

HOUSE BILL REPORT

HB 1099

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to prohibiting secure community transition facilities from being sited near public and private youth camps.

Brief Description: Prohibiting secure community transition facilities from being sited near public and private youth camps.

Sponsors: Representatives O'Brien, Nixon, Kagi, Hunt, Wallace, Benson, Cox, Anderson, Pflug, Dunshee, Fromhold, Dickerson, Ruderman, Romero, Kessler, Chase, Pearson, Kenney and Conway.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/31/03, 2/21/03 [DPS].

Brief Summary of Substitute Bill

- Adds public and private youth camps to the definition of risk potential activities.
- Prohibits a secure community transition facility from being located near risk potential activities in preempted jurisdictions.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Lovick and Pearson.

Staff: Jim Morishima (786-7191).

Background:

I. The Community Protection Act

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 Department of Social and Health Services (DSHS) and confined at the Special Commitment Center (SCC) on McNeil Island for control, care, and individualized treatment.

II. Less Restrictive Alternatives

A person who has been civilly committed under the Community Protection Act of 1990 is entitled to an annual review of his or her mental condition. As part of this evaluation, a court may order that the person be conditionally released to a less restrictive alternative (LRA). An LRA placement is only authorized if it is in the best interests of the person and adequate safeguards can be put in place 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 SCC resident beginning in May of 2000. To date the sanctions have continued to accrue, but have been suspended because of the state's efforts to bring the program into compliance. One major area of concern for the court is the availability of LRAs for qualified residents of the SCC.

III. Secure Community Transition Facilities

The DSHS is authorized to site a type of LRA called a secure community transition facility (SCTF). The DSHS is currently operating a SCTF on McNeil Island containing 15 transitional beds and nine pre-transitional beds.

For future facilities, the number of SCTF beds that may be sited in a county may be no greater than the number of offenders committed to the SCC from the county. Counties and cities are required to establish a process for siting SCTFs in their jurisdictions. The DSHS is authorized to preempt local land use laws and certain state laws when siting a SCTF in counties that: (1) had five or more residents at the SCC as of April 1, 2001 (excluding Pierce County); and (2) did not comply with the statutory requirement to establish a process for siting SCTFs by October 1, 2002.

The DSHS is required to develop guidelines for the siting of a SCTF. In no case may

the guidelines allow a SCTF to be located adjacent to, immediately across a street or parking lot from, or within the line-of-sight of any risk potential activities existing at the time the site for the SCTF was listed for consideration. Risk potential activities include: schools, day-care and preschool facilities, and school bus stops. Within the line-of-sight is defined as close enough to reasonably visually distinguish and recognize individuals.

When establishing a process for siting future SCTFs, counties and cities must consider the DSHS siting guidelines. When siting a SCTF in a preempted county or city, the DSHS must also consider the DSHS siting guidelines.

The DSHS is currently considering two sites for future SCTFs in King County.

Summary of Substitute Bill:

Public and private youth camps are added to the definition of risk potential activities. A SCTF in a preempted jurisdiction is prohibited from being located adjacent to, immediately across the street or parking lot from, or within the line-of-sight of any risk potential activities existing at the time the site for the SCTF was listed for consideration. This prohibition does not apply if the site that the DSHS has chosen in a particular county or city was identified pursuant to a local government's SCTF siting process. The provisions of the act apply prospectively only.

Substitute Bill Compared to Original Bill:

The substitute bill applies the prohibition against siting SCTFs near risk potential activities only to preempted jurisdictions. The substitute bill applies the prohibitions prospectively only.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is designed to help prevent the situation that recently occurred where the proposed site for a SCTF was near a Girl Scout camp. Youth camps are equal in importance to other things in the definition of risk potential activities. These camps are used year-round by hundreds of children and are used by school districts as well. This bill will help keep our camps safe.

(With concerns) The DSHS already treats youth camps as risk potential activities.

Testimony Against: None.

Testified: Representative O'Brien, prime sponsor; Kevin Glackin-Coley, Washington State Catholic Conference; Grace Chien, Girl Scouts of the United State of America; Tom Nielsen, American Camping Association; Brad Farmer, Boy Scouts of America; Ray Fjetland, Young Mens Christian Association; and Rick Reece, Lakeland Parent Teacher Association.

(With concerns) Tim Brown, Department of Social and Health Services.