

***Criminal Justice & Corrections
Committee***

HB 1495

Brief Description: *Providing criteria for siting of treatment facilities for sexually violent predators.*

Sponsors: *Representatives Schoesler, Cox, Ahern, Grant, Sump, Mastin, Wood, Benson, Pearson, Crouse, Schindler, Reardon, Gombosky, Boldt, Buck, Dunn, B. Chandler, G. Chandler, Delvin, Armstrong, Carrell, Kessler, Haigh, Lisk, Mulliken, McMorris and Morell.*

Brief Summary of Bill

- *Prohibits the location of a less restrictive alternative (LRA) for sexually violent predators in a community without the prior approval of the appropriate local government entity.*
- *Requires the Department of Social and Health Services (DSHS) to make efforts to ensure that LRA small housing units are distributed equitably among the counties in the state, taking into account several factors.*
- *Establishes criteria relating to the siting, securing, and staffing of LRA small housing units.*
- *Requires public notification and hearings regarding the siting of LRA small housing units.*
- *Requires the Department of Health (DOH) to revoke the certification of sex offender treatment providers under certain circumstances.*

Hearing Date: *2/21/01*

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 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 to an LRA, the court must find that, among other requirements, 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 the 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 the 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 a concern for the court, however, is the lack of arrangements for the transition of qualified residents into LRA's in the community. The act has been in place long enough now that a growing number of civilly committed persons are nearing the need for an LRA placement.

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 LRA's 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 department 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 LRA's in their respective jurisdictions.

In addition to the requirement of secure housing, before a person can be conditionally released to an LRA, the court must also find that the person will be treated by a certified sex offender treatment provider that has developed a specific course of treatment for that person. The treatment provider must agree to assume responsibility for the treatment, make progress reports to the court, and immediately report any violations to the court. Sex offender treatment providers are certified by the DOH after completing the necessary education, experience, and examination requirements.

Summary of Bill:

A LRA ordered after January 1, 2001, may not be located in any community unless the

local jurisdiction has first approved the location.

A LRA small housing unit is defined to mean a facility housing up to three residents who have been ordered conditionally released from the SCC, whether owned by the DSHS or operated under contract with DSHS. In planning for the siting of these LRA small housing units, the DSHS must make every effort to ensure that these housing units are distributed equitably among the counties in the state, taking into account several factors, including the number of sex offenders registered in the county, the number of offenders being supervised in the county, and other LRA small housing units located or planned to be located in that county. After the DSHS has selected three possible locations for a LRA small housing unit, the DSHS is required to notify the public and conduct at least two public hearings in each potentially affected community at least 60 days before a final selection is made.

At a minimum, the location of a LRA small housing unit must allow for an average response time of five minutes or less by law enforcement or qualified publicly employed staff and an average response time by fire safety and emergency medical personnel that is no longer than the average of the local community. It must not be within line of sight of, adjacent to, or in direct proximity to schools, school bus stops, preschools, licensed child care centers, parks, playgrounds and recreational centers, or places of worship. The housing unit must also contain specified security devices, such as alarm systems, sirens, cellular phone services, listening devices, and camera systems. Residents of the housing unit must wear electronic monitoring devices at all times, and must be escorted when leaving the premises. The housing unit must be within an approximate one-hour commute to a city or town with a population of 25,000 or more and located in an area where qualified treatment providers are available. Staff of the housing unit, who are required to be properly qualified and trained, must maintain specified ratios between staff and residents.

If the DSHS decides to establish an LRA facility housing more than three individuals, the DSHS must first develop criteria applicable to the siting, securing, programming, and staffing of this type of facility, and receive legislative approval of the criteria.

The DOH is required to revoke the certification of a sex offender treatment provider who intentionally, knowingly, recklessly, or with gross negligence fails to comply with the statutory requirements pertaining to the treatment of the SCC residents on court-ordered conditional release, including the requirement that he or she report to the court any violation of the person's conditional release.

Appropriation: *None.*

Fiscal Note: *Requested on February 15, 2001.*

Effective Date: *This bill contains an emergency clause and take effect immediately.*