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HOUSE BILL 1532

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Conway, Ballasiotes, Kirby, O'Brien, Fisher, Veloria and Darneille

Read first time 01/29/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to siting of essential state community justice  
2 facilities; amending RCW 72.65.010, 72.05.020, 71.09.020, 36.70A.030,  
3 and 36.70A.200; adding a new section to chapter 72.65 RCW; adding a new  
4 section to chapter 72.05 RCW; adding new sections to chapter 71.09 RCW;  
5 and adding a new section to chapter 36.70A RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 72.65 RCW  
8 to read as follows:

9 (1) Not later than July 1, 2002, and every five years thereafter,  
10 the department shall provide to each county: (a) A projection for the  
11 number of essential state community justice facilities under its  
12 jurisdiction pursuant to this chapter that may be sited in that county  
13 during the succeeding five-year period; and (b) siting criteria for  
14 each of the projected facilities.

15 (2) In developing the projections required under subsection (1) of  
16 this section, the department shall make every effort to ensure that the  
17 facilities are allocated equitably among the counties, taking into  
18 account at least the following:

- 1 (a) The locations of existing essential state community justice  
2 facilities;
- 3 (b) The locations of other projected essential state community  
4 justice facilities; and
- 5 (c) The number of offenders to be served in relation to the number  
6 of offenders sentenced in the county.

7 **Sec. 2.** RCW 72.65.010 and 1992 c 7 s 56 are each amended to read  
8 as follows:

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

11 (1) "Department" shall mean the department of corrections.

12 (2) "Secretary" shall mean the secretary of corrections.

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

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

21 (5) "Superintendent" shall mean the superintendent of a state  
22 correctional institution, camp or other facility now or hereafter  
23 established under the jurisdiction of the department pursuant to law.

24 (6) "Essential state community justice facility" has the same  
25 meaning as provided in RCW 36.70A.030.

26 (7) "Siting criteria" means requirements for the location of a  
27 specific essential state community justice facility as determined by  
28 the department. Siting criteria shall include, but are not limited to,  
29 the following:

30 (a) Cost parameters;

31 (b) Building requirements, including size, floor plan, and staffing  
32 accommodations;

33 (c) Security features and emergency services response times;

34 (d) Proximity to public transportation;

35 (e) Proximity to educational, vocational, and employment  
36 opportunities, as appropriate;

37 (f) Access to treatment providers and facilities;

38 (g) Ability to accommodate specific program activities;

1        (h) A distance requirement of not less than one thousand feet from  
2 schools, school bus stops, licensed child care homes and centers,  
3 parks, and places of worship; and

4        (i) A requirement that the facility maintain appropriate staffing  
5 for resident and community safety.

6        NEW SECTION. Sec. 3. A new section is added to chapter 72.05 RCW  
7 to read as follows:

8        (1) Not later than July 1, 2002, and every five years thereafter,  
9 the department shall provide to each county: (a) A projection for the  
10 number of essential state community justice facilities under its  
11 jurisdiction pursuant to this chapter that may be sited in that county  
12 during the succeeding five-year period; and (b) siting criteria for  
13 each of the projected facilities.

14        (2) In developing the projections required under subsection (1) of  
15 this section, the department shall make every effort to ensure that the  
16 facilities are allocated equitably among the counties, taking into  
17 account at least the following:

18        (a) The locations of existing essential state community justice  
19 facilities;

20        (b) The locations of other projected essential state community  
21 justice facilities; and

22        (c) The number of juveniles to be served in relation to the number  
23 of juveniles sentenced in the county.

24        **Sec. 4.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read  
25 as follows:

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

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

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

34        (3) "Essential state community justice facility" has the same  
35 meaning as provided in RCW 36.70A.030.

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

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

6       (6) "Siting criteria" means requirements for the location of a  
7 specific essential state community justice facility as determined by  
8 the department. Siting criteria shall include, but are not limited to,  
9 the following:

10       (a) Cost parameters;

11       (b) Building requirements, including size, floor plan, and staffing  
12 accommodations;

13       (c) Security features and emergency services response times;

14       (d) Proximity to public transportation and schools;

15       (e) Proximity to vocational, employment, and community service  
16 opportunities, as appropriate;

17       (f) Access to treatment services and providers;

18       (g) Ability to accommodate specific program activities;

19       (h) A distance requirement of not less than one thousand feet from  
20 schools, school bus stops, licensed child care homes and centers,  
21 parks, and places of worship; and

22       (i) A requirement that the facility maintain appropriate staffing  
23 for resident and community safety.

24       NEW SECTION. Sec. 5. A new section is added to chapter 71.09 RCW  
25 to read as follows:

26       (1) Not later than July 1, 2002, and every five years thereafter,  
27 the department shall provide to each county: (a) A projection for the  
28 number of essential state community justice facilities under its  
29 jurisdiction pursuant to this chapter that may be sited in that county  
30 during the succeeding five-year period; and (b) the siting criteria  
31 established in section 6 of this act.

32       (2) In developing the projections required under subsection (1) of  
33 this section, the department shall make every effort to ensure that the  
34 facilities are allocated equitably among the counties, taking into  
35 account at least the following:

36       (a) The locations of existing essential state community justice  
37 facilities;

1 (b) The locations of other projected essential state community  
2 justice facilities; and

3 (c) The number of residents to be served in relation to the number  
4 of residents sentenced in the county.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 71.09 RCW  
6 to read as follows:

7 A less restrictive alternative housing facility shall meet the  
8 following minimum criteria:

9 (1) The location of the housing unit shall enable:

10 (a) An average response time of five minutes or less by law  
11 enforcement, or publicly employed staff, other than residential staff  
12 of the housing unit, who are qualified and designated to perform  
13 security response functions relative to the housing unit; and

14 (b) An average response time by fire safety and emergency medical  
15 personnel that is no longer than the average of the local community.

16 (2) The property where the housing unit is located may not be  
17 within line of sight of, adjacent to, or in direct proximity with, any  
18 of the following:

19 (a) Schools, including public schools, full-time private schools  
20 serving any of grades K-12, and public or private institutions of  
21 higher education;

22 (b) School bus stops;

23 (c) Preschools, including Headstart and the early childhood  
24 education assistance program;

25 (d) Licensed child care homes and centers;

26 (e) Parks and publicly dedicated trails;

27 (f) Sports fields, playgrounds, and recreational and community  
28 centers;

29 (g) Places of worship, including churches, mosques, synagogues, and  
30 temples.

31 (3) The housing unit shall contain at least the following security  
32 devices:

33 (a) An installed household security or alarm system that alerts  
34 staff to any unauthorized movements into or outside of the housing  
35 unit, and that features a main control panel with a power supply,  
36 battery backup, and tamperproof switch;

37 (b) An interior siren for security and fire;

1 (c) Cellular phone services with clear and uninterrupted services;  
2 and

3 (d) Alarm-activated listening devices and camera systems.

4 (4) The housing unit shall be located in an area where a contractor  
5 is available to install, monitor, and repair the security devices  
6 specified in subsection (3) of this section.

7 (5) The housing unit shall be located within an approximate one-  
8 hour one-way commute to a city or town with a population of twenty-five  
9 thousand or more.

10 (6) The housing unit shall be located in an area in which qualified  
11 treatment providers are available.

12 **Sec. 7.** RCW 71.09.020 and 1995 c 216 s 1 are each amended to read  
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16 (1) "Sexually violent predator" means any person who has been  
17 convicted of or charged with a crime of sexual violence and who suffers  
18 from a mental abnormality or personality disorder which makes the  
19 person likely to engage in predatory acts of sexual violence if not  
20 confined in a secure facility.

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

25 (3) "Likely to engage in predatory acts of sexual violence" means  
26 that the person more probably than not will engage in such acts. Such  
27 likelihood must be evidenced by a recent overt act if the person is not  
28 totally confined at the time the petition is filed under RCW 71.09.030.

29 (4) "Predatory" means acts directed towards strangers or  
30 individuals with whom a relationship has been established or promoted  
31 for the primary purpose of victimization.

32 (5) "Recent overt act" means any act that has either caused harm of  
33 a sexually violent nature or creates a reasonable apprehension of such  
34 harm.

35 (6) "Sexually violent offense" means an act committed on, before,  
36 or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as  
37 rape in the first degree, rape in the second degree by forcible  
38 compulsion, rape of a child in the first or second degree, statutory

1 rape in the first or second degree, indecent liberties by forcible  
2 compulsion, indecent liberties against a child under age fourteen,  
3 incest against a child under age fourteen, or child molestation in the  
4 first or second degree; (b) a felony offense in effect at any time  
5 prior to July 1, 1990, that is comparable to a sexually violent offense  
6 as defined in (a) of this subsection, or any federal or out-of-state  
7 conviction for a felony offense that under the laws of this state would  
8 be a sexually violent offense as defined in this subsection; (c) an act  
9 of murder in the first or second degree, assault in the first or second  
10 degree, assault of a child in the first or second degree, kidnapping in  
11 the first or second degree, burglary in the first degree, residential  
12 burglary, or unlawful imprisonment, which act, either at the time of  
13 sentencing for the offense or subsequently during civil commitment  
14 proceedings pursuant to chapter 71.09 RCW, has been determined beyond  
15 a reasonable doubt to have been sexually motivated, as that term is  
16 defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28  
17 RCW, that is an attempt, criminal solicitation, or criminal conspiracy  
18 to commit one of the felonies designated in (a), (b), or (c) of this  
19 subsection.

20 (7) "Less restrictive alternative" means court-ordered treatment in  
21 a setting less restrictive than total confinement.

22 (8) "Less restrictive alternative housing facility" means a  
23 facility owned and operated by the department of social and health  
24 services, or operated under contract with the department of social and  
25 health services, for the purpose of housing no more than three persons  
26 at one time who have been ordered conditionally released to a less  
27 restrictive alternative.

28 (9) "Secretary" means the secretary of social and health services  
29 or his or her designee.

30 (10) "Essential state community justice facility" has the same  
31 meaning as provided in RCW 36.70A.030.

32 **Sec. 8.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to read  
33 as follows:

34 Unless the context clearly requires otherwise, the definitions in  
35 this section apply throughout this chapter.

36 (1) "Adopt a comprehensive land use plan" means to enact a new  
37 comprehensive land use plan or to update an existing comprehensive land  
38 use plan.

1 (2) "Agricultural land" means land primarily devoted to the  
2 commercial production of horticultural, viticultural, floricultural,  
3 dairy, apiary, vegetable, or animal products or of berries, grain, hay,  
4 straw, turf, seed, Christmas trees not subject to the excise tax  
5 imposed by RCW 84.33.100 through 84.33.140, finfish in upland  
6 hatcheries, or livestock, and that has long-term commercial  
7 significance for agricultural production.

8 (3) "City" means any city or town, including a code city.

9 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
10 means a generalized coordinated land use policy statement of the  
11 governing body of a county or city that is adopted pursuant to this  
12 chapter.

13 (5) "Critical areas" include the following areas and ecosystems:  
14 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
15 used for potable water; (c) fish and wildlife habitat conservation  
16 areas; (d) frequently flooded areas; and (e) geologically hazardous  
17 areas.

18 (6) "Department" means the department of community, trade, and  
19 economic development.

20 (7) "Development regulations" or "regulation" means the controls  
21 placed on development or land use activities by a county or city,  
22 including, but not limited to, zoning ordinances, critical areas  
23 ordinances, shoreline master programs, official controls, planned unit  
24 development ordinances, subdivision ordinances, and binding site plan  
25 ordinances together with any amendments thereto. A development  
26 regulation does not include a decision to approve a project permit  
27 application, as defined in RCW 36.70B.020, even though the decision may  
28 be expressed in a resolution or ordinance of the legislative body of  
29 the county or city.

30 (8) "Essential public facilities" means those facilities that are  
31 typically difficult to site, such as airports, state education  
32 facilities, state or regional transportation facilities as defined in  
33 RCW 47.06.140, state and local correctional facilities, essential state  
34 community justice facilities, solid waste handling facilities, and  
35 in-patient facilities including substance abuse facilities, mental  
36 health facilities, and group homes.

37 (9) "Essential state community justice facilities" means essential  
38 public facilities that are: (a) Community facilities as defined in RCW  
39 72.05.020 and owned or operated by, or under contract with, the



1 department of social and health services pursuant to chapter 72.05 RCW;  
2 (b) less restrictive alternative housing facilities as defined in RCW  
3 71.09.020; and (c) work-release or other community-based facilities  
4 owned or operated by, or under contract with, the department of  
5 corrections.

6 (10) "Forest land" means land primarily devoted to growing trees  
7 for long-term commercial timber production on land that can be  
8 economically and practically managed for such production, including  
9 Christmas trees subject to the excise tax imposed under RCW 84.33.100  
10 through 84.33.140, and that has long-term commercial significance. In  
11 determining whether forest land is primarily devoted to growing trees  
12 for long-term commercial timber production on land that can be  
13 economically and practically managed for such production, the following  
14 factors shall be considered: (a) The proximity of the land to urban,  
15 suburban, and rural settlements; (b) surrounding parcel size and the  
16 compatibility and intensity of adjacent and nearby land uses; (c) long-  
17 term local economic conditions that affect the ability to manage for  
18 timber production; and (d) the availability of public facilities and  
19 services conducive to conversion of forest land to other uses.

20 ~~((+9))~~ (11) "Geologically hazardous areas" means areas that  
21 because of their susceptibility to erosion, sliding, earthquake, or  
22 other geological events, are not suited to the siting of commercial,  
23 residential, or industrial development consistent with public health or  
24 safety concerns.

25 ~~((+10))~~ (12) "Long-term commercial significance" includes the  
26 growing capacity, productivity, and soil composition of the land for  
27 long-term commercial production, in consideration with the land's  
28 proximity to population areas, and the possibility of more intense  
29 uses of the land.

30 ~~((+11))~~ (13) "Minerals" include gravel, sand, and valuable  
31 metallic substances.

32 ~~((+12))~~ (14) "Public facilities" include streets, roads, highways,  
33 sidewalks, street and road lighting systems, traffic signals, domestic  
34 water systems, storm and sanitary sewer systems, parks and recreational  
35 facilities, and schools.

36 ~~((+13))~~ (15) "Public services" include fire protection and  
37 suppression, law enforcement, public health, education, recreation,  
38 environmental protection, and other governmental services.

1       (~~(14)~~) (16) "Rural character" refers to the patterns of land use  
2 and development established by a county in the rural element of its  
3 comprehensive plan:

4       (a) In which open space, the natural landscape, and vegetation  
5 predominate over the built environment;

6       (b) That foster traditional rural lifestyles, rural-based  
7 economies, and opportunities to both live and work in rural areas;

8       (c) That provide visual landscapes that are traditionally found in  
9 rural areas and communities;

10       (d) That are compatible with the use of the land by wildlife and  
11 for fish and wildlife habitat;

12       (e) That reduce the inappropriate conversion of undeveloped land  
13 into sprawling, low-density development;

14       (f) That generally do not require the extension of urban  
15 governmental services; and

16       (g) That are consistent with the protection of natural surface  
17 water flows and ground water and surface water recharge and discharge  
18 areas.

19       (~~(15)~~) (17) "Rural development" refers to development outside the  
20 urban growth area and outside agricultural, forest, and mineral  
21 resource lands designated pursuant to RCW 36.70A.170. Rural  
22 development can consist of a variety of uses and residential densities,  
23 including clustered residential development, at levels that are  
24 consistent with the preservation of rural character and the  
25 requirements of the rural element. Rural development does not refer to  
26 agriculture or forestry activities that may be conducted in rural  
27 areas.

28       (~~(16)~~) (18) "Rural governmental services" or "rural services"  
29 include those public services and public facilities historically and  
30 typically delivered at an intensity usually found in rural areas, and  
31 may include domestic water systems, fire and police protection  
32 services, transportation and public transit services, and other public  
33 utilities associated with rural development and normally not associated  
34 with urban areas. Rural services do not include storm or sanitary  
35 sewers, except as otherwise authorized by RCW 36.70A.110(4).

36       (~~(17)~~) (19) "Urban growth" refers to growth that makes intensive  
37 use of land for the location of buildings, structures, and impermeable  
38 surfaces to such a degree as to be incompatible with the primary use of  
39 land for the production of food, other agricultural products, or fiber,

1 or the extraction of mineral resources, rural uses, rural development,  
2 and natural resource lands designated pursuant to RCW 36.70A.170. A  
3 pattern of more intensive rural development, as provided in RCW  
4 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
5 wide areas, urban growth typically requires urban governmental  
6 services. "Characterized by urban growth" refers to land having urban  
7 growth located on it, or to land located in relationship to an area  
8 with urban growth on it as to be appropriate for urban growth.

9 ~~((18))~~ (20) "Urban growth areas" means those areas designated by  
10 a county pursuant to RCW 36.70A.110.

11 ~~((19))~~ (21) "Urban governmental services" or "urban services"  
12 include those public services and public facilities at an intensity  
13 historically and typically provided in cities, specifically including  
14 storm and sanitary sewer systems, domestic water systems, street  
15 cleaning services, fire and police protection services, public transit  
16 services, and other public utilities associated with urban areas and  
17 normally not associated with rural areas.

18 ~~((20))~~ (22) "Wetland" or "wetlands" means areas that are  
19 inundated or saturated by surface water or ground water at a frequency  
20 and duration sufficient to support, and that under normal circumstances  
21 do support, a prevalence of vegetation typically adapted for life in  
22 saturated soil conditions. Wetlands generally include swamps, marshes,  
23 bogs, and similar areas. Wetlands do not include those artificial  
24 wetlands intentionally created from nonwetland sites, including, but  
25 not limited to, irrigation and drainage ditches, grass-lined swales,  
26 canals, detention facilities, wastewater treatment facilities, farm  
27 ponds, and landscape amenities, or those wetlands created after July 1,  
28 1990, that were unintentionally created as a result of the construction  
29 of a road, street, or highway. Wetlands may include those artificial  
30 wetlands intentionally created from nonwetland areas created to  
31 mitigate conversion of wetlands.

32 **Sec. 9.** RCW 36.70A.200 and 1998 c 171 s 3 are each amended to read  
33 as follows:

34 (1) The comprehensive plan of each county and city that is planning  
35 under this chapter shall include a process for identifying and siting  
36 essential public facilities. ~~((Essential public facilities include  
37 those facilities that are typically difficult to site, such as  
38 airports, state education facilities and state or regional~~

1 ~~transportation facilities as defined in RCW 47.06.140, state and local~~  
2 ~~correctional facilities, solid waste handling facilities, and in-~~  
3 ~~patient facilities including substance abuse facilities, mental health~~  
4 ~~facilities, and group homes.))~~

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

9 (3) No local comprehensive plan or development regulation may  
10 preclude the siting of essential public facilities, including essential  
11 state community justice facilities.

12 (4) Local comprehensive plans and development regulations adopted  
13 under this chapter must comply with the requirements of section 10 of  
14 this act on or before September 1, 2003.

15 NEW SECTION. Sec. 10. A new section is added to chapter 36.70A  
16 RCW to read as follows:

17 (1) On or before September 1, 2003, the legislative authority of  
18 each county shall adopt a countywide planning policy to establish the  
19 process for siting and to provide for an equitable distribution of  
20 essential state community justice facilities within the county and the  
21 cities located in whole or in part within the county. The countywide  
22 planning policy required by this section shall be adopted in  
23 cooperation with the cities located in whole or in part within the  
24 county.

25 (2) Pursuant to sections 1, 3, and 5 of this act, the department of  
26 corrections and the department of social and health services shall  
27 provide all counties with projections for the numbers of essential  
28 state community justice facilities to be sited within the county during  
29 the succeeding five-year period. The department of social and health  
30 services and the department of corrections shall be notified by each  
31 county of its intent to begin the countywide planning policy process  
32 required by this section and shall be invited to participate in this  
33 process.

34 (3) The countywide planning policy required by this section shall,  
35 at a minimum, address the following:

36 (a) The location of existing essential state community justice  
37 facilities;

1 (b) The social, economic, and other impacts of the existing  
2 essential state community justice facilities on the communities in  
3 which they are located;

4 (c) The incremental social, economic, and other impacts of siting  
5 additional essential state community justice facilities in communities  
6 in which essential state community justice facilities are currently  
7 located;

8 (d) A proposed allocation of projected essential state community  
9 justice facilities among the county and the cities located in whole or  
10 in part within the county; and

11 (e) Coordination of development regulations, including but not  
12 limited to zoning regulations and design standards, to ensure that the  
13 proposed allocation of projected essential state community justice  
14 facilities can be achieved.

15 (4) Within six months of the date the countywide planning policy  
16 required by subsection (1) of this section is adopted, the county and  
17 each city located in whole or in part within the county shall adopt  
18 development regulations implementing the countywide planning policy.

19 (5) No later than July 1, 2002, the department shall adopt  
20 guidelines under chapter 34.05 RCW to guide the adoption of the  
21 countywide planning policies required by this section. The department  
22 shall consult with interested parties, conduct public hearings, and  
23 consider public input when adopting these guidelines. These guidelines  
24 shall be minimum guidelines for adopting the countywide planning  
25 policies required by this section but shall allow for regional  
26 differences existing in the state. The intent of the guidelines is to  
27 assist counties and their cities to meet the requirements of this  
28 section.

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