

HOUSE BILL REPORT

HB 2225

As Reported by House Committee On:
Judiciary

Title: An act relating to protecting communities located in close proximity to the special commitment center and the less restrictive alternative treatment facility, and mitigating for the effects of these facilities.

Brief Description: Protecting communities located in close proximity to the special commitment center and the less restrictive alternative treatment facility, and mitigating for the effects of these facilities.

Sponsors: Representatives Carrell, Conway, Talcott, Lantz, Bush, Kirby, Campbell, Morell, Casada, Woods, Jackley and Roach.

Brief History:

Committee Activity:

Judiciary: 3/30/01 [DP].

Brief Summary of Bill

- Requires the Department of Social and Health Services to develop siting and safety criteria before establishing a 30-bed less restrictive alternative (LRA) treatment facility for sexually violent predators.
- Prohibits the placement of LRAs in Pierce County, other than the McNeil Island LRA.
- Requires the state to enter into mitigation agreements with Pierce County and cities close to the McNeil Island LRA.
- Prohibits a resident of the McNeil Island LRA from obtaining state financial assistance for postsecondary education.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 8 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Esser and Lovick.

Minority Report: Do not pass. Signed by 2 members: Representatives Dickerson and McDermott.

Staff: Jean Ann Quinn (786-7310).

Background:

Under the Community Protection Act of 1990, a sexually violent predator may be civilly committed upon the expiration of his or her criminal sentence. A sexually violent predator is a person who has been convicted of, charged with and found not guilty by reason of insanity of, or found to be incompetent to stand trial for, a crime of sexual violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) and confined at the Special Commitment Center (SCC) for control, care, and individualized treatment.

A person who has been civilly committed is entitled to an annual review of his or her mental condition, including consideration of whether conditional release to a less restrictive alternative (LRA) is in the best interest of the person and would adequately protect the community. Before the court can order that a person be conditionally released from the SCC to an LRA, the court must find that certain requirements are met, including the requirement that housing is available that is sufficiently secure to protect the community.

Since 1994, the SCC has been operating under a federal court injunction requiring that steps be taken to ensure that constitutionally adequate mental health treatment is being provided to SCC residents. In November 1999, the state was held in contempt of court for failing to take all reasonable steps toward this goal and for intentionally disregarding the requirements of the injunction. The court ordered sanctions of \$50 per day per SCC resident beginning in May of 2000. To date, the court has deferred imposition of these sanctions, finding that the SCC is making genuine efforts to bring the program into compliance. One area that continues to be of concern to the court, however, is the lack of arrangements for the transition of qualified residents into LRAs as is required for the program to be constitutional.

In August 2000, the DSHS formed a Secure Placement Advisory Committee and with the assistance of this committee and other public input, established criteria for the siting of LRAs housing up to three SCC residents on conditional release status. Using this criteria, 11 state-owned properties were then selected as potential sites for the location of the first such LRA. The DSHS made a final selection from among those 11 potential sites, and also selected three possible alternatives. The local governments of some of the affected locations have since taken legal action attempting to halt the siting of these LRAs in their respective jurisdictions.

House Bill 2223, introduced at the request of the Governor and the attorney general, authorizes the DSHS to establish an LRA treatment facility for sexually violent predators on court-ordered conditional release from the SCC on McNeil Island. Until December 31, 2003, local comprehensive plans or development regulations that are inconsistent with the siting of such a facility are preempted.

Summary of Bill:

The DSHS must develop siting and safety criteria before siting and operating an LRA treatment facility housing 30 or more sexually violent predators on court-ordered conditional release. In developing the criteria, the DSHS must obtain the assistance of the Secure Placement Advisory Committee and provide an opportunity for public comment.

The court may not order a sexually violent predator conditionally released to an LRA in Pierce County, other than to the LRA treatment facility established pursuant to HB 2223. The state is prohibited from siting an additional LRA facility in Pierce County.

Residents of the LRA treatment facility established pursuant to HB 2223 may not leave the facility, even if escorted, until the state has entered into a mitigation agreement with Pierce County and each city located within a 10-mile radius of the facility. The purpose of the agreement is to ensure state funding for the increased law enforcement costs necessary due to the increased risk to public safety resulting from the siting of the facility on McNeil Island.

Residents of the LRA treatment facility may not receive financial assistance from the state for postsecondary education.

Appropriation: None.

Fiscal Note: Requested on March 21, 2001.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Pierce County does not accept the Governor's proposal to site this facility on McNeil Island and is not willing to accept mitigation. The county will do everything possible to stop this action, including litigation. Every county in the state must step up and shoulder the burden of these types of facilities, but Pierce County has already taken its fair share with the largest mental hospital west of the Mississippi, three prisons, and numerous work release facilities. This is a fairness issue and a question of institutional overload. Pierce County also has one of the lowest levels of deputies per capita, and a higher number of mentally ill people per capita due to people being released

from Western State Hospital. Pierce County has not enjoyed the recent financial boom that has affected other counties, and is least able to shoulder the social and financial costs of another facility. The DSHS had a site selection process to identify possible sites using the criteria that were developed, and McNeil Island was not even on that list. The DSHS should follow its own rules. The DSHS has not provided any basis for how the site was selected, or how transportation will be provided or public safety protected. There are a large number of schools and childcare centers within five miles of the loading dock used by McNeil Island. No court would order that this facility be placed in Pierce County. From experience with Western State Hospital, it is clear that people stay in the community once they are released because that is where their support network is. Law enforcement in this area is already overwhelmed by sex offenders and methamphetamine laboratories. Thousands of Pierce County residents have signed a petition against this proposal.

(With concerns) Noone wants to victimize Pierce County. Eleven years ago, the Legislature enacted this program with the help of local law enforcement, and now we are in the landing phase of the process. Constitutionally adequate treatment means there must be a way out when the person is ready. There are concerns regarding the proposed substitute bills to the extent that they are inconsistent with what is required by the court, or to the extent that they delay or obstruct the process so that the facility cannot get sited. Not letting the facility operate until mitigation agreements are reached essentially gives any of the affected local governments veto power over the site.

Testimony Against: None.

Testified: (In support) John Ladenberg, Pierce County; Pat O'Malley, Pierce County Council; Mayor Bill Harrison, city of Lakewood; and J. Richard McEntee.

(With concerns) Dick Van Wagenen, Governor's Policy Office.