
SENATE BILL 5941

State of Washington

66th Legislature

2019 Regular Session

By Senator Rolfes

1 AN ACT Relating to the placement and treatment of conditionally
2 released sexually violent predators; amending RCW 71.09.080,
3 71.09.090, 71.09.092, 71.09.096, 71.09.140, and 71.09.250; and adding
4 a new section to chapter 71.09 RCW.

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

6 **Sec. 1.** RCW 71.09.080 and 2012 c 257 s 6 are each amended to
7 read as follows:

8 (1) Any person subjected to restricted liberty as a sexually
9 violent predator pursuant to this chapter shall not forfeit any legal
10 right or suffer any legal disability as a consequence of any actions
11 taken or orders made, other than as specifically provided in this
12 chapter, or as otherwise authorized by law.

13 (2)(a) Any person committed or detained pursuant to this chapter
14 shall be prohibited from possessing or accessing a personal computer
15 if the resident's individualized treatment plan states that access to
16 a computer is harmful to bringing about a positive response to a
17 specific and certain phase or course of treatment.

18 (b) A person who is prohibited from possessing or accessing a
19 personal computer under (a) of this subsection shall be permitted to
20 access a limited functioning personal computer capable of word
21 processing and limited data storage on the computer only that does

1 not have: (i) Internet access capability; (ii) an optical drive,
2 external drive, universal serial bus port, or similar drive
3 capability; or (iii) the capability to display photographs, images,
4 videos, or motion pictures, or similar display capability from any
5 drive or port capability listed under (b)(ii) of this subsection.

6 (3) Any person committed pursuant to this chapter has the right
7 to adequate care and individualized treatment, including an
8 individualized discharge plan. The department of social and health
9 services shall keep records detailing all medical, expert, and
10 professional care and treatment received by a committed person, and
11 shall keep copies of all reports of periodic examinations made
12 pursuant to this chapter. All such records and reports shall be made
13 available upon request only to: The committed person, his or her
14 attorney, the prosecuting agency, the court, the protection and
15 advocacy agency, or another expert or professional person who, upon
16 proper showing, demonstrates a need for access to such records.

17 (4) At the time a person is taken into custody or transferred
18 into a facility pursuant to a petition under this chapter, the
19 professional person in charge of such facility or his or her designee
20 shall take reasonable precautions to inventory and safeguard the
21 personal property of the persons detained or transferred. A copy of
22 the inventory, signed by the staff member making it, shall be given
23 to the person detained and shall, in addition, be open to inspection
24 to any responsible relative, subject to limitations, if any,
25 specifically imposed by the detained person. For purposes of this
26 subsection, "responsible relative" includes the guardian,
27 conservator, attorney, spouse, parent, adult child, or adult brother
28 or sister of the person. The facility shall not disclose the contents
29 of the inventory to any other person without consent of the patient
30 or order of the court.

31 (5) Nothing in this chapter prohibits a person presently
32 committed from exercising a right presently available to him or her
33 for the purpose of obtaining release from confinement, including the
34 right to petition for a writ of habeas corpus.

35 (6) No indigent person may be conditionally released or
36 unconditionally discharged under this chapter without suitable
37 clothing, and the secretary shall furnish the person with such sum of
38 money as is required by RCW 72.02.100 for persons without ample funds
39 who are released from correctional institutions. As funds are
40 available, the secretary may provide payment to the indigent persons

1 conditionally released pursuant to this chapter consistent with the
2 optional provisions of RCW 72.02.100 and 72.02.110, and may adopt
3 rules to do so.

4 (7) If a civil commitment petition is dismissed, or a trier of
5 fact determines that a person does not meet civil commitment
6 criteria, the person shall be released within twenty-four hours of
7 service of the release order on the superintendent of the special
8 commitment center, or later by agreement of the person who is the
9 subject of the petition.

10 **Sec. 2.** RCW 71.09.090 and 2018 c 131 s 2 are each amended to
11 read as follows:

12 (1) If the secretary determines that the person's condition has
13 so changed that either: (a) The person no longer meets the definition
14 of a sexually violent predator; or (b) conditional release to a less
15 restrictive alternative is in the best interest of the person and
16 conditions can be imposed that adequately protect the community, the
17 secretary shall authorize the person to petition the court for
18 conditional release to a less restrictive alternative or
19 unconditional discharge. The petition shall be filed with the court
20 and served upon the prosecuting agency responsible for the initial
21 commitment. The court, upon receipt of the petition for conditional
22 release to a less restrictive alternative or unconditional discharge,
23 shall within forty-five days order a hearing.

24 (2)(a) Nothing contained in this chapter shall prohibit the
25 person from otherwise petitioning the court for conditional release
26 to a less restrictive alternative or unconditional discharge without
27 the secretary's approval. The secretary shall provide the committed
28 person with an annual written notice of the person's right to
29 petition the court for conditional release to a less restrictive
30 alternative or unconditional discharge over the secretary's
31 objection. The notice shall contain a waiver of rights. The secretary
32 shall file the notice and waiver form and the annual report with the
33 court. If the person does not affirmatively waive the right to
34 petition, the court shall set a show cause hearing to determine
35 whether probable cause exists to warrant a hearing on whether the
36 person's condition has so changed that: (i) He or she no longer meets
37 the definition of a sexually violent predator; or (ii) conditional
38 release to a proposed less restrictive alternative would be in the

1 best interest of the person and conditions can be imposed that would
2 adequately protect the community.

3 (b) (i) The committed person shall have a right to have an
4 attorney represent him or her at the show cause hearing, which may be
5 conducted solely on the basis of affidavits or declarations, but the
6 person is not entitled to be present at the show cause hearing. At
7 the show cause hearing, the prosecuting agency shall present prima
8 facie evidence establishing: (A) That the committed person continues
9 to meet the definition of a sexually violent predator; and (B) that a
10 less restrictive alternative is not in the best interest of the
11 person and conditions cannot be imposed that adequately protect the
12 community.

13 (ii) (A) If the state produces prima facie evidence that the
14 committed person continues to be a sexually violent predator, then
15 the state's burden under (b) (i) (A) of this subsection is met and an
16 unconditional release trial may not be ordered unless the committed
17 person produces evidence satisfying: Subsection (~~((4))~~) (5)(a) of
18 this section; and subsection (~~((4))~~) (5)(b) (i) or (ii) of this
19 section.

20 (B) If the state produces prima facie evidence that a less
21 restrictive alternative is not appropriate for the committed person,
22 then the state's burden under (b) (i) (B) of this subsection is met,
23 and a conditional release trial may not be ordered unless the
24 committed person:

25 (I) Produces evidence satisfying: Subsection (~~((4))~~) (5)(a) of
26 this section; and subsection (~~((4))~~) (5)(b) (i) or (ii) of this
27 section; (~~and~~)

28 (II) Presents the court with a specific placement satisfying the
29 requirements of RCW 71.09.092; and

30 (III) If the placement includes a residence outside the county of
31 commitment, presents the court with documentation of his or her
32 efforts to secure an appropriate residential placement meeting the
33 requirements of RCW 71.09.092 within the county of commitment.

34 (iii) In making the showing required under (b) (i) of this
35 subsection, the state may rely exclusively upon the annual report
36 prepared pursuant to RCW 71.09.070. The committed person may present
37 responsive affidavits or declarations to which the state may reply.

38 (c) If the court at the show cause hearing determines that
39 either: (i) The state has failed to present prima facie evidence that
40 the committed person continues to meet the definition of a sexually

1 violent predator and that no proposed less restrictive alternative is
2 in the best interest of the person and conditions cannot be imposed
3 that would adequately protect the community; or (ii) probable cause
4 exists to believe that the person's condition has so changed that:
5 (A) The person no longer meets the definition of a sexually violent
6 predator; or (B) release to a proposed less restrictive alternative
7 would be in the best interest of the person and conditions can be
8 imposed that would adequately protect the community, then the court
9 shall set a hearing on either or both issues. If conditional release
10 will be considered at the hearing, the court must provide notice of
11 the hearing and a copy of the proposed placement plan to the
12 department.

13 (d) If the court has not previously considered the issue of
14 release to a less restrictive alternative, either through a trial on
15 the merits or through the procedures set forth in RCW 71.09.094(1),
16 the court shall consider whether release to a less restrictive
17 alternative would be in the best interests of the person and
18 conditions can be imposed that would adequately protect the
19 community, without considering whether the person's condition has
20 changed. The court may not find probable cause for a trial addressing
21 less restrictive alternatives unless a proposed less restrictive
22 alternative placement meeting the conditions of RCW 71.09.092 is
23 presented to the court at the show cause hearing.

24 (3) If a hearing is set on the issue of a committed person's
25 conditional release to a less restrictive alternative, either upon
26 petition following the secretary's authorization under subsection (1)
27 of this section or following a show cause hearing under subsection
28 (2) of this section, the department must review the committed
29 person's proposed less restrictive alternative placement plan and
30 provide a report for the court's review. The report must be filed
31 with the court and served on the parties at least fourteen days
32 before the scheduled hearing. At a minimum, the report must contain
33 the following:

34 (a) Based on the committed person's record and other information
35 known to the department, the department must provide an assessment as
36 to the appropriateness of the placement plan proposed by the
37 committed person and any recommendations for specific conditions of
38 release that are in the best interest of the person and that are
39 necessary to adequately protect the community; and

1 (b) If the committed person has proposed a less restrictive
2 placement plan that includes a residence outside of the county of
3 commitment, the department must investigate and report on whether or
4 not an appropriate placement in the county of commitment is
5 available. If the department's conclusion is that an appropriate
6 placement in the county of commitment is not available due to lack of
7 treatment providers, available housing, or other factors, the
8 department must investigate and report on whether or not an
9 appropriate placement in a county other than the county proposed by
10 the committed person is available. If the department is unable to
11 identify an appropriate placement in the county of commitment or a
12 county other than the county of residence proposed by the committed
13 person, the report must contain an explanation as to its reasoning in
14 coming to this conclusion. The explanation must detail all efforts to
15 find alternative treatment providers and residential placement
16 options and other inquiries conducted as to alternative placements.

17 (4)(a) At the hearing resulting from subsection (1) or (2) of
18 this section, the committed person shall be entitled to be present
19 and to the benefit of all constitutional protections that were
20 afforded to the person at the initial commitment proceeding. The
21 prosecuting agency shall represent the state and shall have a right
22 to a jury trial and to have the committed person evaluated by experts
23 chosen by the state. The prosecuting agency shall have a right to a
24 current evaluation of the person by experts chosen by the state. The
25 judge may require the person to complete any or all of the following
26 procedures or tests if requested by the evaluator: (i) A clinical
27 interview; (ii) psychological testing; (iii) plethysmograph testing;
28 and (iv) polygraph testing. The judge may order the person to
29 complete any other procedures and tests relevant to the evaluation.
30 The state is responsible for the costs of the evaluation. The
31 committed person shall also have the right to a jury trial and the
32 right to have experts evaluate him or her on his or her behalf and
33 the court shall appoint an expert if the person is indigent and
34 requests an appointment.

35 (b) Whenever any indigent person is subjected to an evaluation
36 under (a) of this subsection, the office of public defense is
37 responsible for the cost of one expert or professional person
38 conducting an evaluation on the person's behalf. When the person
39 wishes to be evaluated by a qualified expert or professional person
40 of his or her own choice, such expert or professional person must be

1 permitted to have reasonable access to the person for the purpose of
2 such evaluation, as well as to all relevant medical and psychological
3 records and reports. In the case of a person who is indigent, the
4 court shall, upon the person's request, assist the person in
5 obtaining an expert or professional person to perform an evaluation
6 or participate in the hearing on the person's behalf. Nothing in this
7 chapter precludes the person from paying for additional expert
8 services at his or her own expense.

9 (c) If the issue at the hearing is whether the person should be
10 unconditionally discharged, the burden of proof shall be upon the
11 state to prove beyond a reasonable doubt that the committed person's
12 condition remains such that the person continues to meet the
13 definition of a sexually violent predator. Evidence of the prior
14 commitment trial and disposition is admissible. The recommitment
15 proceeding shall otherwise proceed as set forth in RCW 71.09.050 and
16 71.09.060.

17 (d) If the issue at the hearing is whether the person should be
18 conditionally released to a less restrictive alternative, the burden
19 of proof at the hearing shall be upon the state to prove beyond a
20 reasonable doubt that conditional release to any proposed less
21 restrictive alternative either: (i) Is not in the best interest of
22 the committed person; or (ii) does not include conditions that would
23 adequately protect the community. Evidence of the prior commitment
24 trial and disposition is admissible.

25 ~~((4))~~ (5)(a) Probable cause exists to believe that a person's
26 condition has "so changed," under subsection (2) of this section,
27 only when evidence exists, since the person's last commitment trial,
28 or less restrictive alternative revocation proceeding, of a
29 substantial change in the person's physical or mental condition such
30 that the person either no longer meets the definition of a sexually
31 violent predator or that a conditional release to a less restrictive
32 alternative is in the person's best interest and conditions can be
33 imposed to adequately protect the community.

34 (b) A new trial proceeding under subsection ~~((3))~~ (4) of this
35 section may be ordered, or a trial proceeding may be held, only when
36 there is current evidence from a licensed professional of one of the
37 following and the evidence presents a change in condition since the
38 person's last commitment trial proceeding:

39 (i) An identified physiological change to the person, such as
40 paralysis, stroke, or dementia, that renders the committed person

1 unable to commit a sexually violent act and this change is permanent;
2 or

3 (ii) A change in the person's mental condition brought about
4 through positive response to continuing participation in treatment
5 which indicates that the person meets the standard for conditional
6 release to a less restrictive alternative or that the person would be
7 safe to be at large if unconditionally released from commitment.

8 (c) For purposes of this section, a change in a single
9 demographic factor, without more, does not establish probable cause
10 for a new trial proceeding under subsection (~~(3)~~) (4) of this
11 section. As used in this section, a single demographic factor
12 includes, but is not limited to, a change in the chronological age,
13 marital status, or gender of the committed person.

14 (~~(5)~~) (6) The jurisdiction of the court over a person civilly
15 committed pursuant to this chapter continues until such time as the
16 person is unconditionally discharged.

17 (~~(6)~~) (7) During any period of confinement pursuant to a
18 criminal conviction, or for any period of detention awaiting trial on
19 criminal charges, this section is suspended.

20 **Sec. 3.** RCW 71.09.092 and 2009 c 409 s 9 are each amended to
21 read as follows:

22 Before the court may enter an order directing conditional release
23 to a less restrictive alternative, it must find the following: (1)
24 The person will be treated by a treatment provider who is qualified
25 to provide such treatment in the state of Washington under chapter
26 18.155 RCW; (2) the treatment provider has presented a specific
27 course of treatment and has agreed to assume responsibility for such
28 treatment and will report progress to the court on a regular basis,
29 and will report violations immediately to the court, the prosecutor,
30 the supervising community corrections officer, and the superintendent
31 of the special commitment center; (3) housing exists in Washington
32 that is sufficiently secure to protect the community, and the person
33 or agency providing housing to the conditionally released person has
34 agreed in writing to accept the person, to provide the level of
35 security required by the court, and immediately to report to the
36 court, the prosecutor, the supervising community corrections officer,
37 and the superintendent of the special commitment center if the person
38 leaves the housing to which he or she has been assigned without
39 authorization; (4) if the person has been convicted or found not

1 guilty by reason of insanity of an offense with a victim under the
2 age of eighteen, the housing proposed in subsection (3) of this
3 section is not within one-quarter mile of any public or private
4 school providing instruction to kindergarten or any of grades one
5 through twelve; (5) if proposed housing is outside of the county of
6 commitment, a documented effort was made to find an appropriate
7 residential placement in the county of commitment; (6) the person is
8 willing to comply with the treatment provider and all requirements
9 imposed by the treatment provider and by the court; and ~~((+5+))~~ (7)
10 the person will be under the supervision of the department of
11 corrections and is willing to comply with supervision requirements
12 imposed by the department of corrections.

13 **Sec. 4.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to
14 read as follows:

15 (1) If the court or jury determines that conditional release to a
16 less restrictive alternative is in the best interest of the person
17 and includes conditions that would adequately protect the community,
18 and the court determines that the minimum conditions set forth in RCW
19 71.09.092 and in this section are met, the court shall enter judgment
20 and direct a conditional release.

21 (2) The court shall impose any additional conditions necessary to
22 ensure compliance with treatment and to protect the community. If the
23 court finds that conditions do not exist that will both ensure the
24 person's compliance with treatment and protect the community, then
25 the person shall be remanded to the custody of the department of
26 social and health services for control, care, and treatment in a
27 secure facility as designated in RCW 71.09.060(1).

28 (3) If the service provider designated by the court to provide
29 inpatient or outpatient treatment or to monitor or supervise any
30 other terms and conditions of a person's placement in a less
31 restrictive alternative is other than the department of social and
32 health services or the department of corrections, then the service
33 provider so designated must agree in writing to provide such
34 treatment, monitoring, or supervision in accord with this section.
35 Any person providing or agreeing to provide treatment, monitoring, or
36 supervision services pursuant to this chapter may be compelled to
37 testify and any privilege with regard to such person's testimony is
38 deemed waived.

1 (4) Prior to authorizing any release to a less restrictive
2 alternative, the court shall impose such conditions upon the person
3 as are necessary to ensure the safety of the community. The court
4 shall consider any conditions proposed by the department under RCW
5 71.09.090(3). The court shall additionally order the department of
6 corrections to investigate the less restrictive alternative and
7 recommend any additional conditions to the court. These conditions
8 shall include, but are not limited to the following: Specification of
9 residence, prohibition of contact with potential or past victims,
10 prohibition of alcohol and other drug use, participation in a
11 specific course of inpatient or outpatient treatment that may include
12 monitoring by the use of polygraph and plethysmograph, monitoring
13 through the use of global positioning (~~satellite [global positioning~~
14 ~~system]~~) system technology, supervision by a department of
15 corrections community corrections officer, a requirement that the
16 person remain within the state unless the person receives prior
17 authorization by the court, and any other conditions that the court
18 determines are in the best interest of the person or others. A copy
19 of the conditions of release shall be given to the person and to any
20 designated service providers.

21 (5) (a) Prior to authorizing release to a less restrictive
22 alternative, the court shall consider whether it is appropriate to
23 release the person to the person's county of commitment. In making
24 its determination, the court must consider the report and any
25 alternative placements proposed by the department under RCW
26 71.09.090(3). To ensure equitable distribution of releases, and
27 prevent the disproportionate grouping of persons subject to less
28 restrictive orders in any one county, or in any one jurisdiction or
29 community within a county, the legislature finds it is appropriate
30 for releases to a less restrictive alternative to occur in the
31 person's county of commitment, unless the court determines that the
32 person's return to his or her county of commitment would be
33 inappropriate (~~(considering)~~) based on consideration of: Any court-
34 issued protection orders, victim safety concerns that cannot be
35 addressed by ordering the use of global positioning system
36 technology, the (~~(availability)~~) unavailability of appropriate
37 treatment or facilities that would adequately protect the community,
38 negative influences on the person, (~~(or)~~) and the location of family
39 or other persons or organizations offering support to the person. If
40 the court authorizes conditional release to a county other than the

1 county of commitment, the court shall enter specific findings
2 concerning the decision.

3 (b) If a proposed placement plan includes a residence in a county
4 other than the county of commitment, the state shall serve written
5 notice of the plan on the county prosecuting attorney of the proposed
6 county of residence at least ten days before the hearing authorizing
7 less restrictive placement. The county prosecuting attorney may file
8 an objection with the court no fewer than five days prior to the
9 court's final approval of the placement. The court must consider the
10 county prosecutor's objection prior to approving the placement.

11 (c) When the department (~~(or court)~~) assists in developing a less
12 restrictive alternative placement under this section (~~(which is~~
13 outside of the county of commitment, and there are two or more
14 options for placement,)) it shall attempt to identify an appropriate
15 placement in the committed person's county of commitment. If such
16 placement is not available, it shall endeavor to develop the
17 placement in a manner that does not have a disproportionate effect on
18 a single county and document its rationale for the placement chosen.

19 ~~((b))~~ (d) If the committed person is not conditionally released
20 to his or her county of commitment, the department shall provide the
21 law and justice council of the county in which the person is
22 conditionally released with notice and a written explanation.

23 ~~((e))~~ (e) For purposes of this section, the person's county of
24 commitment means the county of the court which ordered the person's
25 commitment.

26 ~~((d))~~ (f) This subsection (5) does not apply to releases to a
27 secure community transition facility under RCW 71.09.250.

28 (6) Any service provider designated to provide inpatient or
29 outpatient treatment shall monthly, or as otherwise directed by the
30 court, submit to the court, to the department of social and health
31 services facility from which the person was released, to the
32 prosecuting agency, and to the supervising community corrections
33 officer, a report stating whether the person is complying with the
34 terms and conditions of the conditional release to a less restrictive
35 alternative.

36 (7) Each person released to a less restrictive alternative shall
37 have his or her case reviewed by the court that released him or her
38 no later than one year after such release and annually thereafter
39 until the person is unconditionally discharged. Review may occur in a
40 shorter time or more frequently, if the court, in its discretion on

1 its own motion, or on motion of the person, the secretary, or the
2 prosecuting agency so determines. The sole question to be determined
3 by the court is whether the person shall continue to be conditionally
4 released to a less restrictive alternative. The court in making its
5 determination shall be aided by the periodic reports filed pursuant
6 to subsection (6) of this section and the opinions of the secretary
7 and other experts or professional persons.

8 **Sec. 5.** RCW 71.09.140 and 2012 c 257 s 12 are each amended to
9 read as follows:

10 (1) At the earliest possible date, and in no event later than
11 thirty days before conditional release, change of address for a
12 person on conditional release, or unconditional discharge, except in
13 the event of escape, the department of social and health services
14 shall send written notice of conditional release, change of address,
15 unconditional discharge, or escape, to the following:

16 (a) The chief of police of the city, if any, in which the person
17 will reside or in which placement will be made under a less
18 restrictive alternative;

19 (b) The sheriff of the county in which the person will reside or
20 in which placement will be made under a less restrictive alternative;
21 and

22 (c) The sheriff of the county where the person was last convicted
23 of a sexually violent offense, if the department does not know where
24 the person will reside.

25 The department shall notify the state patrol of the release of
26 all sexually violent predators and that information shall be placed
27 in the Washington crime information center for dissemination to all
28 law enforcement.

29 (2) The same notice as required by subsection (1) of this section
30 shall be sent to the following if such notice has been requested in
31 writing about a specific person found to be a sexually violent
32 predator under this chapter:

33 (a) The victim or victims of any sexually violent offenses for
34 which the person was convicted in the past or the victim's next of
35 kin if the crime was a homicide. "Next of kin" as used in this
36 section means a person's spouse, parents, siblings, and children;

37 (b) Any witnesses who testified against the person in his or her
38 commitment trial under RCW 71.09.060; and

39 (c) Any person specified in writing by the prosecuting agency.

1 Information regarding victims, next of kin, or witnesses
2 requesting the notice, information regarding any other person
3 specified in writing by the prosecuting agency to receive the notice,
4 and the notice are confidential and shall not be available to the
5 committed person.

6 (3) If a person committed as a sexually violent predator under
7 this chapter escapes from a department of social and health services
8 facility, the department shall immediately notify, by the most
9 reasonable and expedient means available, the chief of police of the
10 city and the sheriff of the county in which the committed person
11 resided immediately before his or her commitment as a sexually
12 violent predator, or immediately before his or her incarceration for
13 his or her most recent offense. If previously requested, the
14 department shall also notify the witnesses and the victims of the
15 sexually violent offenses for which the person was convicted in the
16 past or the victim's next of kin if the crime was a homicide. If the
17 person is recaptured, the department shall send notice to the persons
18 designated in this subsection as soon as possible but in no event
19 later than two working days after the department learns of such
20 recapture.

21 (4) If the victim or victims of any sexually violent offenses for
22 which the person was convicted in the past or the victim's next of
23 kin, or any witness is under the age of sixteen, the notice required
24 by this section shall be sent to the parents or legal guardian of the
25 child.

26 (5) The department of social and health services shall send the
27 notices required by this chapter to the last address provided to the
28 department by the requesting party. The requesting party shall
29 furnish the department with a current address.

30 (6) Nothing in this section shall impose any liability upon a
31 chief of police of a city or sheriff of a county for failing to
32 request in writing a notice as provided in subsection (1) of this
33 section.

34 **Sec. 6.** RCW 71.09.250 and 2003 c 216 s 3 are each amended to
35 read as follows:

36 (1)(a) The secretary is authorized to site, construct, occupy,
37 and operate (i) a secure community transition facility on McNeil
38 Island for persons authorized to petition for a less restrictive
39 alternative under RCW 71.09.090(1) and who are conditionally

1 released; and (ii) a special commitment center on McNeil Island with
2 up to four hundred four beds as a total confinement facility under
3 this chapter, subject to appropriated funding for those purposes. The
4 secure community transition facility shall be authorized for the
5 number of beds needed to ensure compliance with the orders of the
6 superior courts under this chapter and the federal district court for
7 the western district of Washington. The total number of beds in the
8 secure community transition facility shall be limited to twenty-four,
9 consisting of up to fifteen transitional beds and up to nine
10 pretransitional beds. The residents occupying the transitional beds
11 shall be the only residents eligible for transitional services
12 occurring in Pierce county. In no event shall more than fifteen
13 residents of the secure community transition facility be
14 participating in off-island transitional, educational, or employment
15 activity at the same time in Pierce county. The department shall
16 provide the Pierce county sheriff, or his or her designee, with a
17 list of the fifteen residents so designated, along with their
18 photographs and physical descriptions, and the list shall be
19 immediately updated whenever a residential change occurs. The Pierce
20 county sheriff, or his or her designee, shall be provided an
21 opportunity to confirm the residential status of each resident
22 leaving McNeil Island.

23 (b) For purposes of this subsection, "transitional beds" means
24 beds only for residents who are judged by a qualified expert to be
25 suitable to leave the island for treatment, education, and
26 employment.

27 (2)(a) The secretary is authorized to site, either within the
28 secure community transition facility established pursuant to
29 subsection (1)(a)(i) of this section, or within the special
30 commitment center, up to nine pretransitional beds.

31 (b) Residents assigned to pretransitional beds shall not be
32 permitted to leave McNeil Island for education, employment,
33 treatment, or community activities in Pierce county.

34 (c) For purposes of this subsection, "pretransitional beds" means
35 beds for residents whose progress toward a less secure residential
36 environment and transition into more complete community involvement
37 is projected to take substantially longer than a typical resident of
38 the special commitment center.

39 (3) Notwithstanding RCW 36.70A.103 or any other law, this statute
40 preempts and supersedes local plans, development regulations,

1 permitting requirements, inspection requirements, and all other laws
2 as necessary to enable the secretary to site, construct, occupy, and
3 operate a secure community transition facility on McNeil Island and a
4 total confinement facility on McNeil Island.

5 (4) To the greatest extent possible, until June 30, 2003, persons
6 who were not civilly committed from the county in which the secure
7 community transition facility established pursuant to subsection (1)
8 of this section is located may not be conditionally released to a
9 setting in that same county less restrictive than that facility.

10 (5) As of June 26, 2001, the state shall immediately cease any
11 efforts in effect on such date to site secure community transition
12 facilities, other than the facility authorized by subsection (1) of
13 this section, and shall instead site such facilities in accordance
14 with the provisions of this section.

15 (6) The department must:

16 (a) Identify the minimum and maximum number of secure community
17 transition facility beds in addition to the facility established
18 under subsection (1) of this section that may be necessary for the
19 period of May 2004 through May 2007 and provide notice of these
20 numbers to all counties by August 31, 2001; and

21 (b) Develop and publish policy guidelines for the siting and
22 operation of secure community transition facilities.

23 (7)(a) The total number of secure community transition facility
24 beds that may be required to be sited in a county between June 26,
25 2001, and June 30, 2008, may be no greater than the total number of
26 persons civilly committed from that county, or detained at the
27 special commitment center under a pending civil commitment petition
28 from that county where a finding of probable cause had been made on
29 April 1, 2001. The total number of secure community transition
30 facility beds required to be sited in each county between July 1,
31 2008, and June 30, 2015, may be no greater than the total number of
32 persons civilly committed from that county or detained at the special
33 commitment center under a pending civil commitment petition from that
34 county where a finding of probable cause had been made as of July 1,
35 2008.

36 (b) Counties and cities that provide secure community transition
37 facility beds above the maximum number that they could be required to
38 site under this subsection are eligible for a bonus grant under the
39 incentive provisions in RCW 71.09.255. The county where the special
40 commitment center is located shall receive this bonus grant for the

1 number of beds in the facility established in subsection (1) of this
2 section in excess of the maximum number established by this
3 subsection.

4 (c) No secure community transition facilities in addition to the
5 one established in subsection (1) of this section may be required to
6 be sited in the county where the special commitment center is located
7 until after June 30, 2008, provided however, that the county and its
8 cities may elect to site additional secure community transition
9 facilities and shall be eligible under the incentive provisions of
10 RCW 71.09.255 for any additional facilities meeting the requirements
11 of that section.

12 (8) The state is authorized to site and operate secure community
13 transition facilities in any county in the state. In identifying
14 potential counties within which to site a secure community transition
15 facility, and in identifying sites within a county for the location
16 of a secure community transition facility, the department shall work
17 with and assist local governments to provide for the equitable
18 distribution of such facilities. In coordinating and deciding upon
19 the siting of a secure community transition ((facilities)) facility
20 within a county, great weight shall be given by the county and cities
21 within the county to:

22 (a) The number and location of existing residential facility beds
23 operated by the department of corrections or the mental health
24 division of the department of social and health services in each
25 jurisdiction in the county; and

26 (b) The number of registered sex offenders classified as level II
27 or level III and the number of sex offenders registered as homeless
28 residing in each jurisdiction in the county.

29 (9) (a) "Equitable distribution" means siting or locating secure
30 community transition facilities in a manner that will not cause a
31 disproportionate grouping of similar facilities either in any one
32 county, or in any one jurisdiction or community within a county, as
33 relevant; and

34 (b) "Jurisdiction" means a city, town, or geographic area of a
35 county in which distinct political or judicial authority may be
36 exercised.

37 NEW SECTION. Sec. 7. A new section is added to chapter 71.09
38 RCW to read as follows:

1 To facilitate the equitable geographic distribution of
2 conditional releases under this chapter, the department shall notify
3 the secretary of health, or the secretary's designee, whenever a sex
4 offender treatment provider in an underserved county has been
5 contracted to provide treatment services to persons on conditional
6 release under this chapter, in which case the secretary of health
7 shall waive any fees for the initial issue, renewal, and reissuance
8 of a credential for the provider under chapter 18.155 RCW. An
9 underserved county is any county identified by the department as
10 having an inadequate supply of qualified sex offender treatment
11 providers to achieve equitable geographic distribution of conditional
12 releases under this chapter.

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