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SENATE BILL 5885

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State of Washington

57th Legislature

2001 Regular Session

By Senators Hewitt, Sheahan, Hargrove, Long, T. Sheldon, McCaslin, Morton and Rasmussen

Read first time 02/06/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to establishing parameters for the siting,  
2 securing, and staffing of less restrictive alternative housing for  
3 sexually violent predators; amending RCW 71.09.020; adding new  
4 sections to chapter 71.09 RCW; adding a new section to chapter  
5 18.155 RCW; creating a new section; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.09  
8 RCW to read as follows:

9 (1) A less restrictive alternative ordered after January 1,  
10 2001, may not be located in any community unless the legislative  
11 authority of the city, town, or county with land use planning  
12 authority for the site has first approved such location.

13 (2) The department shall make every effort to ensure that less  
14 restrictive alternative small housing units are allocated  
15 equitably among the counties, taking into account the burden  
16 already placed on each county as a result of:

17 (a) The number of sex offenders registered in such county;

18 (b) The number of total offenders under community supervision

1 residing in such county; and

2 (c) Other less restrictive alternative small housing units  
3 already located or planned to be located in such county.

4 **Sec. 2.** RCW 71.09.020 and 1995 c 216 s 1 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions  
7 in this section apply throughout this chapter.

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

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

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

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

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

29 (6) "Sexually violent offense" means an act committed on,  
30 before, or after July 1, 1990, that is: (a) An act defined in Title  
31 9A RCW as rape in the first degree, rape in the second degree by  
32 forcible compulsion, rape of a child in the first or second  
33 degree, statutory rape in the first or second degree, indecent  
34 liberties by forcible compulsion, indecent liberties against a  
35 child under age fourteen, incest against a child under age  
36 fourteen, or child molestation in the first or second degree; (b)  
37 a felony offense in effect at any time prior to July 1, 1990, that

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

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

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

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

26 (10) "Department" means the department of social and health  
27 services.

28 NEW SECTION. Sec. 3. A new section is added to chapter 71.09  
29 RCW to read as follows:

30 A less restrictive alternative small housing unit shall meet  
31 the following minimum requirements:

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

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

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

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

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

10 (b) School bus stops;

11 (c) Preschools, including Headstart and ECEAP;

12 (d) Licensed child care homes and centers;

13 (e) Parks and publicly dedicated trails;

14 (f) Sports fields, playgrounds, and recreational and community  
15 centers;

16 (g) Places of worship, including churches, mosques, synagogues,  
17 and temples.

18 (3) The housing unit shall contain at least the following  
19 security devices:

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

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

25 (c) Cellular phone services with clear and uninterrupted  
26 services; and

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

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

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

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

36 (7) Residents of the housing unit shall wear electronic  
37 monitoring devices at all times.

38 (8) Whenever a resident of the housing unit is present on the

1 premises, the housing unit shall maintain a staffing ratio of one  
2 staff person for each resident during the morning, afternoon, and  
3 evening hours when residents are typically awake, and two staff  
4 persons on duty during night hours when residents are typically  
5 asleep.

6 (9) A resident shall be escorted by staff of the housing unit  
7 or other court-authorized persons when leaving the premises of the  
8 housing unit. The escort shall remain in close proximity to the  
9 resident and maintain close supervision of the resident at all  
10 times.

11 (10) Staff of a housing unit must meet the qualifications of  
12 state job classes "residential rehabilitation counselor I, II, or  
13 III" as defined by the department, if the housing unit is operated  
14 directly by the department or, if the housing unit is operated  
15 under contract with the department, similar qualifications as  
16 required by the contract.

17 (11) Each staff person shall complete a department-approved  
18 training curriculum, including new employee orientation and  
19 training regarding program and treatment requirements, prior to  
20 beginning work in a housing unit.

21 (12) Each staff person shall participate in ongoing inservice  
22 training programs provided by the department for housing unit  
23 staff.

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

26 (1) The department may establish or relocate a less restrictive  
27 alternative small housing unit only after meeting the public  
28 notification and review requirements of this section.

29 (2) When the department has selected three or fewer sites for  
30 final consideration for the location or relocation of a less  
31 restrictive alternative small housing unit, the department shall  
32 make public notification and conduct at least two public hearings  
33 in each of the local communities where such a housing unit may be  
34 sited.

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

1 (4) To provide adequate notice of, and opportunity for  
2 interested persons to comment on, a proposed location, the  
3 department shall provide a minimum of fourteen days' advance  
4 notice of the public hearings to at least the following:

5 (a) All newspapers of general circulation in the community and  
6 all radio and television stations generally available to persons  
7 in the community where the potential site is located;

8 (b) Appropriate school districts, private schools,  
9 kindergartens, institutions of higher education, city and county  
10 libraries, and all other local government offices within a one-  
11 half mile radius of each proposed site;

12 (c) The local chamber of commerce, local economic development  
13 agencies, and any other local organizations that request such  
14 notification from the department; and

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

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

20 The department may establish a less restrictive alternative  
21 housing facility housing more than three residents at one time  
22 only after receiving legislative approval of department-proposed  
23 criteria for the siting, securing, programming, and staffing of  
24 such a facility.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.155  
26 RCW to read as follows:

27 The department shall revoke the sex offender treatment  
28 certification of any treatment provider who intentionally,  
29 knowingly, recklessly, or with gross negligence violates the  
30 requirements of RCW 71.09.092 or 71.09.096 pertaining to treatment  
31 providers.

32 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of  
34 the state government and its existing public institutions, and  
35 takes effect immediately.

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2        NEW SECTION.    **Sec. 8.**    This act is intended to be remedial and  
3 procedural and should be construed to apply retroactively to any  
4 less restrictive alternative at any facility not in operation as  
5 of January 1, 2001.

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