

---

SECOND ENGROSSED HOUSE BILL 2168

---

State of Washington

57th Legislature

2002 Regular Session

By Representatives Conway, Schoesler, O'Brien, Ballasiotes, Darneille, Kirby and Hunt

Read first time 02/20/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to essential state community justice facilities;  
2 amending RCW 72.65.220, 72.05.400, 71.09.020, 36.70A.030, and  
3 36.70A.200; adding new sections to chapter 71.09 RCW; adding a new  
4 chapter to Title 72 RCW; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Departments" means the department of corrections and the  
9 department of social and health services.

10 (2) "Essential state community justice facility" means essential  
11 public facilities that are: (a) Community facilities as defined in RCW  
12 72.05.020 and owned or operated by, or under contract with, the  
13 department of social and health services pursuant to chapter 72.05 RCW;  
14 (b) less restrictive alternative secure housing facilities as defined  
15 in RCW 71.09.020; and (c) work release or other community-based  
16 facilities owned or operated by, or under contract with, the department  
17 of corrections.

18 (3) "Essential public facility" has the same meaning as provided in  
19 RCW 36.70A.030.

1        NEW SECTION.    **Sec. 2.** (1) The departments shall make every effort  
2 to ensure that essential state community justice facilities are  
3 distributed equitably among the counties and, within each county, among  
4 each jurisdiction within the county, taking into account at least the  
5 following:

6        (a) The locations of existing essential state community justice  
7 facilities;

8        (b) The locations of other projected essential state community  
9 justice facilities;

10       (c) The number of adult and juvenile registered sex offenders  
11 residing in the jurisdiction;

12       (d) The number of adult and juvenile violent offenders under  
13 community custody, community placement, community supervision, or  
14 parole in the jurisdiction; and

15       (e) The number of adult and juvenile offenders sentenced or  
16 adjudicated in the jurisdiction.

17       (2) To carry out the purposes of subsection (1) of this section,  
18 the departments shall, no later than January 1, 2002, develop a mapping  
19 system to identify the locations of existing and projected essential  
20 state community justice facilities. The departments shall also  
21 maintain a joint list of the number of adult and juvenile offenders  
22 sentenced in each jurisdiction, the number of adult and juvenile  
23 registered sex offenders residing in each jurisdiction, and the number  
24 of adult and juvenile violent offenders under community custody,  
25 community placement, community supervision, or parole in each  
26 jurisdiction.

27       NEW SECTION.    **Sec. 3.** (1) Beginning on the effective date of this  
28 act, the department of corrections or the department of social and  
29 health services, or a private or public entity under contract with such  
30 department, may establish or relocate an essential state community  
31 justice facility only after meeting the requirements of this section.

32       (2) When the department of corrections or the department of social  
33 and health services, or a private or public entity under contract with  
34 such department, has selected three or fewer sites for final  
35 consideration for the location or relocation of an essential state  
36 community justice facility, the applicable department or contracting  
37 entity shall notify the public and conduct at least two public hearings  
38 in each of the local communities where such a facility may be sited.

1 (3) The public hearings required under subsection (2) of this  
2 section shall be conducted not less than ninety days before a final  
3 selection is made.

4 (4) To provide adequate notice of, and opportunity for interested  
5 persons to comment on, a proposed location, the applicable department  
6 or contracting entity shall provide a minimum of fourteen days' advance  
7 notice of the public hearings to at least the following:

8 (a) The affected counties, cities, and towns;

9 (b) Local government planning agencies in the affected communities;

10 (c) All newspapers of general circulation in the community and all  
11 radio and television stations generally available to persons in the  
12 community where the potential site is located;

13 (d) Appropriate school districts, private schools, kindergartens,  
14 institutions of higher education, city and county libraries, and all  
15 other local government offices within a one-half mile radius of each  
16 proposed site;

17 (e) The local chamber of commerce, local economic development  
18 agencies, and any other local organizations that request such  
19 notification from the department; and

20 (f) All residents and property owners within a one-half mile radius  
21 of the proposed site or sites, with such notification to be in writing.

22 (5) The notice required under subsection (4) of this section must  
23 also inform the public that any interested person or entity, including  
24 a local government entity, is invited to submit written comments  
25 regarding a proposed location, including comments regarding whether the  
26 department has complied with the requirements of section 2 of this act.  
27 Such comments must be submitted to the applicable department not later  
28 than forty-five days after notice is issued pursuant to subsection (4)  
29 of this section.

30 (6) The applicable department must consider the testimony received  
31 at the public hearings, as well as any written comments submitted,  
32 before making a final selection for the location or relocation of an  
33 essential state community justice facility. The department must issue  
34 a written decision stating the reasons for the final selection,  
35 including a statement as to how the final selection meets the  
36 requirements of section 2 of this act.

37 (7) An additional public hearing, following public notification,  
38 shall also be conducted in the local community where the final  
39 selection is located.

1        NEW SECTION.    **Sec. 4.** Any complaints or grievances concerning a  
2 violation of this chapter shall be adjudicated in accordance with the  
3 procedures set forth in chapter 34.05 RCW, the administrative procedure  
4 act. Judicial review of any final decision of the department is  
5 governed by the provisions of chapter 34.05 RCW.

6        NEW SECTION.    **Sec. 5.** Nothing in this chapter precludes a local  
7 government from requiring the departments to obtain a special use  
8 permit or conditional use permit before siting an essential state  
9 community justice facility.

10       NEW SECTION.    **Sec. 6.** Sections 1 through 5 of this act constitute  
11 a new chapter in Title 72 RCW.

12        **Sec. 7.** RCW 72.65.220 and 1997 c 348 s 1 are each amended to read  
13 as follows:

14        (1) The department or a private or public entity under contract  
15 with the department may establish or relocate for the operation of a  
16 work release or other community-based facility only after ~~((public~~  
17 ~~notifications and local public meetings have been completed consistent~~  
18 ~~with this section.~~

19        ~~(2) The department and other state agencies responsible for siting~~  
20 ~~department-owned, operated, or contracted facilities shall establish a~~  
21 ~~process for early and continuous public participation in establishing~~  
22 ~~or relocating work release or other community-based facilities. This~~  
23 ~~process shall include public meetings in the local communities~~  
24 ~~affected, opportunities for written and oral comments, and wide~~  
25 ~~dissemination of proposals and alternatives, including at least the~~  
26 ~~following:~~

27        ~~(a) When the department or a private or public entity under~~  
28 ~~contract with the department has selected three or fewer sites for~~  
29 ~~final consideration of a department-owned, operated, or contracted work~~  
30 ~~release or other community-based facility, the department or~~  
31 ~~contracting organization shall make public notification and conduct~~  
32 ~~public hearings in the local communities of the final three or fewer~~  
33 ~~proposed sites. An additional public hearing after public notification~~  
34 ~~shall also be conducted in the local community selected as the final~~  
35 ~~proposed site.~~

1       ~~(b) Notifications required under this section shall be provided to~~  
2 ~~the following:~~

3       ~~(i) All newspapers of general circulation in the local area and all~~  
4 ~~local radio stations, television stations, and cable networks;~~

5       ~~(ii) Appropriate school districts, private schools, kindergartens,~~  
6 ~~city and county libraries, and all other local government offices~~  
7 ~~within a one-half mile radius of the proposed site or sites;~~

8       ~~(iii) The local chamber of commerce, local economic development~~  
9 ~~agencies, and any other local organizations that request such~~  
10 ~~notification from the department; and~~

11       ~~(iv) In writing to all residents and/or property owners within a~~  
12 ~~one-half mile radius of the proposed site or sites.~~

13       ~~(3)) meeting the requirements of chapter 72.-- RCW (sections 1~~  
14 ~~through 5 of this act).~~

15       ~~(2) When the department contracts for the operation of a work~~  
16 ~~release or other community-based facility that is not owned or operated~~  
17 ~~by the department, the department shall require as part of its contract~~  
18 ~~that the contracting entity comply with all the public notification and~~  
19 ~~public hearing requirements ((as provided in this section for each~~  
20 ~~located and relocated work release or other community based facility))~~  
21 ~~of section 3 of this act.~~

22       **Sec. 8.** RCW 72.05.400 and 1998 c 269 s 5 are each amended to read  
23 as follows:

24       (1) Whenever the department operates, or the secretary enters a  
25 contract to operate, a community facility, the community facility may  
26 be operated only after ((~~the public notification and opportunities for~~  
27 ~~review and comment as required by this section.~~

28       ~~(2) The secretary shall establish a process for early and~~  
29 ~~continuous public participation in establishing or relocating community~~  
30 ~~facilities. The process shall include, at a minimum, public meetings~~  
31 ~~in the local communities affected, as well as opportunities for written~~  
32 ~~and oral comments, in the following manner:~~

33       ~~(a) If there are more than three sites initially selected as~~  
34 ~~potential locations and the selection process by the secretary or a~~  
35 ~~service provider reduces the number of possible sites for a community~~  
36 ~~facility to no fewer than three, the secretary or the chief operating~~  
37 ~~officer of the service provider shall notify the public of the possible~~

1 siting and hold at least two public hearings in each community where a  
2 community facility may be sited.

3 (b) When the secretary or service provider has determined the  
4 community facility's location, the secretary or the chief operating  
5 officer of the service provider shall hold at least one additional  
6 public hearing in the community where the community facility will be  
7 sited.

8 (c) When the secretary has entered negotiations with a service  
9 provider and only one site is under consideration, then at least two  
10 public hearings shall be held.

11 (d) To provide adequate notice of, and opportunity for interested  
12 persons to comment on, a proposed location, the secretary or the chief  
13 operating officer of the service provider shall provide at least  
14 fourteen days' advance notice of the meeting to all newspapers of  
15 general circulation in the community, all radio and television stations  
16 generally available to persons in the community, any school district in  
17 which the community facility would be sited or whose boundary is within  
18 two miles of a proposed community facility, any library district in  
19 which the community facility would be sited, local business or  
20 fraternal organizations that request notification from the secretary or  
21 agency, and any person or property owner within a one half mile radius  
22 of the proposed community facility. Before initiating this process,  
23 the department shall contact local government planning agencies in the  
24 communities containing the proposed community facility. The department  
25 shall coordinate with local government agencies to ensure that  
26 opportunities are provided for effective citizen input and to reduce  
27 the duplication of notice and meetings.

28 ~~(3))~~ meeting the requirements of chapter 72.-- RCW (sections 1  
29 through 5 of this act).

30 (2) The secretary shall not issue a license to any service provider  
31 until the service provider submits proof that the requirements of  
32 ~~((this section))~~ section 3 of this act have been met.

33 ~~((4))~~ (3) This section shall apply only to community facilities  
34 sited or relocated on or after ((September 1, 1998)) the effective date  
35 of this act.

36 **Sec. 9.** RCW 71.09.020 and 1995 c 216 s 1 are each amended to read  
37 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

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

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

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

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

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

22 (6) "Sexually violent offense" means an act committed on, before,  
23 or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as  
24 rape in the first degree, rape in the second degree by forcible  
25 compulsion, rape of a child in the first or second degree, statutory  
26 rape in the first or second degree, indecent liberties by forcible  
27 compulsion, indecent liberties against a child under age fourteen,  
28 incest against a child under age fourteen, or child molestation in the  
29 first or second degree; (b) a felony offense in effect at any time  
30 prior to July 1, 1990, that is comparable to a sexually violent offense  
31 as defined in (a) of this subsection, or any federal or out-of-state  
32 conviction for a felony offense that under the laws of this state would  
33 be a sexually violent offense as defined in this subsection; (c) an act  
34 of murder in the first or second degree, assault in the first or second  
35 degree, assault of a child in the first or second degree, kidnapping in  
36 the first or second degree, burglary in the first degree, residential  
37 burglary, or unlawful imprisonment, which act, either at the time of  
38 sentencing for the offense or subsequently during civil commitment  
39 proceedings pursuant to chapter 71.09 RCW, has been determined beyond

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

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

8 (8) "Less restrictive alternative secure housing facility" means a  
9 facility owned and operated by the department of social and health  
10 services, or operated under contract with the department of social and  
11 health services, for the purpose of housing one to three persons who  
12 have been ordered conditionally released to a less restrictive  
13 alternative.

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

16 NEW SECTION. Sec. 10. A new section is added to chapter 71.09 RCW  
17 to read as follows:

18 (1) The department or a private or public entity under contract  
19 with the department may establish or relocate a less restrictive  
20 alternative secure housing facility only after meeting the requirements  
21 of chapter 72.-- RCW (sections 1 through 5 of this act).

22 (2) When the department contracts for the operation of a less  
23 restrictive alternative secure housing facility that is not owned or  
24 operated by the department, the department shall require as part of its  
25 contract that the contracting entity comply with all the public notice  
26 and public hearing requirements of section 3 of this act.

27 NEW SECTION. Sec. 11. A new section is added to chapter 71.09 RCW  
28 to read as follows:

29 A less restrictive alternative secure housing facility shall meet  
30 the following minimum siting requirements:

31 (1) The housing unit shall be located within thirty miles of a city  
32 or town with a population of twenty-five thousand or more that has  
33 potential employment opportunities for residents of the housing unit,  
34 taking into consideration the unemployment rate for the area and the  
35 types of opportunities that would be unavailable to residents due to  
36 their criminal histories;



1 (2) The housing unit shall be located in an area in which a minimum  
2 of three full-time certified sex offender treatment providers, as  
3 defined in RCW 18.155.020, are available within a thirty-mile radius;

4 (3) The location of the housing unit shall enable:

5 (a) An average response time of five minutes or less by law  
6 enforcement officers who are qualified and designated to perform  
7 security response functions relative to the housing unit; and

8 (b) An average response time by fire safety and emergency medical  
9 personnel that is no longer than the average of the local community;  
10 and

11 (4) The property where the housing unit is located may not be  
12 within line of sight of, nor closer than one-quarter mile of, any of  
13 the following:

14 (a) Schools, including public schools, full-time private schools  
15 serving any of the grades K-12, and public or private institutions of  
16 higher education;

17 (b) School bus stops;

18 (c) Preschools, including head start and early childhood education  
19 and assistance program locations;

20 (d) Licensed child care homes and centers;

21 (e) Parks and publicly dedicated trails;

22 (f) Sports fields, playgrounds, and recreational and community  
23 centers; and

24 (g) Places of worship, including churches, mosques, synagogues, and  
25 temples.

26 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.09 RCW  
27 to read as follows:

28 (1) A less restrictive alternative secure housing facility shall  
29 contain at least the following security measures:

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

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

35 (c) Cellular phone services with clear and uninterrupted services;  
36 and

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

1 (2) The housing facility shall be located in an area where a  
2 contractor is available to install, monitor, and repair the security  
3 devices specified in subsection (1) of this section.

4 (3) Whenever a resident of the housing facility is present on the  
5 premises, the housing unit shall maintain a staffing ratio of one staff  
6 person for each resident during the morning, afternoon, and evening  
7 hours when residents are typically awake, and two staff persons on duty  
8 during night hours when residents are typically asleep.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.09 RCW  
10 to read as follows:

11 (1) Upon initial release to a less restrictive alternative secure  
12 housing facility, a resident must:

13 (a) Wear an electronic monitoring or global positioning system  
14 device at all times; and

15 (b) Be escorted by staff of the housing facility or other court-  
16 authorized persons when leaving the premises of the housing facility,  
17 such escort to remain in close proximity to the resident and maintain  
18 close supervision of the resident at all times.

19 (2) Recognizing that residents must have the opportunity to improve  
20 and progress through treatment, the court may, after making a specific  
21 written finding that the resident has made significant progress in  
22 treatment, relax the requirements of this section to accomplish that  
23 purpose.

24 NEW SECTION. **Sec. 14.** A new section is added to chapter 71.09 RCW  
25 to read as follows:

26 (1) Staff of a less restrictive alternative secure housing facility  
27 shall meet the qualifications of state job classes residential  
28 rehabilitation counselor I, II, or III, as defined by the department,  
29 if the housing unit is operated directly by the department or, if the  
30 housing facility is operated under contract with the department,  
31 similar qualifications as required by the contract.

32 (2) Each staff person shall complete a department-approved training  
33 curriculum, including new employee orientation, and training regarding  
34 program and treatment requirements, prior to beginning work in a  
35 housing facility.

1 (3) Each staff person shall participate in ongoing in-service  
2 training programs provided by the department for housing facility  
3 staff.

4 NEW SECTION. **Sec. 15.** A new section is added to chapter 71.09 RCW  
5 to read as follows:

6 (1) The department may establish a less restrictive alternative  
7 secure housing facility housing more than three residents at one time  
8 only after receiving legislative approval of department-proposed  
9 criteria for the siting, securing, programming, and staffing of such a  
10 facility.

11 (2) If a facility housing more than three residents at one time is  
12 established pursuant to this section, any resident who was  
13 conditionally released in 2001 to a less restrictive alternative secure  
14 housing facility shall be transferred to such facility.

15 **Sec. 16.** RCW 36.70A.030 and 1997 c 429 s 3 are each amended to  
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Adopt a comprehensive land use plan" means to enact a new  
20 comprehensive land use plan or to update an existing comprehensive land  
21 use plan.

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

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

30 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"  
31 means a generalized coordinated land use policy statement of the  
32 governing body of a county or city that is adopted pursuant to this  
33 chapter.

34 (5) "Critical areas" include the following areas and ecosystems:  
35 (a) Wetlands; (b) areas with a critical recharging effect on aquifers  
36 used for potable water; (c) fish and wildlife habitat conservation

1 areas; (d) frequently flooded areas; and (e) geologically hazardous  
2 areas.

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

5 (7) "Development regulations" or "regulation" means the controls  
6 placed on development or land use activities by a county or city,  
7 including, but not limited to, zoning ordinances, critical areas  
8 ordinances, shoreline master programs, official controls, planned unit  
9 development ordinances, subdivision ordinances, and binding site plan  
10 ordinances together with any amendments thereto. A development  
11 regulation does not include a decision to approve a project permit  
12 application, as defined in RCW 36.70B.020, even though the decision may  
13 be expressed in a resolution or ordinance of the legislative body of  
14 the county or city.

15 (8) "Essential public facilities" means those facilities that are  
16 typically difficult to site, such as airports, state education  
17 facilities, state or regional transportation facilities as defined in  
18 RCW 47.06.140, state and local correctional facilities, essential state  
19 community justice facilities as defined in section 1 of this act, solid  
20 waste handling facilities, and in-patient facilities including  
21 substance abuse facilities, mental health facilities, and group homes.

22 (9) "Forest land" means land primarily devoted to growing trees for  
23 long-term commercial timber production on land that can be economically  
24 and practically managed for such production, including Christmas trees  
25 subject to the excise tax imposed under RCW 84.33.100 through  
26 84.33.140, and that has long-term commercial significance. In  
27 determining whether forest land is primarily devoted to growing trees  
28 for long-term commercial timber production on land that can be  
29 economically and practically managed for such production, the following  
30 factors shall be considered: (a) The proximity of the land to urban,  
31 suburban, and rural settlements; (b) surrounding parcel size and the  
32 compatibility and intensity of adjacent and nearby land uses; (c) long-  
33 term local economic conditions that affect the ability to manage for  
34 timber production; and (d) the availability of public facilities and  
35 services conducive to conversion of forest land to other uses.

36 ((+9)) (10) "Geologically hazardous areas" means areas that  
37 because of their susceptibility to erosion, sliding, earthquake, or  
38 other geological events, are not suited to the siting of commercial,

1 residential, or industrial development consistent with public health or  
2 safety concerns.

3 ~~((10))~~ (11) "Long-term commercial significance" includes the  
4 growing capacity, productivity, and soil composition of the land for  
5 long-term commercial production, in consideration with the land's  
6 proximity to population areas, and the possibility of more intense  
7 uses of the land.

8 ~~((11))~~ (12) "Minerals" include gravel, sand, and valuable  
9 metallic substances.

10 ~~((12))~~ (13) "Public facilities" include streets, roads, highways,  
11 sidewalks, street and road lighting systems, traffic signals, domestic  
12 water systems, storm and sanitary sewer systems, parks and recreational  
13 facilities, and schools.

14 ~~((13))~~ (14) "Public services" include fire protection and  
15 suppression, law enforcement, public health, education, recreation,  
16 environmental protection, and other governmental services.

17 ~~((14))~~ (15) "Rural character" refers to the patterns of land use  
18 and development established by a county in the rural element of its  
19 comprehensive plan:

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

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

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

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

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

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

32 (g) That are consistent with the protection of natural surface  
33 water flows and ground water and surface water recharge and discharge  
34 areas.

35 ~~((15))~~ (16) "Rural development" refers to development outside the  
36 urban growth area and outside agricultural, forest, and mineral  
37 resource lands designated pursuant to RCW 36.70A.170. Rural  
38 development can consist of a variety of uses and residential densities,  
39 including clustered residential development, at levels that are

1 consistent with the preservation of rural character and the  
2 requirements of the rural element. Rural development does not refer to  
3 agriculture or forestry activities that may be conducted in rural  
4 areas.

5 ~~((16))~~ (17) "Rural governmental services" or "rural services"  
6 include those public services and public facilities historically and  
7 typically delivered at an intensity usually found in rural areas, and  
8 may include domestic water systems, fire and police protection  
9 services, transportation and public transit services, and other public  
10 utilities associated with rural development and normally not associated  
11 with urban areas. Rural services do not include storm or sanitary  
12 sewers, except as otherwise authorized by RCW 36.70A.110(4).

13 ~~((17))~~ (18) "Urban growth" refers to growth that makes intensive  
14 use of land for the location of buildings, structures, and impermeable  
15 surfaces to such a degree as to be incompatible with the primary use of  
16 land for the production of food, other agricultural products, or fiber,  
17 or the extraction of mineral resources, rural uses, rural development,  
18 and natural resource lands designated pursuant to RCW 36.70A.170. A  
19 pattern of more intensive rural development, as provided in RCW  
20 36.70A.070(5)(d), is not urban growth. When allowed to spread over  
21 wide areas, urban growth typically requires urban governmental  
22 services. "Characterized by urban growth" refers to land having urban  
23 growth located on it, or to land located in relationship to an area  
24 with urban growth on it as to be appropriate for urban growth.

25 ~~((18))~~ (19) "Urban growth areas" means those areas designated by  
26 a county pursuant to RCW 36.70A.110.

27 ~~((19))~~ (20) "Urban governmental services" or "urban services"  
28 include those public services and public facilities at an intensity  
29 historically and typically provided in cities, specifically including  
30 storm and sanitary sewer systems, domestic water systems, street  
31 cleaning services, fire and police protection services, public transit  
32 services, and other public utilities associated with urban areas and  
33 normally not associated with rural areas.

34 ~~((20))~~ (21) "Wetland" or "wetlands" means areas that are  
35 inundated or saturated by surface water or ground water at a frequency  
36 and duration sufficient to support, and that under normal circumstances  
37 do support, a prevalence of vegetation typically adapted for life in  
38 saturated soil conditions. Wetlands generally include swamps, marshes,  
39 bogs, and similar areas. Wetlands do not include those artificial

1 wetlands intentionally created from nonwetland sites, including, but  
2 not limited to, irrigation and drainage ditches, grass-lined swales,  
3 canals, detention facilities, wastewater treatment facilities, farm  
4 ponds, and landscape amenities, or those wetlands created after July 1,  
5 1990, that were unintentionally created as a result of the construction  
6 of a road, street, or highway. Wetlands may include those artificial  
7 wetlands intentionally created from nonwetland areas created to  
8 mitigate conversion of wetlands.

9 **Sec. 17.** RCW 36.70A.200 and 1998 c 171 s 3 are each amended to  
10 read as follows:

11 (1) The comprehensive plan of each county and city that is planning  
12 under this chapter shall include a process for identifying and siting  
13 essential public facilities. ~~((Essential public facilities include  
14 those facilities that are typically difficult to site, such as  
15 airports, state education facilities and state or regional  
16 transportation facilities as defined in RCW 47.06.140, state and local  
17 correctional facilities, solid waste handling facilities, and in-  
18 patient facilities including substance abuse facilities, mental health  
19 facilities, and group homes.))~~

20 (2) The office of financial management shall maintain a list of  
21 those essential state public facilities that are required or likely to  
22 be built within the next six years. The office of financial management  
23 may at any time add facilities to the list.

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

27 NEW SECTION. **Sec. 18.** If any provision of this act or its  
28 application to any person or circumstance is held invalid, the  
29 remainder of the act or the application of the provision to other  
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 19.** This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 immediately.

--- END ---