

**EHB 2168 - H AMD 241 ADOPTED 5/22/01**

By Representative

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Prisoner" means a person either male or female, convicted of a felony and sentenced by the superior court to a term of confinement

and treatment in a state correctional institution under the jurisdiction of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) To carry out the purposes of subsections (1) and (3) of this section, the department shall, no later than January 1, 2002, develop a mapping system to identify the locations of existing and projected facilities identified in subsections (1) and (3) of this section. The department also shall maintain a list of the number of offenders identified in subsections (1) and (3) of this section and shall

annually publish a report including the map and offender rates for the counties and jurisdictions of the state.

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

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

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

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

(2) The department and other state agencies responsible for siting department-owned, operated, or contracted facilities shall establish a process for early and continuous public participation in establishing or relocating work release or other community-based facilities. This process shall include public meetings in the local communities affected, opportunities for written and oral comments, and wide dissemination of proposals and alternatives, including at least the following:

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

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

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



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

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

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

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

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

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

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

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

(6) If local government regulations require that a special use or conditional use permit be submitted and approved before a work release facility can be sited, and the process for obtaining such a permit

includes public notice and hearing requirements similar to those required under this section, the requirements of this section shall not apply to the extent they would duplicate requirements under the local land use regulations.

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

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

Correct the title.

EFFECT: (1) Provisions related to the siting, securing, staffing, and equitable distribution of LRA facilities for sexually violent predators are deleted. (2) The "equitable distribution" analysis is required to be conducted separately for DOC work release facilities and JRA community facilities. Separate mapping systems and offender lists must be developed. (3) The departments are required to adopt facility criteria by rule. (4) Each department is required to make substantial efforts to distribute their respective facilities equitably among the counties, and work with the counties to achieve equitable distribution within each county. In conducting this analysis, the consideration of the number of sex offenders in the jurisdiction is limited to level II, III, or homeless offenders (either adults or juveniles depending on which department is conducting the analysis). (5) The departments are required to prepare a projected list of counties in which these facilities will need to be sited in the next six years, giving great weight to the equitable distribution factors. Before the list is finalized, a public hearing must be held and local governments consulted. The final list is to be transmitted to the Office of Financial Management. (6) The time for the public hearings that must be held prior to selection of a final site is shortened, as is the comment period. If there is overlap between the statutory public notice and hearing process and that required by local land use regulations to obtain a special use or conditional use permit for one of these facilities, duplication of the notice and hearings is not required. (7) The provision authorizing complaints to be adjudicated according to the Administrative Procedure Act is deleted. (8) Provisions amending the growth management act are deleted.

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