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HOUSE BILL 3231

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State of Washington

59th Legislature

2006 Regular Session

By Representative Conway

Read first time . Referred to .

1 AN ACT Relating to essential state community justice facilities;  
2 amending RCW 72.05.020, 72.05.400, 72.65.010, 72.65.220, and  
3 36.70A.200; adding a new section to chapter 72.05 RCW; adding a new  
4 section to chapter 72.65 RCW; adding a new section to chapter 36.70A  
5 RCW; and adding a new section to chapter 36.70 RCW.

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

7 **Sec. 1.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read  
8 as follows:

9 As used in this chapter, unless the context requires otherwise:

10 (1) "Community facility" means a group care facility operated for  
11 the care of juveniles committed to the department under RCW 13.40.185.  
12 A county detention facility that houses juveniles committed to the  
13 department under RCW 13.40.185 pursuant to a contract with the  
14 department is not a community facility.

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

17 (3) "Equitable distribution" or "distribute equitably" means siting  
18 or locating community facilities in a manner that reasonably reflects  
19 the proportion of juveniles sentenced to the department from each

1 county or rural multicounty geographic area designated by the  
2 department, and, to the extent practicable, the proportion of such  
3 juveniles residing in particular jurisdictions or communities within  
4 such counties or geographic areas. Equitable distribution is a policy  
5 goal, not a basis for any legal challenge to the siting, construction,  
6 occupancy, or operation of any facility anywhere in the state.

7 (4) "Juvenile" means a person under the age of twenty-one who has  
8 been sentenced to a term of confinement under the supervision of the  
9 department under RCW 13.40.185.

10 ((+4)) (5) "Service provider" means the entity that operates a  
11 community facility.

12 NEW SECTION. Sec. 2. A new section is added to chapter 72.05 RCW  
13 to read as follows:

14 (1) The department shall prepare a projected list of counties and  
15 rural multicounty geographic areas in which community facilities need  
16 to be sited during the fiscal year beginning July 1, 2006, and every  
17 biennium thereafter starting with the biennium beginning July 1, 2007,  
18 and transmit the list to the office of financial management and the  
19 counties on the list. The list may be updated as needed. In preparing  
20 the list, the department shall make substantial efforts to provide for  
21 the equitable distribution of community facilities among counties. The  
22 department shall give great weight to the following factors in  
23 determining equitable distribution:

24 (a) The locations of existing community facilities owned or  
25 operated by, or operated under contract with, the department in each  
26 county;

27 (b) The number and proportion of juvenile offenders committed to  
28 the department residing in the county or rural multicounty geographic  
29 area; and

30 (c) The number of juvenile registered sex offenders classified as  
31 level II or III and juvenile sex offenders registered as homeless per  
32 thousand persons residing in the county.

33 (2)(a) In preparing the list required under subsection (1) of this  
34 section, the department shall:

35 (i) Give great weight to the factors identified in subsection (1)  
36 of this section;

1 (ii) Use the information contained in the most recent edition of  
2 the report required under subsection (4) of this section; and

3 (iii) Use the criteria adopted under subsection (7) of this  
4 section.

5 (b) Prior to finalizing the list of projected community facilities  
6 required under subsection (1) of this section, the department shall  
7 consult with the county legislative authorities of each county  
8 identified on the list. The department shall also hold at least one  
9 public hearing within each such county or rural multicounty geographic  
10 area, including, if known, the affected part of the county.

11 (3) The department shall submit, along with the list required under  
12 subsection (1) of this section, the operational requirements for the  
13 facilities on the list to the office of financial management and the  
14 counties on the list.

15 (4) To carry out the purposes of subsection (1) of this section,  
16 the department shall, no later than July 1, 2006, develop a map of the  
17 state that identifies the locations of existing facilities and the  
18 counties or rural multicounty geographic areas needing projected  
19 facilities identified in subsection (1) of this section during the  
20 biennium. The department shall update the map at least once per  
21 biennium. The department shall also maintain data on the number and  
22 proportion of juvenile offenders identified in subsection (1)(b) and  
23 (c) of this section and shall biennially publish a report including the  
24 most recent version of the map and offender data for the counties and  
25 rural multicounty geographic areas.

26 (5) A county, and any county designated by the department within a  
27 rural multicounty geographic area, that is included on the list  
28 required under subsection (1) of this section planning under RCW  
29 36.70A.040 shall adopt development regulations that designate areas or  
30 zones that allow the siting of each projected community facility on the  
31 list within the county using its process for siting essential public  
32 facilities under RCW 36.70A.200 and section 8 of this act.

33 (6) A county, and any county designated by the department within a  
34 rural multicounty geographic area, that is included on the list  
35 required under subsection (1) of this section not planning under RCW  
36 36.70A.040 shall adopt development regulations that designate areas or  
37 zones that allow the siting of each projected community facility on the

1 list within the county using the procedures established in section 9 of  
2 this act.

3 (7) The department shall, by rule, adopt facility criteria and  
4 shall consult with local governments in such rule making.

5 **Sec. 3.** RCW 72.05.400 and 1998 c 269 s 5 are each amended to read  
6 as follows:

7 (1) Whenever the department operates, or the secretary enters a  
8 contract to operate, a community facility, the community facility may  
9 be operated only after the public notification and opportunities for  
10 review and comment as required by this section.

11 (2) The secretary shall establish a process for early and  
12 continuous public participation in establishing or relocating community  
13 facilities. The process shall include, at a minimum, public meetings  
14 in the local communities affected, as well as opportunities for written  
15 and oral comments, in the following manner:

16 (a) If there are more than three sites initially selected as  
17 potential locations and the selection process by the secretary or a  
18 service provider reduces the number of possible sites for a community  
19 facility to no fewer than three, the secretary or the chief operating  
20 officer of the service provider shall notify the public of the possible  
21 siting and hold at least two public hearings in each community where a  
22 community facility may be sited at least forty-five days before a final  
23 selection is made.

24 (b) When the secretary or service provider has determined the  
25 community facility's location, the secretary or the chief operating  
26 officer of the service provider shall hold at least one additional  
27 public hearing in the community where the community facility will be  
28 sited.

29 (c) When the secretary has entered negotiations with a service  
30 provider and only one site is under consideration, then at least two  
31 public hearings shall be held.

32 (d) To provide adequate notice of(( $\tau$ )) and opportunity for  
33 interested persons to comment on(( $\tau$ )) a proposed location, the  
34 secretary or the chief operating officer of the service provider shall  
35 make a good faith effort to provide at least fourteen days' advance  
36 notice of the ((~~meeting to~~)) public hearings to at least the following:

1 (i) The appropriate legislative authorities of the affected  
2 counties, cities, and towns;

3 (ii) Local government planning agencies in the affected  
4 communities;

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

9 (iv) Any school district, private school, or kindergarten in which  
10 the community facility would be sited or whose boundary is within two  
11 miles of a proposed community facility, any institution of higher  
12 education, any library district ((in which the community facility would  
13 be sited, local business or fraternal organizations that request  
14 notification from the secretary or agency, and any person or property  
15 owner within a one half mile radius of the proposed community  
16 facility)), and all other local government offices within a one-half  
17 mile radius of the proposed site or sites;

18 (v) The local chamber of commerce, local economic development  
19 agencies, and any other local organizations that request such  
20 notification from the department; and

21 (vi) Written notification to all residents and property owners  
22 within a one-half mile radius of the proposed site or sites.

23 (3) The notice required under subsection (2) of this section must  
24 also inform the public that any interested person or entity, including  
25 a local government entity, is invited to submit written comments  
26 regarding a proposed location, including comments regarding whether the  
27 site meets the equitable distribution and other statutory requirements  
28 for the facility. Written comments must be submitted not later than  
29 thirty days following the date notice is issued pursuant to subsection  
30 (2) of this section.

31 (4) The department must consider the testimony received at the  
32 public hearings and any written comments submitted before making a  
33 final selection of the site for the location or relocation of a  
34 community facility. The department shall issue a written analysis of  
35 the final selection, including how the selection was consistent with  
36 the requirements of section 2 of this act.

37 (5) Before initiating ((this)) the process in subsection (2) of  
38 this section, the department shall contact local government planning

1 agencies in the communities containing the proposed community facility.  
2 The department shall coordinate with local government agencies to  
3 ensure that opportunities are provided for effective citizen input and  
4 to reduce the duplication of notice and meetings.

5 ~~((+3))~~ (6) The secretary shall not issue a license to any service  
6 provider until the service provider submits proof that the requirements  
7 of this section have been met.

8 ~~((+4))~~ (7) If local government land use regulations require that  
9 a special use or conditional use permit be submitted and approved  
10 before a community facility can be sited, and the process for obtaining  
11 the permit includes public notice and hearing requirements similar to  
12 those required under this section, the requirements of this section  
13 shall not apply to the extent they would duplicate requirements under  
14 the local land use regulations.

15 (8) This section shall apply only to community facilities sited  
16 after September 1, 1998.

17 **Sec. 4.** RCW 72.65.010 and 1992 c 7 s 56 are each amended to read  
18 as follows:

19 As used in this chapter, the following terms shall have the  
20 following meanings:

21 (1) "Department" (~~shall~~) means the department of corrections.

22 (2) "Equitable distribution" or "distribute equitably" means siting  
23 or locating work release facilities in a manner that reasonably  
24 reflects the proportion of offenders sentenced to the custody or  
25 supervision of the department by the courts of each county or rural  
26 multicounty geographic area designated by the department, and, to the  
27 extent practicable, the proportion of such offenders residing in  
28 particular jurisdictions or communities within such counties or rural  
29 multicounty geographic areas. Equitable distribution is a policy goal,  
30 not a basis for any legal challenge to the siting, construction,  
31 occupancy, or operation of any facility anywhere in the state.

32 (3) "Prisoner" means a person either male or female, convicted of  
33 a felony and sentenced by the superior court to a term of confinement  
34 and treatment in a state correctional institution under the  
35 jurisdiction of the department.

36 (4) "Secretary" (~~shall~~) means the secretary of corrections.

1       (~~(3)~~) (5) "State correctional institutions" shall mean and  
2 include all state adult correctional facilities established pursuant to  
3 law under the jurisdiction of the department for the treatment of  
4 convicted felons sentenced to a term of confinement.

5       (~~(4)~~) "~~Prisoner~~" shall mean a person either male or female,  
6 convicted of a felony and sentenced by the superior court to a term of  
7 confinement and treatment in a state correctional institution under the  
8 jurisdiction of the department.

9       ~~(5)~~) (6) "Superintendent" (~~(shall)~~) means the superintendent of a  
10 state correctional institution, camp or other facility now or hereafter  
11 established under the jurisdiction of the department pursuant to law.

12       NEW SECTION. Sec. 5. A new section is added to chapter 72.65 RCW  
13 to read as follows:

14       (1) The department shall prepare a projected list of counties and  
15 rural multicounty geographic areas in which work release facilities  
16 need to be sited during the fiscal year beginning July 1, 2006, and  
17 every biennium thereafter starting with the biennium beginning July 1,  
18 2007, and transmit the list to the office of financial management and  
19 the counties on the list. The list may be updated as needed. In  
20 preparing the list, the department shall make substantial efforts to  
21 provide for the equitable distribution of work release facilities among  
22 counties. The department shall give great weight to the following  
23 factors in determining equitable distribution:

24       (a) The locations of existing residential facilities owned or  
25 operated by, or operated under contract with, the department in each  
26 county;

27       (b) The number and proportion of adult offenders sentenced to the  
28 custody or supervision of the department by the courts of the county or  
29 rural multicounty geographic area; and

30       (c) The number of adult registered sex offenders classified as  
31 level II or III and adult sex offenders registered as homeless per  
32 thousand persons residing in the county.

33       (2)(a) In preparing the list required under subsection (1) of this  
34 section, the department shall:

35       (i) Give great weight to the factors identified in subsection (1)  
36 of this section;

1 (ii) Use the information contained in the most recent edition of  
2 the report required under subsection (4) of this section; and

3 (iii) Use the criteria adopted under subsection (7) of this  
4 section.

5 (b) Prior to finalizing the list of projected work release  
6 facilities required under subsection (1) of this section, the  
7 department shall consult with the county legislative authorities of  
8 each county identified on the list. The department also shall hold at  
9 least one public hearing within each such county or rural multicounty  
10 geographic area, including, if known, the affected part of the county  
11 or rural multicounty geographic area.

12 (3) The department shall submit, along with the list required under  
13 subsection (1) of this section, the operational requirements for the  
14 facilities on the list to the office of financial management and the  
15 counties on the list.

16 (4) To carry out the purposes of subsection (1) of this section,  
17 the department shall, no later than July 1, 2006, develop a map of the  
18 state that identifies the locations of existing facilities and the  
19 counties or rural multicounty geographic areas needing projected  
20 facilities identified in subsection (1) of this section during the  
21 biennium. The department shall update the map at least once per  
22 biennium. The department shall also maintain data on the number and  
23 proportion of offenders identified in subsection (1)(b) and (c) of this  
24 section and shall biennially publish a report including the most recent  
25 version of the map and offender data for the counties and rural  
26 multicounty geographic areas.

27 (5) A county, and any county designated by the department within a  
28 rural multicounty geographic area, that is included on the list  
29 required under subsection (1) of this section planning under RCW  
30 36.70A.040 shall adopt development regulations that designate areas or  
31 zones that allow the siting of each projected work release facility on  
32 the list within the county using its process for siting essential  
33 public facilities under RCW 36.70A.200 and section 8 of this act.

34 (6) A county, and any county designated by the department within a  
35 rural multicounty geographic area, that is included on the list  
36 required under subsection (1) of this section not planning under RCW  
37 36.70A.040 shall adopt development regulations that designate areas or

1 zones that allow the siting of each projected work release facility on  
2 the list within the county using the procedures established in section  
3 9 of this act.

4 (7) The department shall, by rule, adopt facility criteria and  
5 shall consult with local governments in such rule making.

6 **Sec. 6.** RCW 72.65.220 and 1997 c 348 s 1 are each amended to read  
7 as follows:

8 (1) The department or a private or public entity under contract  
9 with the department may establish or relocate for the operation of a  
10 work release or other community-based facility only after (~~public~~  
11 ~~notifications and local public meetings have been completed consistent~~  
12 ~~with~~) meeting the requirements of this section.

13 (2) The department and other state agencies responsible for siting  
14 department-owned, operated, or contracted facilities shall establish a  
15 process for early and continuous public participation in establishing  
16 or relocating work release or other community-based facilities. This  
17 process shall include public meetings in the local communities  
18 affected, opportunities for written and oral comments, and wide  
19 dissemination of proposals and alternatives, including at least the  
20 following:

21 (a) When the department or a private or public entity under  
22 contract with the department has selected three or fewer sites for  
23 final consideration of a department-owned, operated, or contracted work  
24 release or other community-based facility, the department or  
25 contracting organization shall make public notification and conduct at  
26 least two public hearings in each of the local communities (~~of the~~  
27 ~~final three or fewer proposed sites~~) where such a facility may be  
28 sited at least forty-five days before a final selection is made. An  
29 additional public hearing after public notification shall also be  
30 conducted in the local community selected as the final proposed site.

31 (b) (~~Notifications required under this section shall be provided~~  
32 ~~to~~) To provide adequate notice of and opportunity for interested  
33 persons to comment on a proposed location, the department or  
34 contracting entity shall make a good faith effort to provide at least  
35 fourteen days' advance notice of the public hearings to at least the  
36 following:

1        (i) The appropriate legislative authorities of the affected  
2 counties, cities, and towns;

3        (ii) Local government planning agencies in the affected  
4 communities;

5        (iii) All newspapers of general circulation in the local area and  
6 all ((local)) radio stations((,)) and television stations((, and cable  
7 networks)) generally available to persons in the community where the  
8 potential site is located;

9        ((+ii)) (iv) Appropriate school districts, private schools,  
10 kindergartens, institutions of higher education, city and county  
11 libraries, and all other local government offices within a one-half  
12 mile radius of the proposed site or sites;

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

16        ((+iv) In writing)) (vi) Written notification to all residents  
17 ((and/or)) and property owners within a one-half mile radius of the  
18 proposed site or sites.

19        (3) The notice required under subsection (2) of this section must  
20 also inform the public that any interested person or entity, including  
21 a local government entity, is invited to submit written comments  
22 regarding a proposed location, including comments regarding whether the  
23 site meets the equitable distribution and other statutory requirements  
24 for the facility. Written comments must be submitted not later than  
25 thirty days following the date notice is issued pursuant to subsection  
26 (2) of this section.

27        (4) The department must consider the testimony received at the  
28 public hearings and any written comments submitted before making a  
29 final selection of the site for the location or relocation of a work  
30 release facility. The department shall issue a written analysis of the  
31 final selection, including how the selection was consistent with the  
32 requirements of section 5 of this act.

33        (5) When the department contracts for the operation of a work  
34 release or other community-based facility that is not owned or operated  
35 by the department, the department shall require as part of its contract  
36 that the contracting entity comply with all the public notification and  
37 public hearing requirements as provided in this section for each  
38 located and relocated work release or other community-based facility.

1       (6) If local government regulations require that a special use or  
2 conditional use permit be submitted and approved before a work release  
3 facility can be sited, and the process for obtaining the permit  
4 includes public notice and hearing requirements similar to those  
5 required under this section, the requirements of this section shall not  
6 apply to the extent they would duplicate requirements under the local  
7 land use regulations.

8       **Sec. 7.** RCW 36.70A.200 and 2002 c 68 s 2 are each amended to read  
9 as follows:

10       (1) The comprehensive plan of each county and city that is planning  
11 under RCW 36.70A.040 shall include a process for identifying and siting  
12 essential public facilities. Essential public facilities include those  
13 facilities that are typically difficult to site, such as airports,  
14 state education facilities and state or regional transportation  
15 facilities as defined in RCW 47.06.140, state and local correctional  
16 facilities, solid waste handling facilities, and in-patient facilities  
17 including substance abuse facilities, mental health facilities, group  
18 homes, and secure community transition facilities as defined in RCW  
19 71.09.020.

20       (2) Each county and city planning under RCW 36.70A.040 shall, not  
21 later than September 1, 2002, establish a process, or amend its  
22 existing process, for identifying and siting essential public  
23 facilities and adopt or amend its development regulations as necessary  
24 to provide for the siting of secure community transition facilities  
25 consistent with statutory requirements applicable to these facilities.

26       (3) Any city or county not planning under RCW 36.70A.040 shall, not  
27 later than September 1, 2002, establish a process for siting secure  
28 community transition facilities and adopt or amend its development  
29 regulations as necessary to provide for the siting of such facilities  
30 consistent with statutory requirements applicable to these facilities.

31       (4) Each county planning under RCW 36.70A.040, in cooperation with  
32 the cities located in whole or in part within the county, and each city  
33 planning under RCW 36.70A.040 shall, when it next amends its  
34 comprehensive plan, but in no case later than the deadline specified in  
35 RCW 36.70A.130, establish a process, or amend its existing process, for  
36 identifying and siting essential public facilities, and adopt or amend  
37 its development regulations as necessary to provide for the siting of

1 community facilities as defined in RCW 72.05.020 and work release and  
2 other facilities operated by or under contract with the department of  
3 corrections. When siting a community facility under chapter 72.05 RCW  
4 or a work release facility under chapter 72.65 RCW, a county or city  
5 shall follow, in addition to requirements of the process for siting  
6 essential public facilities established under this section, the  
7 requirements established in section 8 of this act.

8 (5) The office of financial management shall maintain a list of  
9 those essential state public facilities that are required or likely to  
10 be built within the next six years. The office of financial management  
11 may at any time add facilities to the list.

12 ~~((+5))~~ (6) No local comprehensive plan or development regulation  
13 may preclude the siting of essential public facilities.

14 ~~((+6))~~ (7) No person may bring a cause of action for civil damages  
15 based on the good faith actions of any county or city to provide for  
16 the siting of secure community transition facilities in accordance with  
17 this section and with the requirements of chapter 12, Laws of 2001 2nd  
18 sp. sess. For purposes of this subsection, "person" includes, but is  
19 not limited to, any individual, agency as defined in RCW 42.17.020,  
20 corporation, partnership, association, and limited liability entity.

21 ~~((+7))~~ (8) Counties or cities siting facilities pursuant to  
22 subsection (2) or (3) of this section shall comply with RCW 71.09.341.

23 ~~((+8))~~ (9) The failure of a county or city to act by the deadlines  
24 established in subsections (2) and (3) of this section is not:

25 (a) A condition that would disqualify the county or city for  
26 grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

27 (b) A consideration for grants or loans provided under RCW  
28 43.17.250(2); or

29 (c) A basis for any petition under RCW 36.70A.280 or for any  
30 private cause of action.

31 NEW SECTION. Sec. 8. A new section is added to chapter 36.70A RCW  
32 to read as follows:

33 (1) When providing for the siting of an essential public facility  
34 that is a community facility under chapter 72.05 RCW, a county or city  
35 planning under this chapter shall:

36 (a) Involve the department of social and health services in the  
37 siting process;

1 (b) Make a substantial effort to provide for the equitable  
2 distribution of community facilities by giving great weight to the  
3 factors in section 2(1) (a) through (c) of this act; and

4 (c) Ensure that any location identified is consistent with the  
5 operational requirements established by the department of social and  
6 health services under section 2(3) of this act.

7 (2) When providing for the siting of an essential public facility  
8 that is a work release facility under chapter 72.65 RCW, a county or  
9 city planning under this chapter shall:

10 (a) Involve the department of corrections in the siting process;

11 (b) Make a substantial effort to provide for the equitable  
12 distribution of work release facilities by giving great weight to the  
13 factors in section 5(1) (a) through (c) of this act; and

14 (c) Ensure that any location identified is consistent with the  
15 operational requirements established by the department of corrections  
16 under section 5(3) of this act.

17 (3)(a) As part of the permitting process for a community facility  
18 under chapter 72.05 RCW, a county or city may not impose upon the  
19 department of social and health services any requirements beyond the  
20 operational requirements established under section 2(3) of this act and  
21 the facility criteria established under section 2(7) of this act.

22 (b) As part of the permitting process for a work release facility  
23 under chapter 72.65 RCW, a county or city may not impose upon the  
24 department of corrections any requirements beyond the operational  
25 requirements established under section 5(3) of this act and the  
26 facility criteria established under section 5(7) of this act.

27 (4) Any conditional use permit, special use permit, or any other  
28 development application process necessary to site a community facility  
29 or work release facility may not exceed one hundred twenty days and  
30 must include an appeal process.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70 RCW  
32 to read as follows:

33 (1) When providing for the siting of a community facility under  
34 chapter 72.05 RCW, a county or city planning under this chapter shall:

35 (a) Involve the department of social and health services in the  
36 siting process;

1 (b) Make a substantial effort to provide for the equitable  
2 distribution of community facilities by giving great weight to the  
3 factors in section 2(1) (a) through (c) of this act; and

4 (c) Ensure that any location identified is consistent with the  
5 operational requirements established by the department of social and  
6 health services under section 2(3) of this act.

7 (2) When providing for the siting of a work release facility under  
8 chapter 72.65 RCW, a county and city planning under this chapter shall:

9 (a) Involve the department of corrections in the siting process;

10 (b) Make a substantial effort to provide for the equitable  
11 distribution of work release facilities by giving great weight to the  
12 factors in section 5(1) (a) through (c) of this act; and

13 (c) Ensure that any location identified is consistent with the  
14 operational requirements established by the department of corrections  
15 under section 5(3) of this act.

16 (3)(a) As part of the permitting process for a community facility  
17 under chapter 72.05 RCW, a county or city may not impose upon the  
18 department of social and health services any requirements beyond the  
19 operational requirements established under section 2(3) of this act and  
20 the facility criteria established under section 2(7) of this act.

21 (b) As part of the permitting process for a work release facility  
22 under chapter 72.65 RCW, a county or city may not impose upon the  
23 department of corrections any requirements beyond the operational  
24 requirements established under section 5(3) of this act and the  
25 facility criteria established under section 5(7) of this act.

26 (4) Any conditional use permit, special use permit, or any other  
27 development application process necessary to site a community facility  
28 or work release facility may not exceed one hundred twenty days and  
29 must include an appeal process.

30 NEW SECTION. **Sec. 10.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

--- END ---