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HOUSE BILL 1302

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Priest, Shabro, Roach and Nixon

Read first time 01/22/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to siting secure community transition facilities;  
2 reenacting and amending RCW 71.09.020; adding a new section to chapter  
3 71.09 RCW; creating new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that home-based  
6 instruction is no more compatible with the immediate proximity of  
7 secure community transition facilities than a public or private school.  
8 Consequently, the legislature declares that homes in which children  
9 receive home-based instruction deserve protection as risk potential  
10 activities or facilities.

11 **Sec. 2.** RCW 71.09.020 and 2002 c 68 s 4 and 2002 c 58 s 2 are each  
12 reenacted and amended to read as follows:

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

15 (1) "Department" means the department of social and health  
16 services.

17 (2) "Health care facility" means any hospital, hospice care center,  
18 licensed or certified health care facility, health maintenance

1 organization regulated under chapter 48.46 RCW, federally qualified  
2 health maintenance organization, federally approved renal dialysis  
3 center or facility, or federally approved blood bank.

4 (3) "Health care practitioner" means an individual or firm licensed  
5 or certified to engage actively in a regulated health profession.

6 (4) "Health care services" means those services provided by health  
7 professionals licensed pursuant to RCW 18.120.020(4).

8 (5) "Health profession" means those licensed or regulated  
9 professions set forth in RCW 18.120.020(4).

10 (6) "Less restrictive alternative" means court-ordered treatment in  
11 a setting less restrictive than total confinement which satisfies the  
12 conditions set forth in RCW 71.09.092.

13 (7) "Likely to engage in predatory acts of sexual violence if not  
14 confined in a secure facility" means that the person more probably than  
15 not will engage in such acts if released unconditionally from detention  
16 on the sexually violent predator petition. Such likelihood must be  
17 evidenced by a recent overt act if the person is not totally confined  
18 at the time the petition is filed under RCW 71.09.030.

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

23 (9) "Predatory" means acts directed towards: (a) Strangers; (b)  
24 individuals with whom a relationship has been established or promoted  
25 for the primary purpose of victimization; or (c) persons of casual  
26 acquaintance with whom no substantial personal relationship exists.

27 (10) "Recent overt act" means any act or threat that has either  
28 caused harm of a sexually violent nature or creates a reasonable  
29 apprehension of such harm in the mind of an objective person who knows  
30 of the history and mental condition of the person engaging in the act.

31 (11) "Risk potential activity" or "risk potential facility" means  
32 an activity or facility that provides a higher incidence of risk to the  
33 public from persons conditionally released from the special commitment  
34 center. Risk potential activities and facilities include: Public and  
35 private schools, school bus stops, licensed day care and licensed  
36 preschool facilities, home-based instruction, public parks, publicly  
37 dedicated trails, sports fields, playgrounds, recreational and  
38 community centers, churches, synagogues, temples, mosques, public

1 libraries, and others identified by the department following the  
2 hearings on a potential site required in RCW 71.09.315. For purposes  
3 of this chapter, "school bus stops" does not include bus stops  
4 established primarily for public transit and "home-based instruction"  
5 means a home in which one or more children are receiving home-based  
6 instruction under RCW 28A.225.010 at the time the site is listed for  
7 consideration.

8 (12) "Secretary" means the secretary of social and health services  
9 or the secretary's designee.

10 (13) "Secure facility" means a residential facility for persons  
11 civilly confined under the provisions of this chapter that includes  
12 security measures sufficient to protect the community. Such facilities  
13 include total confinement facilities, secure community transition  
14 facilities, and any residence used as a court-ordered placement under  
15 RCW 71.09.096.

16 (14) "Secure community transition facility" means a residential  
17 facility for persons civilly committed and conditionally released to a  
18 less restrictive alternative under this chapter. A secure community  
19 transition facility has supervision and security, and either provides  
20 or ensures the provision of sex offender treatment services. Secure  
21 community transition facilities include but are not limited to the  
22 facilities established pursuant to RCW 71.09.250 and any  
23 community-based facilities established under this chapter and operated  
24 by the secretary or under contract with the secretary.

25 (15) "Sexually violent offense" means an act committed on, before,  
26 or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as  
27 rape in the first degree, rape in the second degree by forcible  
28 compulsion, rape of a child in the first or second degree, statutory  
29 rape in the first or second degree, indecent liberties by forcible  
30 compulsion, indecent liberties against a child under age fourteen,  
31 incest against a child under age fourteen, or child molestation in the  
32 first or second degree; (b) a felony offense in effect at any time  
33 prior to July 1, 1990, that is comparable to a sexually violent offense  
34 as defined in (a) of this subsection, or any federal or out-of-state  
35 conviction for a felony offense that under the laws of this state would  
36 be a sexually violent offense as defined in this subsection; (c) an act  
37 of murder in the first or second degree, assault in the first or second  
38 degree, assault of a child in the first or second degree, kidnapping in

1 the first or second degree, burglary in the first degree, residential  
2 burglary, or unlawful imprisonment, which act, either at the time of  
3 sentencing for the offense or subsequently during civil commitment  
4 proceedings pursuant to this chapter, has been determined beyond a  
5 reasonable doubt to have been sexually motivated, as that term is  
6 defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28  
7 RCW, that is an attempt, criminal solicitation, or criminal conspiracy  
8 to commit one of the felonies designated in (a), (b), or (c) of this  
9 subsection.

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

15 (17) "Total confinement facility" means a facility that provides  
16 supervision and sex offender treatment services in a total confinement  
17 setting. Total confinement facilities include the special commitment  
18 center and any similar facility designated as a secure facility by the  
19 secretary.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.09 RCW  
21 to read as follows:

22 When the department seeks to site a secure community transition  
23 facility, the department shall request the locations of known home-  
24 based instruction from the superintendent of public instruction or the  
25 school district in which a potential site for a secure community  
26 transition facility is located.

27 NEW SECTION. **Sec. 4.** This act is remedial in nature and is  
28 intended to apply retroactively to the siting of any secure community  
29 transition facility not in operation as of the effective date of this  
30 act.

31 NEW SECTION. **Sec. 5.** 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.

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