
HOUSE BILL 1751

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By Representatives Couture, Walsh, Robertson, Stokesbary, Caldier, Griffey, Jacobsen, Volz, Abbarno, Graham, Schmidt, Orcutt, and Chambers

Read first time 02/03/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to siting of sex offender and sexually violent
2 predator facilities; and amending RCW 71.09.099, 71.09.250, and
3 72.09.290.

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

5 **Sec. 1.** RCW 71.09.099 and 2021 c 236 s 10 are each amended to
6 read as follows:

7 To facilitate the primary role of the department in identifying
8 less restrictive alternative placements under RCW 71.09.090 and
9 discharge planning under RCW 71.09.080, subject to the availability
10 of amounts appropriated for this specific purpose, the department
11 shall conduct a study to explore the development of conditional
12 release and transition facilities, which may include community-based
13 state-operated living alternatives similar to the state-operated
14 living alternative program operated by the developmental disabilities
15 administration. Any facilities or placements developed under this
16 section may be identified through a request for proposal process or
17 through direct state acquisition and development. The department
18 shall notify the superior court in any county where a conditional
19 release and transition facility is considered, and shall consider the
20 superior court's recommendation on the facility siting before
21 entering into any contract. Any contracts with facilities or

1 placements entered into under this section shall include a provision
2 requiring oversight by the department to ensure the programs are
3 operating appropriately.

4 **Sec. 2.** RCW 71.09.250 and 2021 c 236 s 9 are each amended to
5 read as follows:

6 (1)(a) The secretary is authorized to site, construct, occupy,
7 and operate (i) a secure community transition facility on McNeil
8 Island for persons authorized to petition for a less restrictive
9 alternative under RCW 71.09.090(1) and who are conditionally
10 released; and (ii) a special commitment center on McNeil Island with
11 up to four hundred four beds as a total confinement facility under
12 this chapter, subject to appropriated funding for those purposes. The
13 secure community transition facility shall be authorized for the
14 number of beds needed to ensure compliance with the orders of the
15 superior courts under this chapter and the federal district court for
16 the western district of Washington. The total number of beds in the
17 secure community transition facility shall be limited to 24,
18 consisting of up to 15 transitional beds and up to nine
19 pretransitional beds. The residents occupying the transitional beds
20 shall be the only residents eligible for transitional services
21 occurring in Pierce county. In no event shall more than 15 residents
22 of the secure community transition facility be participating in off-
23 island transitional, educational, or employment activity at the same
24 time in Pierce county. The department shall provide the Pierce county
25 sheriff, or his or her designee, with a list of the 15 residents so
26 designated, along with their photographs and physical descriptions,
27 and the list shall be immediately updated whenever a residential
28 change occurs. The Pierce county sheriff, or his or her designee,
29 shall be provided an opportunity to confirm the residential status of
30 each resident leaving McNeil Island.

31 (b) For purposes of this subsection, "transitional beds" means
32 beds only for residents who are judged by a qualified expert to be
33 suitable to leave the island for treatment, education, and
34 employment.

35 (2)(a) The secretary is authorized to site, either within the
36 secure community transition facility established pursuant to
37 subsection (1)(a)(i) of this section, or within the special
38 commitment center, up to nine pretransitional beds.

1 (b) Residents assigned to pretransitional beds shall not be
2 permitted to leave McNeil Island for education, employment,
3 treatment, or community activities in Pierce county.

4 (c) For purposes of this subsection, "pretransitional beds" means
5 beds for residents whose progress toward a less secure residential
6 environment and transition into more complete community involvement
7 is projected to take substantially longer than a typical resident of
8 the special commitment center.

9 (3) Notwithstanding RCW 36.70A.103 or any other law, this statute
10 preempts and supersedes local plans, development regulations,
11 permitting requirements, inspection requirements, and all other laws
12 as necessary to enable the secretary to site, construct, occupy, and
13 operate a secure community transition facility on McNeil Island and a
14 total confinement facility on McNeil Island.

15 (4) To the greatest extent possible, until June 30, 2003, persons
16 who were not civilly committed from the county in which the secure
17 community transition facility established pursuant to subsection (1)
18 of this section is located may not be conditionally released to a
19 setting in that same county less restrictive than that facility.

20 (5) As of June 26, 2001, the state shall immediately cease any
21 efforts in effect on such date to site secure community transition
22 facilities, other than the facility authorized by subsection (1) of
23 this section, and shall instead site such facilities in accordance
24 with the provisions of this section.

25 (6) The department must:

26 (a) Identify the minimum and maximum number of secure community
27 transition facility beds in addition to the facility established
28 under subsection (1) of this section that may be necessary for the
29 period of May 2004 through May 2007 and provide notice of these
30 numbers to all counties by August 31, 2001; (~~and~~)

31 (b) Develop and publish policy guidelines for the siting and
32 operation of secure community transition facilities; and

33 (c) Notify the superior court in any county where a community
34 transition facility is proposed.

35 (7) (a) The total number of secure community transition facility
36 beds that may be required to be sited in a county between June 26,
37 2001, and June 30, 2008, may be no greater than the total number of
38 persons civilly committed from that county, or detained at the
39 special commitment center under a pending civil commitment petition
40 from that county where a finding of probable cause had been made on

1 April 1, 2001. The total number of secure community transition
2 facility beds required to be sited in each county between July 1,
3 2008, and June 30, 2015, may be no greater than the total number of
4 persons civilly committed from that county or detained at the special
5 commitment center under a pending civil commitment petition from that
6 county where a finding of probable cause had been made as of July 1,
7 2008.

8 (b) Counties and cities that provide secure community transition
9 facility beds above the maximum number that they could be required to
10 site under this subsection are eligible for a bonus grant under the
11 incentive provisions in RCW 71.09.255. The county where the special
12 commitment center is located shall receive this bonus grant for the
13 number of beds in the facility established in subsection (1) of this
14 section in excess of the maximum number established by this
15 subsection.

16 (c) No secure community transition facilities in addition to the
17 one established in subsection (1) of this section may be required to
18 be sited in the county where the special commitment center is located
19 until after June 30, 2008, provided however, that the county and its
20 cities may elect to site additional secure community transition
21 facilities and shall be eligible under the incentive provisions of
22 RCW 71.09.255 for any additional facilities meeting the requirements
23 of that section.

24 (8) After the department demonstrates the need for additional bed
25 capacity to the appropriate committees of the legislature, and
26 receives approval from the superior court in the county where the
27 community transition facility is proposed, and receives approval and
28 funding from the appropriate committees of the legislature to build
29 additional bed capacity, the state is authorized to site and operate
30 secure community transition facilities and other conditional release
31 and transitional facilities in any county in the state in accordance
32 with RCW 71.09.315. In identifying potential counties and sites
33 within a county for the location of a secure community transition
34 facility or other conditional release and transitional facilities,
35 the department shall work with and assist local governments to
36 provide for the equitable distribution of such facilities. In
37 coordinating and deciding upon the siting of secure community
38 transition facilities or other conditional release and transitional
39 facilities within a county, great weight shall be given by the county
40 and cities within the county to:

1 (a) The number and location of existing residential facility beds
2 operated by the department of corrections or the mental health
3 division of the department of social and health services in each
4 jurisdiction in the county; and

5 (b) The number of registered sex offenders classified as level II
6 or level III and the number of sex offenders registered as homeless
7 residing in each jurisdiction in the county.

8 (9) (a) "Equitable distribution" means siting or locating secure
9 community transition facilities and other conditional release and
10 transitional facilities in a manner that will not cause a
11 disproportionate grouping of similar facilities either in any one
12 county, or in any one jurisdiction or community within a county, as
13 relevant; and

14 (b) "Jurisdiction" means a city, town, or geographic area of a
15 county in which distinct political or judicial authority may be
16 exercised.

17 **Sec. 3.** RCW 72.09.290 and 2007 c 483 s 303 are each amended to
18 read as follows:

19 (1) No later than July 1, 2007, and every biennium thereafter
20 starting with the biennium beginning July 1, 2009, the department
21 shall prepare a list of counties and rural multicounty geographic
22 areas in which work release facilities, community justice centers and
23 other community-based correctional facilities are anticipated to be
24 sited during the next three fiscal years and transmit the list to the
25 office of financial management, the superior court in the counties on
26 the list, and the counties on the list. The list may be updated as
27 needed.

28 (2) In preparing the list, the department shall make substantial
29 efforts to provide for the equitable distribution of work release,
30 community justice centers, or other community-based correctional
31 facilities among counties. The department shall give great weight to
32 the following factors in determining equitable distribution:

33 (a) The locations of existing residential facilities owned or
34 operated by, or operated under contract with, the department in each
35 county;

36 (b) The number and proportion of adult offenders sentenced to the
37 custody or supervision of the department by the courts of the county
38 or rural multicounty geographic area; (~~and~~)

1 (c) The number of adult registered sex offenders classified as
2 level II or III and adult sex offenders registered per thousand
3 persons residing in the county; and

4 (d) The recommendation from the superior court in any county
5 where a correctional facility is proposed.

6 (3) For purposes of this section, "equitable distribution" means
7 siting or locating work release, community justice centers, or other
8 community-based correctional facilities in a manner that reasonably
9 reflects the proportion of offenders sentenced to the custody or
10 supervision of the department by the courts of each county or rural
11 multicounty geographic area designated by the department, and, to the
12 extent practicable, the proportion of offenders residing in
13 particular jurisdictions or communities within such counties or rural
14 multicounty geographic areas. Equitable distribution is a policy
15 goal, not a basis for any legal challenge to the siting,
16 construction, occupancy, or operation of any facility anywhere in the
17 state.

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