

# HOUSE BILL REPORT

## HB 1733

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**As Reported by House Committee On:**  
Human Services

**Title:** An act relating to essential state community justice facilities.

**Brief Description:** Modifying provisions relating to state community justice facilities.

**Sponsors:** Representatives Conway, Kirby, Darneille and Chase.

**Brief History:**

**Committee Activity:**

Human Services: 2/8/07, 2/27/07 [DPS].

**Brief Summary of Substitute Bill**

- Requires the development of biennial lists of counties and rural multi-county geographic areas in which juvenile facilities or adult work release facilities may be sited.
- Requires the Department of Social and Health Services and the Department of Corrections to make substantial efforts to provide for the equitable distribution of juvenile facilities or adult work release facilities when developing the lists.
- Establishes public notice and hearing requirements for siting juvenile facilities or adult work release facilities.
- Requires local governments to develop processes and development regulations necessary to provide for the siting of juvenile facilities and adult work release facilities, and imposes requirements on local governments relating to the siting process.
- Allows the state to preempt local government if they fail to create a process to site the juvenile facilities or work release facilities.

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### HOUSE COMMITTEE ON HUMAN SERVICES

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Dickerson, Chair; Roberts, Vice Chair; Walsh, Assistant Ranking Minority Member; Darneille, McCoy and O'Brien.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Ahern, Ranking Minority Member and Bailey.

**Staff:** Sonja Hallum (786-7092).

**Background:**

**I. Siting Juvenile Rehabilitation and Work Release Facilities**

**A. Juvenile Rehabilitation Facilities**

The Department of Social and Health Services (DSHS), through its Juvenile Rehabilitation Administration (JRA), operates or contracts for community facilities or group homes for certain juveniles committed to the JRA as a result of a criminal offense. When siting such a facility, if more than three potential sites for the facility are identified, the DSHS or its contracting entity must hold at least two public hearings in each of the affected communities. Once a final site has been selected, at least one additional public hearing must be held. If the DSHS is under negotiations with a service provider and only one site is being considered, at least two public hearings must be held.

The DSHS or its contracting entity must provide at least 14 days notice of the meeting to:

- all newspapers of general circulation in the community;
- all radio and television stations generally available to persons in the community;
- any school district in which the facility would be sited or whose boundary is within two miles of a proposed facility;
- any library district in which the facility would be sited;
- local business or fraternal organizations that request notification; and
- any person or property owner within a one-half mile radius of the proposed facility.

**B. Work Release Facilities**

The Department of Corrections (DOC) operates and contracts for work release facilities throughout the state. When siting such a facility, once potential sites are narrowed to three or less, the DOC or its contracting entity must conduct public hearings in the affected communities. Once a final site has been selected, at least one additional public hearing must be held.

The DOC or its contracting entity must provide notice of the hearings to:

- all newspapers of general circulation in the local area and all local radio stations, television stations, and cable networks;
- appropriate school districts, city and county libraries, and all other local government offices within a one-half mile radius of the proposed site or sites;
- the local Chamber of Commerce, local economic development agencies, and any other local organizations that request notification; and

- all residents or property owners within a one-half mile radius of the proposed site or sites (in writing).

## **II. Land-Use Planning and Conditional Use Permits**

### **A. Land-Use Planning**

Counties of a certain size (and cities within those counties) must plan under the Growth Management Act (GMA). Counties and cities not required to plan under the GMA may elect to plan under the GMA. Currently, 29 of 39 counties plan under the GMA. Counties and cities planning under the GMA must adopt comprehensive plans and development regulations. Counties are required to review their comprehensive plans. The date by which this review must be completed depends on the county.

The comprehensive plans of counties and cities planning under the GMA must include a process for siting essential public facilities. Essential public facilities are facilities that are typically difficult to site including state and local correctional facilities, mental health facilities, group homes, and secure community transition facilities. The Office of Financial Management (OFM) must maintain a list of essential public facilities that are required or are likely to be built within six years. No GMA comprehensive plan or development regulation may preclude the siting of an essential public facility.

### **B. Conditional Use Permits**

Local governments have the authority to adopt and enforce ordinances relating to property development. As part of this authority, local governments issue permits for conditional uses, which are uses permitted in a specific zone only after review by the appropriate permitting authority and the imposition of permit conditions making the use compatible with other permitted uses in the zone.

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## **Summary of Substitute Bill:**

### **I. Siting Juvenile Rehabilitation Administration and Work Release Facilities**

#### **A. Juvenile Rehabilitation Administration Facilities**

The DSHS must provide a biennial list of counties and rural multi-county geographic areas in which the JRA facilities need to be sited to the OFM and the counties on the list. When preparing the list, the DSHS must make substantial efforts to provide for the equitable distribution of the facilities by giving great weight to the locations of existing JRA facilities, the number and proportion of juvenile offenders committed to the DSHS residing in the county or multi-county geographic area, and the number of juvenile registered level II and III sex offenders and juvenile sex offenders registered as homeless in the county.

"Equitable distribution" is defined as siting facilities in a manner that reasonably reflects the proportion of offenders sentenced from each county or multi-county geographic area, and, to the extent practicable, the proportion of such offenders residing in particular jurisdictions or

communities within the counties or geographic areas. Equitable distribution is a policy goal and may not be the basis of any legal challenge to the siting, construction, occupancy, or operation of a JRA facility.

Before completing the list, the DSHS must consult with local officials, including the officials from the largest city within the county, and conduct one public hearing in each affected county. The DSHS must also publish a biennial report that includes a map of existing and projected facilities and offender data for the counties and jurisdictions of the state. The DSHS must adopt rules on facility criteria in consultation with local governments. The DSHS must also send, along with the list of counties and rural multi-county geographic areas, the operational requirements for the facilities on the list.

The list of persons and entities the DSHS must notify of public hearings when siting a JRA facility is expanded and the following are added to the list of those who must receive notification:

- the appropriate legislative authorities of the affected counties, cities, and towns;
- local government planning agencies in the affected communities;
- private schools, kindergartens, and institutions of higher education;
- all local government offices within a one-half mile radius of the proposed site or sites; and
- local Chambers of Commerce, local economic development agencies, and local organizations who request notification.

Public hearings must be conducted at least 45 days before a final decision is made. The DSHS must consider testimony received at the public hearings and must issue a written analysis of the final selection. If local land use regulations require public notice and hearings, the DSHS is not obligated to conduct public hearings to the extent that they would be duplicative.

## **B. Work Release Facilities**

The DOC must provide a biennial list of counties and rural multi-county geographic areas in which work release facilities need to be sited to the OFM and to the counties on the list. When preparing the list, the DOC must make substantial efforts to provide for the equitable distribution of the facilities by giving great weight to the locations of existing work release facilities, the number and proportion of adult offenders committed to the DOC residing in the county or multi-county geographic area, and the number of registered adult level II and III sex offenders and adult sex offenders registered as homeless in the county.

"Equitable distribution" is defined as siting facilities in a manner that reasonably reflects the proportion of offenders sentenced from each county or multi-county geographic area, and, to the extent practicable, the proportion of such offenders residing in particular jurisdictions or communities within the counties or geographic areas. Equitable distribution is a policy goal and may not be the basis of any legal challenge to the siting, construction, occupancy, or operation of a work release facility.

Before completing the list, the DOC must consult with local officials, including officials in the largest city within the county, and conduct one public hearing in each affected county. The

DOC must also publish an annual report that includes a map of existing and projected facilities and offender data for the counties and jurisdictions in the state. The DOC must adopt rules on facility criteria in consultation with local governments. The DOC must also send, along with the list of counties and rural multi-county geographic areas, the operational requirements for the facilities on the list.

The list of persons and entities the DOC must notify of public hearings when siting work release facilities is expanded and the following are added to the list of those who must receive notification:

- the appropriate legislative authorities of the affected counties, cities, and towns;
- local government planning agencies in the affected communities; and
- institutions of higher education.

Public hearings must be conducted at least 45 days before a final decision is made. The DOC must consider testimony received at the public hearings and must issue a written analysis of the final selection. If local land use regulations require public notice and hearings, the DOC is not obligated to conduct public hearings to the extent they would be duplicative.

## **II. Land-Use Planning and Conditional Use Permits**

### **A. Land-Use Planning**

Counties and cities planning under the GMA must, no later than the deadline for reviewing their comprehensive plans, establish a process for siting JRA and work release facilities. Counties on the biennial list generated by the DSHS and the DOC must adopt development regulations that designate areas or zones that allow the siting of JRA and work release facilities.

A county or city siting a JRA or work release facility must:

- involve the DSHS (for JRA facilities) or the DOC (for work release facilities);
- give great weight to the same equitable distribution factors the DSHS and the DOC must use when developing the biennial list of counties; and
- ensure that the site selected is consistent with the operational requirements for the facilities.

If the county fails to develop the process for siting the JRA and work release facilities within 12 months of receiving notice that the county or city was included on the list of projected potential sites, the state may preempt the county and the state may site the facility within the county.

### **B. Conditional Use Permits**

As part of the permitting process for a JRA or work release facility, a county or city may not impose any requirements beyond the facility and operational requirements developed by the DSHS and the DOC for the facilities. Any conditional use permit or other development application process necessary to site a facility may not exceed 120 days in length and must

include an appeal process. The DSHS and DOC must comply with all requirements under the substitute bill and submit a full and complete application for the permit.

**Substitute Bill Compared to Original Bill:**

The substitute bill enables the state to preempt the county if the county fails to site the work release facility or community facility for juvenile offenders within 12 months of receiving notice they have been selected by the DSHS or DOC for a potential site. If the county fails to establish a process for siting the facilities, the state may site the facility.

The substitute adds the requirement that the DSHS and DOC consult with the largest city within the county, as well as the county, when it is preparing its list of potential sites.

The DSHS and DOC are required to comply with all the requirements in the substitute bill and submit a full and complete application before a permit must be issued for the facility.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) Pierce County has been a dumping ground for the state prison system, but it is not alone. Spokane has also gotten more than its fair share. This bill requires equitable distribution of facilities. It is unfair to have a few parts of the state have more offenders released into that area than other parts of the state. There is an enormous impact when you take the state's worst offenders and place them disproportionately in one area. This is true for not just prisons, but work release also.

(With concerns) The Association of Cities is concerned with equitable distribution. It makes sense to partner with the state to site these facilities. The process in the bill is not clear. We would like to see language that is more similar to that used in the statute siting secure transition facilities.

(Opposed) None.

**Persons Testifying:** (In support) Representative Conway, prime sponsor; and Gerry Horn, Pierce County Prosecuting Attorneys Office.

(With concerns) Dave Williams, Association of Cities; and Jean Wessman, Washington Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.