

---

HOUSE BILL 1751

---

State of Washington

68th Legislature

2023 Regular Session

By Representatives Couture and Walsh

1 AN ACT Relating to siting of sex offender and sexually violent  
2 predator facilities; and amending RCW 71.09.099, 71.09.250, and  
3 72.09.290.

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

5 **Sec. 1.** RCW 71.09.099 and 2021 c 236 s 10 are each amended to  
6 read as follows:

7 To facilitate the primary role of the department in identifying  
8 less restrictive alternative placements under RCW 71.09.090 and  
9 discharge planning under RCW 71.09.080, subject to the availability  
10 of amounts appropriated for this specific purpose, the department  
11 shall conduct a study to explore the development of conditional  
12 release and transition facilities, which may include community-based  
13 state-operated living alternatives similar to the state-operated  
14 living alternative program operated by the developmental disabilities  
15 administration. Any facilities or placements developed under this  
16 section may be identified through a request for proposal process or  
17 through direct state acquisition and development. The department  
18 shall notify the superior court in any county where a conditional  
19 release and transition facility is considered, and shall consider the  
20 superior court's recommendation on the facility siting before  
21 entering into any contract. Any contracts with facilities or

1 placements entered into under this section shall include a provision  
2 requiring oversight by the department to ensure the programs are  
3 operating appropriately.

4 **Sec. 2.** RCW 71.09.250 and 2021 c 236 s 9 are each amended to  
5 read as follows:

6 (1)(a) The secretary is authorized to site, construct, occupy,  
7 and operate (i) a secure community transition facility on McNeil  
8 Island for persons authorized to petition for a less restrictive  
9 alternative under RCW 71.09.090(1) and who are conditionally  
10 released; and (ii) a special commitment center on McNeil Island with  
11 up to four hundred four beds as a total confinement facility under  
12 this chapter, subject to appropriated funding for those purposes. The  
13 secure community transition facility shall be authorized for the  
14 number of beds needed to ensure compliance with the orders of the  
15 superior courts under this chapter and the federal district court for  
16 the western district of Washington. The total number of beds in the  
17 secure community transition facility shall be limited to 24,  
18 consisting of up to 15 transitional beds and up to nine  
19 pretransitional beds. The residents occupying the transitional beds  
20 shall be the only residents eligible for transitional services  
21 occurring in Pierce county. In no event shall more than 15 residents  
22 of the secure community transition facility be participating in off-  
23 island transitional, educational, or employment activity at the same  
24 time in Pierce county. The department shall provide the Pierce county  
25 sheriff, or his or her designee, with a list of the 15 residents so  
26 designated, along with their photographs and physical descriptions,  
27 and the list shall be immediately updated whenever a residential  
28 change occurs. The Pierce county sheriff, or his or her designee,  
29 shall be provided an opportunity to confirm the residential status of  
30 each resident leaving McNeil Island.

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

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

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

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

9 (3) Notwithstanding RCW 36.70A.103 or any other law, this statute  
10 preempts and supersedes local plans, development regulations,  
11 permitting requirements, inspection requirements, and all other laws  
12 as necessary to enable the secretary to site, construct, occupy, and  
13 operate a secure community transition facility on McNeil Island and a  
14 total confinement facility on McNeil Island.

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

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

25 (6) The department must:

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

31 (b) Develop and publish policy guidelines for the siting and  
32 operation of secure community transition facilities; and

33 (c) Notify the superior court in any county where a community  
34 transition facility is proposed.

35 (7)(a) The total number of secure community transition facility  
36 beds that may be required to be sited in a county between June 26,  
37 2001, and June 30, 2008, may be no greater than the total number of  
38 persons civilly committed from that county, or detained at the  
39 special commitment center under a pending civil commitment petition  
40 from that county where a finding of probable cause had been made on

1 April 1, 2001. The total number of secure community transition  
2 facility beds required to be sited in each county between July 1,  
3 2008, and June 30, 2015, may be no greater than the total number of  
4 persons civilly committed from that county or detained at the special  
5 commitment center under a pending civil commitment petition from that  
6 county where a finding of probable cause had been made as of July 1,  
7 2008.

8 (b) Counties and cities that provide secure community transition  
9 facility beds above the maximum number that they could be required to  
10 site under this subsection are eligible for a bonus grant under the  
11 incentive provisions in RCW 71.09.255. The county where the special  
12 commitment center is located shall receive this bonus grant for the  
13 number of beds in the facility established in subsection (1) of this  
14 section in excess of the maximum number established by this  
15 subsection.

16 (c) No secure community transition facilities in addition to the  
17 one established in subsection (1) of this section may be required to  
18 be sited in the county where the special commitment center is located  
19 until after June 30, 2008, provided however, that the county and its  
20 cities may elect to site additional secure community transition  
21 facilities and shall be eligible under the incentive provisions of  
22 RCW 71.09.255 for any additional facilities meeting the requirements  
23 of that section.

24 (8) After the department demonstrates the need for additional bed  
25 capacity to the appropriate committees of the legislature, and  
26 receives approval from the superior court in the county where the  
27 community transition facility is proposed, and receives approval and  
28 funding from the appropriate committees of the legislature to build  
29 additional bed capacity, the state is authorized to site and operate  
30 secure community transition facilities and other conditional release  
31 and transitional facilities in any county in the state in accordance  
32 with RCW 71.09.315. In identifying potential counties and sites  
33 within a county for the location of a secure community transition  
34 facility or other conditional release and transitional facilities,  
35 the department shall work with and assist local governments to  
36 provide for the equitable distribution of such facilities. In  
37 coordinating and deciding upon the siting of secure community  
38 transition facilities or other conditional release and transitional  
39 facilities within a county, great weight shall be given by the county  
40 and cities within the county to:

1 (a) The number and location of existing residential facility beds  
2 operated by the department of corrections or the mental health  
3 division of the department of social and health services in each  
4 jurisdiction in the county; and

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

8 (9) (a) "Equitable distribution" means siting or locating secure  
9 community transition facilities and other conditional release and  
10 transitional facilities in a manner that will not cause a  
11 disproportionate grouping of similar facilities either in any one  
12 county, or in any one jurisdiction or community within a county, as  
13 relevant; and

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

17 **Sec. 3.** RCW 72.09.290 and 2007 c 483 s 303 are each amended to  
18 read as follows:

19 (1) No later than July 1, 2007, and every biennium thereafter  
20 starting with the biennium beginning July 1, 2009, the department  
21 shall prepare a list of counties and rural multicounty geographic  
22 areas in which work release facilities, community justice centers and  
23 other community-based correctional facilities are anticipated to be  
24 sited during the next three fiscal years and transmit the list to the  
25 office of financial management, the superior court in the counties on  
26 the list, and the counties on the list. The list may be updated as  
27 needed.

28 (2) In preparing the list, the department shall make substantial  
29 efforts to provide for the equitable distribution of work release,  
30 community justice centers, or other community-based correctional  
31 facilities among counties. The department shall give great weight to  
32 the following factors in determining equitable distribution:

33 (a) The locations of existing residential facilities owned or  
34 operated by, or operated under contract with, the department in each  
35 county;

36 (b) The number and proportion of adult offenders sentenced to the  
37 custody or supervision of the department by the courts of the county  
38 or rural multicounty geographic area; (~~and~~)

1 (c) The number of adult registered sex offenders classified as  
2 level II or III and adult sex offenders registered per thousand  
3 persons residing in the county; and

4 (d) The recommendation from the superior court in any county  
5 where a correctional facility is proposed.

6 (3) For purposes of this section, "equitable distribution" means  
7 siting or locating work release, community justice centers, or other  
8 community-based correctional facilities in a manner that reasonably  
9 reflects the proportion of offenders sentenced to the custody or  
10 supervision of the department by the courts of each county or rural  
11 multicounty geographic area designated by the department, and, to the  
12 extent practicable, the proportion of offenders residing in  
13 particular jurisdictions or communities within such counties or rural  
14 multicounty geographic areas. Equitable distribution is a policy  
15 goal, not a basis for any legal challenge to the siting,  
16 construction, occupancy, or operation of any facility anywhere in the  
17 state.

--- END ---