

***Criminal Justice & Corrections
Committee***

HB 2223

Brief Description: *Providing for siting and operation of a less restrictive alternative treatment facility on McNeil Island.*

Sponsors: *Representatives Ogden (co-prime sponsor), Ballasiotes (co-prime sponsor), Marine, Dunshee, Fromhold, Santos, Rockefeller, O'Brien and Jackley; by request of Governor Locke; Attorney General.*

Brief Summary of Bill

- *Authorizes the Department of Social and Health Services (DSHS) to establish a less restrictive alternative (LRA) treatment facility for sexually violent predators on McNeil Island.*
- *Preempts inconsistent local comprehensive plans and development regulations.*

Hearing Date: *3/26/01*

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 an 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 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 in the community.

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 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 LRAs in their respective jurisdictions.

The Growth Management Act (GMA) requires a county and its cities to plan if the county meets certain population and growth criteria and allows counties not meeting these criteria to choose to plan under the GMA. Currently, 29 of 39 counties plan under the GMA. The GMA requires all counties and cities in the state to take certain actions and requires jurisdictions planning under its major requirements (GMA jurisdictions) to satisfy other requirements, including adoption of comprehensive plans and development regulations. State agencies are required to comply with these plans and regulations. GMA jurisdictions must include a process for identifying and siting essential public facilities.

Summary of Bill:

The secretary of the DSHS may 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, and the DSHS is not required to comply.

The ability of the state to site an essential public facility in conformance with local comprehensive plans and development regulations is not affected.

Appropriation: None.

Fiscal Note: Requested on March 23, 2001.

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