23 civil cause of action or administrative appeal.

24 (7) This section does not apply to the secure community transition
25 facility established pursuant to RCW 71.09.250(1).

26 NEW SECTION. Sec. 10. A new section is added to chapter 34.05 RCW
27 to read as follows:

28 A petition brought pursuant to section 9(5) of this act shall be
29 heard under the provisions of RCW 34.05.479 except that the decision of
30 the governor's designee shall be final and is not subject to judicial
31 review.

32 NEW SECTION. Sec. 11. A new section is added to chapter 71.09 RCW
33 to read as follows:

34 An emergency has been caused by the need to expeditiously site
35 facilities to house sexually violent predators who have been committed
36 under this chapter. To meet this emergency, for purposes of RCW
37 71.09.250 and section 9 of this act, "all other laws" means the state

1 environmental policy act, the shoreline management act, the hydraulics
2 code, and all other state laws regulating the protection and use of the
3 water, land, and air.

4 This section expires June 30, 2009.

5 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.21C
6 RCW to read as follows:

7 An emergency has been caused by the need to expeditiously site
8 facilities to house sexually violent predators who have been committed
9 under chapter 71.09 RCW. To meet this emergency, secure community
10 transition facilities sited pursuant to the preemption provisions of
11 section 9 of this act and secure facilities sited pursuant to the
12 preemption provisions of RCW 71.09.250 are not subject to the
13 provisions of this chapter.

14 This section expires June 30, 2009.

15 NEW SECTION. **Sec. 13.** A new section is added to chapter 90.58 RCW
16 to read as follows:

17 An emergency has been caused by the need to expeditiously site
18 facilities to house sexually violent predators who have been committed
19 under chapter 71.09 RCW. To meet this emergency, secure community
20 transition facilities sited pursuant to the preemption provisions of
21 section 9 of this act and secure facilities sited pursuant to the
22 preemption provisions of RCW 71.09.250 are not subject to the
23 provisions of this chapter.

24 This section expires June 30, 2009.

25 NEW SECTION. **Sec. 14.** A new section is added to chapter 77.55 RCW
26 to read as follows:

27 An emergency has been caused by the need to expeditiously site
28 facilities to house sexually violent predators who have been committed
29 under chapter 71.09 RCW. To meet this emergency, secure community
30 transition facilities sited pursuant to the preemption provisions of
31 section 9 of this act and secure facilities sited pursuant to the
32 preemption provisions of RCW 71.09.250 are not subject to the
33 provisions of this chapter.

34 This section expires June 30, 2009.

1 **Sec. 15.** RCW 36.70A.103 and 2001 2nd sp.s. c 12 s 203 are each
2 amended to read as follows:

3 State agencies shall comply with the local comprehensive plans and
4 development regulations and amendments thereto adopted pursuant to this
5 chapter except as otherwise provided in RCW 71.09.250 (1) through (3),
6 section 9 of this act, and 72.09.333.

7 The provisions of chapter 12, Laws of 2001 2nd sp. sess. do not
8 affect the state's authority to site any other essential public
9 facility under RCW 36.70A.200 in conformance with local comprehensive
10 plans and development regulations adopted pursuant to chapter 36.70A
11 RCW.

12 NEW SECTION. **Sec. 16.** A new section is added to chapter 71.09 RCW
13 to read as follows:

14 (1) At the request of the local government of the city or county in
15 which a secure community transition facility is initially sited after
16 January 1, 2002, the department shall enter into a long-term contract
17 memorializing the agreements between the state and the city or county
18 for the operation of the facility. This contract shall be separate
19 from any contract regarding mitigation due to the facility. The
20 contract shall include a clause that states:

21 (a) The contract does not obligate the state to continue operating
22 any aspect of the civil commitment program under this chapter;

23 (b) The operation of any secure community transition facility is
24 contingent upon sufficient appropriation by the legislature. If
25 sufficient funds are not appropriated, the department is not obligated
26 to operate the secure community transition facility and may close it;
27 and

28 (c) This contract does not obligate the city or county to operate
29 a secure community transition facility.

30 (2) Any city or county may, at their option, contract with the
31 department to operate a secure community transition facility.

32 NEW SECTION. **Sec. 17.** A new section is added to chapter 71.09 RCW
33 to read as follows:

34 (1) Subject to funds appropriated by the legislature, the
35 department may enter into negotiation for a mitigation agreement with:

36 (a) The county and/or city in which a secure community transition
37 facility sited after January 1, 2002, is located;

1 (b) Each community in which the persons from those facilities will
2 reside or regularly spend time, pursuant to court orders, for regular
3 work or education, or to receive social services, or through which the
4 person or persons will regularly be transported to reach other
5 communities; and

6 (c) Educational institutions in the communities identified in (a)
7 and (b) of this subsection.

8 (2) Mitigation agreements are limited to the following:

9 (a) One-time training for local law enforcement and administrative
10 staff, upon the establishment of a secure community transition
11 facility.

12 (i) Training between local government staff and the department
13 includes training in coordination, emergency procedures, program and
14 facility information, legal requirements, and resident profiles.

15 (ii) Reimbursement for training under this subsection is limited
16 to:

17 (A) The salaries or hourly wages and benefits of those persons who
18 receive training directly from the department; and

19 (B) Costs associated with preparation for, and delivery of,
20 training to the department or its contracted staff by local government
21 staff or contractors;

22 (b) Information coordination:

23 (i) Information coordination includes data base infrastructure
24 establishment and programming for the dissemination of information
25 among law enforcement and the department related to facility residents.

26 (ii) Reimbursement for information coordination is limited to
27 start-up costs;

28 (c) One-time capital costs:

29 (i) One-time capital costs are off-site costs associated with the
30 need for increased security in specific locations.

31 (ii) Reimbursement for one-time capital costs is limited to actual
32 costs; and

33 (d) Incident response:

34 (i) Incident response costs are law enforcement and criminal
35 justice costs associated with violations of conditions of release or
36 crimes by residents of the secure community transition facility.

37 (ii) Reimbursement for incident response does not include private
38 causes of action.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 71.09 RCW
2 to read as follows:

3 (1) To encourage economies of scale in the siting and operation of
4 secure community transition facilities, the department may enter into
5 an agreement with two or more counties to create a regional secure
6 community transition facility. The agreement must clearly identify the
7 number of beds from each county that will be contained in the regional
8 secure community transition facility. The agreement must specify which
9 county must contain the regional secure community transition facility
10 and the facility must be sited accordingly. No county may withdraw
11 from an agreement under this section unless it has provided an
12 alternative acceptable secure community transition facility to house
13 any displaced residents that meets the criteria established for such
14 facilities in this chapter and the guidelines established by the
15 department.

16 (2) A regional secure community transition facility must meet the
17 criteria established for secure community transition facilities in this
18 chapter and the guidelines established by the department.

19 (3) The department shall count the beds identified for each
20 participating county in a regional secure community transition facility
21 against the maximum number of beds that could be required for each
22 county under RCW 71.09.250(7)(a).

23 (4) An agreement for a regional secure community transition
24 facility does not alter the maximum number of beds for purposes of the
25 incentive grants under RCW 71.09.255 for the county containing the
26 regional facility.

27 NEW SECTION. **Sec. 19.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 20.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect
34 immediately.

Passed the Senate March 12, 2002.

Passed the House March 8, 2002.

Approved by the Governor March 21, 2002.

Filed in Office of Secretary of State March 21, 2002.