
SENATE BILL 5116

State of Washington

58th Legislature

2003 Regular Session

By Senators Eide, Keiser and T. Sheldon

Read first time 01/15/2003. Referred to Committee on Children & Family Services & 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 a new section; 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 necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

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