
HOUSE BILL 1776

State of Washington

58th Legislature

2003 Regular Session

By Representatives Shabro, Priest, McDonald, Kirby, Schual-Berke, Lantz, Roach, Miloscia, Wallace, Schindler and Darneille

Read first time 02/10/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to prohibiting a secure community transition
2 facility from being sited within thirty miles of another secure
3 community transition facility; amending RCW 71.09.342; adding a new
4 section to chapter 71.09 RCW; creating a new section; and declaring an
5 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 RCW
8 to read as follows:

9 In no case may a secure community transition facility be sited
10 within a thirty-mile radius of another secure community transition
11 facility, unless the siting is authorized by an interlocal agreement.

12 **Sec. 2.** RCW 71.09.342 and 2002 c 68 s 9 are each amended to read
13 as follows:

14 (1) After October 1, 2002, notwithstanding RCW 36.70A.103 or any
15 other law, this section preempts and supersedes local plans,
16 development regulations, permitting requirements, inspection
17 requirements, and all other laws as necessary to enable the department

1 to site, construct, renovate, occupy, and operate secure community
2 transition facilities within the borders of the following:

3 (a) Any county that had five or more persons civilly committed from
4 that county, or detained at the special commitment center under a
5 pending civil commitment petition from that county where a finding of
6 probable cause has been made, on April 1, 2001, if the department
7 determines that the county has not met the requirements of RCW
8 36.70A.200 with respect to secure community transition facilities.
9 This subsection does not apply to the county in which the secure
10 community transition facility authorized under RCW 71.09.250(1) is
11 located; and

12 (b) Any city located within a county listed in (a) of this
13 subsection that the department determines has not met the requirements
14 of RCW 36.70A.200 with respect to secure community transition
15 facilities.

16 (2) The department's determination under subsection (1)(a) or (b)
17 of this section is final and is not subject to appeal under chapter
18 34.05 or 36.70A RCW.

19 (3) When siting a facility in a county or city that has been
20 preempted under this section, the department shall consider the policy
21 guidelines established under RCW 71.09.275 and 71.09.290 and shall hold
22 the hearings required in RCW 71.09.315.

23 (4) Nothing in this section prohibits the department from:

24 (a) Siting a secure community transition facility in a city or
25 county that has complied with the requirements of RCW 36.70A.200 with
26 respect to secure community transition facilities, including a city
27 that is located within a county that has been preempted. If the
28 department sites a secure community transition facility in such a city
29 or county, the department shall use the process established by the city
30 or county for siting such facilities; or

31 (b) Consulting with a city or county that has been preempted under
32 this section regarding the siting of a secure community transition
33 facility.

34 (5)(a) A preempted city or county may propose public safety
35 measures specific to any finalist site to the department. The measures
36 must be consistent with the location of the facility at that finalist
37 site. The proposal must be made in writing by the date of:

1 (i) The second hearing under RCW 71.09.315(2)(a) when there are
2 three finalist sites; or

3 (ii) The first hearing under RCW 71.09.315(2)(b) when there is only
4 one site under consideration.

5 (b) The department shall respond to the city or county in writing
6 within fifteen business days of receiving the proposed measures. The
7 response shall address all proposed measures.

8 (c) If the city or county finds that the department's response is
9 inadequate, the city or county may notify the department in writing
10 within fifteen business days of the specific items which it finds
11 inadequate. If the city or county does not notify the department of a
12 finding that the response is inadequate within fifteen business days,
13 the department's response shall be final.

14 (d) If the city or county notifies the department that it finds the
15 response inadequate and the department does not revise its response to
16 the satisfaction of the city or county within seven business days, the
17 city or county may petition the governor to designate a person with law
18 enforcement expertise to review the response under RCW 34.05.479.

19 (e) The governor's designee shall hear a petition filed under this
20 subsection and shall make a determination within thirty days of hearing
21 the petition. The governor's designee shall consider the department's
22 response, and the effectiveness and cost of the proposed measures, in
23 relation to the purposes of this chapter. The determination by the
24 governor's designee shall be final and may not be the basis for any
25 cause of action in civil court.

26 (f) The city or county shall bear the cost of the petition to the
27 governor's designee. If the city or county prevails on all issues, the
28 department shall reimburse the city or county costs incurred, as
29 provided under chapter 34.05 RCW.

30 (g) Neither the department's consideration and response to public
31 safety conditions proposed by a city or county nor the decision of the
32 governor's designee shall affect the preemption under this section or
33 the department's authority to site, construct, renovate, occupy, and
34 operate the secure community transition facility at that finalist site
35 or at any finalist site.

36 (6) Until June 30, 2009, the secretary shall site, construct,
37 occupy, and operate a secure community transition facility sited under
38 this section in an environmentally responsible manner that is

1 consistent with the substantive objectives of chapter 43.21C RCW, and
2 shall consult with the department of ecology as appropriate in carrying
3 out the planning, construction, and operations of the facility. The
4 secretary shall make a threshold determination of whether a secure
5 community transition facility sited under this section would have a
6 probable significant, adverse environmental impact. If the secretary
7 determines that the secure community transition facility has such an
8 impact, the secretary shall prepare an environmental impact statement
9 that meets the requirements of RCW 43.21C.030 and 43.21C.031 and the
10 rules promulgated by the department of ecology relating to such
11 statements. Nothing in this subsection shall be the basis for any
12 civil cause of action or administrative appeal.

13 (7) In no case may a secure community transition facility sited
14 under this section be sited within a thirty-mile radius of another
15 secure community transition facility, including the secure community
16 transition facility established pursuant to RCW 71.09.250(1), unless
17 the siting is authorized by an interlocal agreement.

18 (8) Except as provided in subsection (7) of this section, this
19 section does not apply to the secure community transition facility
20 established pursuant to RCW 71.09.250(1).

21 NEW SECTION. Sec. 3. This act applies prospectively and
22 retroactively and therefore applies to all sites and possible sites for
23 secure community transition facilities selected on, before, or after
24 the effective date of this act.

25 NEW SECTION. Sec. 4. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately.

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