

2 **ESSB 6594** - H COMM AMD **NOT ADOPTED 3-8-02**

3 By Committee on Criminal Justice & Corrections

4

5 Strike everything after the enacting clause and insert the  
6 following:

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

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

12 (2) Harmonize the preemption provisions in RCW 71.09.250 with the  
13 preemption provisions applying to future secure community transition  
14 facilities to reflect the joint select committee's recommendation that  
15 the preemption granted for future secure community transition  
16 facilities be the same throughout the state.

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

19 (1) The comprehensive plan of each county and city that is planning  
20 under RCW 36.70A.040 shall include a process for identifying and siting  
21 essential public facilities. Essential public facilities include those  
22 facilities that are typically difficult to site, such as airports,  
23 state education facilities and state or regional transportation  
24 facilities as defined in RCW 47.06.140, state and local correctional  
25 facilities, solid waste handling facilities, and in-patient facilities  
26 including substance abuse facilities, mental health facilities, group  
27 homes, and secure community transition facilities as defined in RCW  
28 71.09.020.

29 (2) Each county and city planning under RCW 36.70A.040 shall, not  
30 later than (~~the deadline specified in RCW 36.70A.130~~) September 1,  
31 2002, establish a process, or amend its existing process, for  
32 identifying and siting essential public facilities(~~(7)~~) and adopt or  
33 amend its development regulations as necessary to provide for the  
34 siting of secure community transition facilities consistent with  
35 statutory requirements applicable to these facilities.

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

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

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

13 (6) No person may bring a cause of action for civil damages based  
14 on the good faith actions of any county or city to provide for the  
15 siting of secure community transition facilities in accordance with  
16 this section and with the requirements of chapter 12, Laws of 2001 2nd  
17 sp. sess. For purposes of this subsection, "person" includes, but is  
18 not limited to, any individual, agency as defined in RCW 42.17.020,  
19 corporation, partnership, association, and limited liability entity.

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

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

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

26 (b) A consideration for grants or loans provided under RCW  
27 43.17.250(2); or

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

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

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

34 (2) No law enforcement officer responding reasonably and in good  
35 faith to a call regarding a resident of a secure community transition  
36 facility shall be held liable nor shall the city or county employing  
37 the officer be held liable, in any cause of action for civil damages

1 based on the acts of the resident or the actions of the officer during  
2 the response.

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

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Department" means the department of social and health  
8 services.

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

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

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

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

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

30 (7) "Risk potential activity" or "risk potential facility" means an  
31 activity or facility that provides a higher incidence of risk to the  
32 public from persons conditionally released from the special commitment  
33 center. Risk potential activities and facilities include: Public and  
34 private schools, school bus stops, licensed day care and licensed  
35 preschool facilities, public parks, publicly dedicated trails, sports  
36 fields, playgrounds, recreational and community centers, churches,  
37 synagogues, temples, mosques, ~~((and))~~ public libraries, and others  
38 identified by the department following the hearings on a potential site

1 required in RCW 71.09.315. For purposes of this chapter, "school bus  
2 stops" does not include bus stops established primarily for public  
3 transit.

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

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

12 (10) "Secure community transition facility" means a residential  
13 facility for persons civilly committed and conditionally released to a  
14 less restrictive alternative under this chapter. A secure community  
15 transition facility has supervision and security, and either provides  
16 or ensures the provision of sex offender treatment services. Secure  
17 community transition facilities include but are not limited to the  
18 facilities established pursuant to RCW 71.09.250 and any  
19 community-based facilities established under this chapter and operated  
20 by the secretary or under contract with the secretary.

21 (11) "Sexually violent offense" means an act committed on, before,  
22 or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as  
23 rape in the first degree, rape in the second degree by forcible  
24 compulsion, rape of a child in the first or second degree, statutory  
25 rape in the first or second degree, indecent liberties by forcible  
26 compulsion, indecent liberties against a child under age fourteen,  
27 incest against a child under age fourteen, or child molestation in the  
28 first or second degree; (b) a felony offense in effect at any time  
29 prior to July 1, 1990, that is comparable to a sexually violent offense  
30 as defined in (a) of this subsection, or any federal or out-of-state  
31 conviction for a felony offense that under the laws of this state would  
32 be a sexually violent offense as defined in this subsection; (c) an act  
33 of murder in the first or second degree, assault in the first or second  
34 degree, assault of a child in the first or second degree, kidnapping in  
35 the first or second degree, burglary in the first degree, residential  
36 burglary, or unlawful imprisonment, which act, either at the time of  
37 sentencing for the offense or subsequently during civil commitment  
38 proceedings pursuant to this chapter, has been determined beyond a  
39 reasonable doubt to have been sexually motivated, as that term is

1 defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28  
2 RCW, that is an attempt, criminal solicitation, or criminal conspiracy  
3 to commit one of the felonies designated in (a), (b), or (c) of this  
4 subsection.

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

10 (13) "Total confinement facility" means a facility that provides  
11 supervision and sex offender treatment services in a total confinement  
12 setting. Total confinement facilities include the special commitment  
13 center and any similar facility designated as a secure facility by the  
14 secretary.

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

17 (1) Except with respect to the secure community transition facility  
18 established pursuant to RCW 71.09.250, the secretary shall develop  
19 policy guidelines that balance the average response time of emergency  
20 services to the general area of a proposed secure community transition  
21 facility against the proximity of the proposed site to risk potential  
22 activities and facilities in existence at the time the site is listed  
23 for consideration.

24 (2) In (~~balancing the competing criteria of proximity and response~~  
25 ~~time the policy guidelines shall endeavor to achieve an average law~~  
26 ~~enforcement response time not greater than five minutes and in)) no  
27 case shall the policy guidelines permit location of a facility adjacent  
28 to, immediately across a street or parking lot from, or within the line  
29 of sight of a risk potential activity or facility in existence at the  
30 time a site is listed for consideration. "Within the line of sight"  
31 means that it is possible to reasonably visually distinguish and  
32 recognize individuals.~~

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

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

1 (5) The policy guidelines shall establish a method to analyze and  
2 compare the criteria for each site in terms of public safety and  
3 security, site characteristics, and program components. In making a  
4 decision regarding a site following the analysis and comparison, the  
5 secretary shall give priority to public safety and security  
6 considerations. The analysis and comparison of the criteria are to be  
7 documented and made available at the public hearings prescribed in RCW  
8 71.09.315.

9 (6) Policy guidelines adopted by the secretary under this section  
10 shall be considered by counties and cities when providing for the  
11 siting of secure community transition facilities as required under RCW  
12 36.70A.200.

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

15 (1) Unless otherwise ordered by the court:

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

21 (b) At least one staff member, or other court-authorized and  
22 department-approved person must escort each resident when the resident  
23 leaves the secure community transition facility for appointments,  
24 employment, or other approved activities. Escorting persons must  
25 supervise the resident closely and maintain close proximity to the  
26 resident. The escort must immediately notify the department of any  
27 serious violation, as defined in RCW 71.09.325, by the resident and  
28 must immediately notify law enforcement of any violation of law by the  
29 resident. The escort may not be a relative of the resident or a person  
30 with whom the resident has, or has had, a dating relationship as  
31 defined in RCW 26.50.010.

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

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

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

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 71.09 RCW  
9 to read as follows:

10 The minimum requirements set out in RCW 71.09.285 through 71.09.340  
11 are minimum requirements to be applied by the department. Nothing in  
12 this section is intended to prevent a city or county from adopting  
13 development regulations, as defined in RCW 36.70A.030, unless the  
14 proposed regulation imposes requirements more restrictive than those  
15 specifically addressed in RCW 71.09.285 through 71.09.340. Regulations  
16 that impose requirements more restrictive than those specifically  
17 addressed in these sections are void. Nothing in these sections  
18 prevents the department from adding requirements to enhance public  
19 safety.

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

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

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

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

31 (b) Development regulations, ordinances, plans, laws, and criteria  
32 established for siting must be consistent with statutory requirements  
33 and rules applicable to siting and operating secure community  
34 transition facilities;

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

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

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

6 (4) Any county or city that has issued all necessary permits by May  
7 1, 2003, for one or more secure community transition facilities that  
8 comply with the requirements of this section shall receive an incentive  
9 grant in the amount of fifty thousand dollars for each bed sited.

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

16 (6) Any county or city that establishes secure community transition  
17 facility beds in excess of the maximum number that could be required to  
18 be sited in that county shall receive a bonus payment of one hundred  
19 thousand dollars for each bed established in excess of the maximum  
20 requirement.

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

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

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

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

33 (a) Chelan, Clark, Cowlitz, Franklin, Grays Harbor, King, Kitsap,  
34 Snohomish, Spokane, Thurston, Whatcom, and Yakima counties, if the  
35 department determines that the county has not met the requirements of  
36 RCW 36.70A.200 with respect to secure community transition facilities;  
37 and



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

5 (2) The department's determination under subsection (1)(a) or (b)  
6 of this section is final and is not subject to appeal under chapter  
7 34.05 or 36.70A RCW.

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

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

13 (a) Siting a secure community transition facility in a city or  
14 county that has complied with the requirements of RCW 36.70A.200 with  
15 respect to secure community transition facilities, including a city  
16 that is located within a county that has been preempted. If the  
17 department sites a secure community transition facility in such a city  
18 or county, the department shall use the process established by the city  
19 or county for siting such facilities; or

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

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

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

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

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

34 (c) If the city or county finds that the department's response is  
35 inadequate, the city or county may notify the department in writing  
36 within fifteen business days of the specific items which it finds  
37 inadequate. If the city or county does not notify the department of a  
38 finding that the response is inadequate within fifteen business days,  
39 the department's response shall be final.

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

6 (e) The governor's designee shall hear a petition filed under this  
7 subsection and shall make a determination within thirty days of hearing  
8 the petition. The governor's designee shall consider the department's  
9 response, and the effectiveness and cost of the proposed measures, in  
10 relation to the purposes of this chapter. The determination by the  
11 governor's designee shall be final and may not be the basis for any  
12 cause of action in civil court.

13 (f) The city or county shall bear the cost of the petition to the  
14 governor's designee. If the city or county prevails on all issues, the  
15 department shall reimburse the city or county costs incurred, as  
16 provided under chapter 34.05 RCW.

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

23 (6) The secretary shall site, construct, occupy, and operate a  
24 secure community transition facility sited under this section in an  
25 environmentally responsible manner that is consistent with the  
26 substantive objectives of chapter 43.21C RCW, and shall consult with  
27 the department of ecology as appropriate in carrying out the planning,  
28 construction, and operations of the facility. The secretary shall make  
29 a threshold determination of whether a secure community transition  
30 facility sited under this section would have a probable significant,  
31 adverse environmental impact. If the secretary determines that the  
32 secure community transition facility has such an impact, the secretary  
33 shall prepare an environmental impact statement that meets the  
34 requirements of RCW 43.21C.030 and 43.21C.031 and the rules promulgated  
35 by the department of ecology relating to such statements. Nothing in  
36 this subsection shall be the basis for any civil cause of action or  
37 administrative appeal.

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

1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 34.05 RCW  
2 to read as follows:

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

7        NEW SECTION.    **Sec. 11.**    A new section is added to chapter 71.09 RCW  
8 to read as follows:

9        For purposes of RCW 71.09.250 and section 9 of this act, "all other  
10 laws" means the state environmental policy act, the shoreline  
11 management act, the hydraulics code, and all other state laws  
12 regulating the protection and use of the water, land, and air.

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

15        Secure community transition facilities sited pursuant to the  
16 preemption provisions of section 9 of this act and secure facilities  
17 sited pursuant to the preemption provisions of RCW 71.09.250 are not  
18 subject to the provisions of this chapter.

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

21        Secure community transition facilities sited pursuant to the  
22 preemption provisions of section 9 of this act and secure facilities  
23 sited pursuant to the preemption provisions of RCW 71.09.250 are not  
24 subject to the provisions of this chapter.

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

27        Secure community transition facilities sited pursuant to the  
28 preemption provisions of section 9 of this act and secure facilities  
29 sited pursuant to the preemption provisions of RCW 71.09.250 are not  
30 subject to the provisions of this chapter.

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

33        State agencies shall comply with the local comprehensive plans and  
34 development regulations and amendments thereto adopted pursuant to this

1 chapter except as otherwise provided in RCW 71.09.250 (1) through (3),  
2 section 9 of this act, and 72.09.333.

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

8 NEW SECTION. Sec. 16. A new section is added to chapter 71.09 RCW  
9 to read as follows:

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

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

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

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

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

28 NEW SECTION. Sec. 17. A new section is added to chapter 71.09 RCW  
29 to read as follows:

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

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

34 (b) Each community in which the persons from those facilities will  
35 reside or regularly spend time, pursuant to court orders, for regular  
36 work or education, or to receive social services, or through which the

1 person or persons will regularly be transported to reach other  
2 communities; and

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

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

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

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

12 (ii) Reimbursement for training under this subsection is limited  
13 to:

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

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

19 (b) Information coordination:

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

23 (ii) Reimbursement for information coordination is limited to  
24 start-up costs;

25 (c) One-time capital costs:

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

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

30 (d) Incident response:

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

34 (ii) Reimbursement for incident response does not include private  
35 causes of action.

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

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

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

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

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

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

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

33 Correct the title.

EFFECT: Clarifies the legislature's intent with regard to the  
preemption provisions. Requires the Department of Social and Health

Services (DSHS) to follow the substantive requirements of the SEPA when siting, constructing, occupying, and operating a secure community transition facility (SCTF). Requires the DSHS to consult with the Department of Ecology when planning, constructing, and operating the facility. Requires the DSHS to make a threshold determination of a SCTF's probable environmental impact and to prepare an environmental impact statement if the facility would have probable significant, adverse environmental impact. Prohibits judicial and administrative actions based on the SEPA provisions. Makes a technical correction. Allows the DSHS to enter into agreements with multiple counties for regional secure community transition facilities.

Makes a grammatical change to clarify the obligations of cities and counties with respect to planning for secure community transition facilities. Clarifies that the failure to meet the planning deadline with respect to secure community transition facilities does not (1) jeopardize the receipt of specified state funds for counties and cities or (2) subject cities and counties to a private cause of action or an appeal made to a growth management board.

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