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**SUBSTITUTE HOUSE BILL 2372**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on Children & Family Services (originally sponsored by Representatives Kagi, D. Sommers, Carrell, Cody, Edwards, Kenney, Wolfe, Lovick and Schual-Berke)

Read first time 02/02/2000. Referred to Committee on .

1 AN ACT Relating to detention of children in secure facilities;  
2 amending RCW 13.32A.060, 13.32A.065, 13.32A.130, 13.32A.250,  
3 28A.225.090, 74.13.033, and 74.13.034; and adding a new section to  
4 chapter 13.32A RCW.

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

6 **Sec. 1.** RCW 13.32A.060 and 1997 c 146 s 3 are each amended to read  
7 as follows:

8 (1) An officer taking a child into custody under RCW 13.32A.050(1)  
9 (a) or (b) shall inform the child of the reason for such custody and  
10 shall:

11 (a) Transport the child to his or her home or to a parent at his or  
12 her place of employment, if no parent is at home. The parent may  
13 request that the officer take the child to the home of an adult  
14 extended family member, responsible adult, crisis residential center,  
15 the department, or a licensed youth shelter. In responding to the  
16 request of the parent, the officer shall take the child to a requested  
17 place which, in the officer's belief, is within a reasonable distance  
18 of the parent's home. The officer releasing a child into the custody  
19 of a parent, an adult extended family member, responsible adult, or a

1 licensed youth shelter shall inform the person receiving the child of  
2 the reason for taking the child into custody and inform all parties of  
3 the nature and location of appropriate services available in the  
4 community; or

5 (b) After attempting to notify the parent, take the child to a  
6 designated crisis residential center's secure facility or a center's  
7 semi-secure facility if a secure facility is full, not available, or  
8 not located within a reasonable distance:

9 (i) If the child expresses fear or distress at the prospect of  
10 being returned to his or her home which leads the officer to believe  
11 there is a possibility that the child is experiencing some type of  
12 child abuse or neglect, as defined in RCW 26.44.020;

13 (ii) If it is not practical to transport the child to his or her  
14 home or place of the parent's employment; or

15 (iii) If there is no parent available to accept custody of the  
16 child; or

17 (c) After attempting to notify the parent, if a crisis residential  
18 center is full, not available, or not located within a reasonable  
19 distance, the officer may request the department to accept custody of  
20 the child. If the department determines that an appropriate placement  
21 is currently available, the department shall accept custody and place  
22 the child in an out-of-home placement. Upon accepting custody of a  
23 child from the officer, the department may place the child in an out-  
24 of-home placement for up to seventy-two hours, excluding Saturdays,  
25 Sundays, and holidays, without filing a child in need of services  
26 petition under this chapter, obtaining parental consent, or obtaining  
27 an order for placement under chapter 13.34 RCW. Upon transferring a  
28 child to the department's custody, the officer shall provide written  
29 documentation of the reasons and the statutory basis for taking the  
30 child into custody. If the department declines to accept custody of  
31 the child, the officer may release the child after attempting to take  
32 the child to the following, in the order listed: The home of an adult  
33 extended family member; a responsible adult; a licensed youth shelter  
34 and shall immediately notify the department if no placement option is  
35 available and the child is released.

36 (2) An officer taking a child into custody under RCW 13.32A.050(1)  
37 (c) or (d) shall inform the child of the reason for custody. An  
38 officer taking a child into custody under RCW 13.32A.050(1)(c) may  
39 release the child to the supervising agency, or shall take the child to

1 a designated crisis residential center's secure facility. If the  
2 secure facility is not available, not located within a reasonable  
3 distance, or full, the officer shall take the child to a semi-secure  
4 crisis residential center. An officer taking a child into custody  
5 under RCW 13.32A.050(1)(d) may place the child in a juvenile detention  
6 facility as provided in RCW 13.32A.065 or a secure facility, except  
7 that the child shall be taken to either (a) a secure crisis residential  
8 center which is a separate, secure section of a juvenile detention  
9 facility; or (b) detention whenever the officer has been notified that  
10 a juvenile court has entered ((a-detention)) an order directing such  
11 placement under this chapter or chapter 13.34 RCW. In no case shall a  
12 child in contempt be confined in a crisis residential center that is a  
13 free-standing facility outside a juvenile detention facility.

14 (3) Whenever an officer transfers custody of a child to a crisis  
15 residential center or the department, the child may reside in the  
16 crisis residential center or may be placed by the department in an out-  
17 of-home placement for an aggregate total period of time not to exceed  
18 seventy-two hours excluding Saturdays, Sundays, and holidays, except  
19 that a child placed in a secure facility within a crisis residential  
20 center under a court order entered under RCW 13.32A.250 must remain in  
21 the secure facility as provided in RCW 13.32A.065. Thereafter, the  
22 child may continue in out-of-home placement only if the parents have  
23 consented, a child in need of services petition has been filed under  
24 this chapter, or an order for placement has been entered under chapter  
25 13.34 RCW.

26 (4) The department shall ensure that all law enforcement  
27 authorities are informed on a regular basis as to the location of all  
28 designated secure and semi-secure facilities within centers in their  
29 jurisdiction, where children taken into custody under RCW 13.32A.050  
30 may be taken.

31 **Sec. 2.** RCW 13.32A.065 and 1996 c 133 s 12 are each amended to  
32 read as follows:

33 (1) A child may be placed in either (a) a secure crisis residential  
34 center which is a separate, secure section of a juvenile detention  
35 facility; or (b) detention after being taken into custody pursuant to  
36 RCW 13.32A.050(1)(d). In no case shall a child in contempt be confined  
37 in a crisis residential center that is a free-standing facility outside  
38 a juvenile detention facility. The court shall hold a ((detention))

1 review hearing within twenty-four hours, excluding Saturdays, Sundays,  
2 and holidays. The court shall release the child after twenty-four  
3 hours, excluding Saturdays, Sundays, and holidays, unless:

4 (a) A motion and order to show why the child should not be held in  
5 contempt has been filed and served on the child at or before the  
6 detention hearing; and

7 (b) The court believes that the child would not appear at a hearing  
8 on contempt.

9 (2) If the court (~~orders the child to remain in detention~~) finds  
10 that the conditions in subsection (1)(a) and (b) of this section have  
11 been met, the court may order the child to remain confined either in  
12 (a) a secure crisis residential center which is a separate, secure  
13 section of a juvenile detention facility; or (b) detention, and shall  
14 set the matter for a hearing on contempt within seventy-two hours,  
15 excluding Saturdays, Sundays, and holidays. In no case shall a child  
16 in contempt be confined in a crisis residential center that is a free-  
17 standing facility outside a juvenile detention facility.

18 **Sec. 3.** RCW 13.32A.130 and 1997 c 146 s 4 are each amended to read  
19 as follows:

20 (1) A child admitted to a secure facility within a crisis  
21 residential center shall remain in the facility for not more than five  
22 consecutive days, but for at least twenty-four hours after admission.  
23 If the child admitted under this section is transferred between centers  
24 or between secure and semi-secure facilities, the aggregate length of  
25 time spent in all such centers or facilities may not exceed five  
26 consecutive days.

27 (2)(a)(i) The facility administrator shall determine within twenty-  
28 four hours after a child's admission to a secure facility whether the  
29 child is likely to remain in a semi-secure facility and may transfer  
30 the child to a semi-secure facility or release the child to the  
31 department. The determination shall be based on: (A) The need for  
32 continued assessment, protection, and treatment of the child in a  
33 secure facility; and (B) the likelihood the child would remain at a  
34 semi-secure facility until his or her parents can take the child home  
35 or a petition can be filed under this title.

36 (ii) In making the determination the administrator shall consider  
37 the following information if known: (A) The child's age and maturity;  
38 (B) the child's condition upon arrival at the center; (C) the

1 circumstances that led to the child's being taken to the center; (D)  
2 whether the child's behavior endangers the health, safety, or welfare  
3 of the child or any other person; (E) the child's history of running  
4 away which has endangered the health, safety, and welfare of the child;  
5 and (F) the child's willingness to cooperate in the assessment.

6 (b) If the administrator of a secure facility determines the child  
7 is unlikely to remain in a semi-secure facility, the administrator  
8 shall keep the child in the secure facility pursuant to this chapter  
9 and in order to provide for space for the child may transfer another  
10 child who has been in the facility for at least seventy-two hours to a  
11 semi-secure facility. The administrator shall only make a transfer of  
12 a child after determining that the child who may be transferred is  
13 likely to remain at the semi-secure facility.

14 (c) A crisis residential center administrator is authorized to  
15 transfer a child to a crisis residential center in the area where the  
16 child's parents reside or where the child's lawfully prescribed  
17 residence is located.

18 (d) An administrator may transfer a child from a semi-secure  
19 facility to a secure facility whenever he or she reasonably believes  
20 that the child is likely to leave the semi-secure facility and not  
21 return and after full consideration of all factors in (a)(i) and (ii)  
22 of this subsection.

23 (3) If no parent is available or willing to remove the child during  
24 the first seventy-two hours following admission, the department shall  
25 consider the filing of a petition under RCW 13.32A.140.

26 (4) Notwithstanding the provisions of subsection (1) of this  
27 section, the parents may remove the child at any time during the five-  
28 day period unless the staff of the crisis residential center has  
29 reasonable cause to believe that the child is absent from the home  
30 because he or she is abused or neglected or if allegations of abuse or  
31 neglect have been made against the parents. The department or any  
32 agency legally charged with the supervision of a child may remove a  
33 child from a crisis residential center at any time after the first  
34 twenty-four-hour period after admission has elapsed and only after full  
35 consideration by all parties of the factors in subsection (2)(a) of  
36 this section.

37 (5) Crisis residential center staff shall make reasonable efforts  
38 to protect the child and achieve a reconciliation of the family. If a  
39 reconciliation and voluntary return of the child has not been achieved

1 within forty-eight hours from the time of intake, and if the  
2 administrator of the center does not consider it likely that  
3 reconciliation will be achieved within the five-day period, then the  
4 administrator shall inform the parent and child of: (a) The  
5 availability of counseling services; (b) the right to file a child in  
6 need of services petition for an out-of-home placement, the right of a  
7 parent to file an at-risk youth petition, and the right of the parent  
8 and child to obtain assistance in filing the petition; (c) the right to  
9 request the facility administrator or his or her designee to form a  
10 multidisciplinary team; (d) the right to request a review of any out-  
11 of-home placement; (e) the right to request a mental health or chemical  
12 dependency evaluation by a county-designated professional or a private  
13 treatment facility; and (f) the right to request treatment in a program  
14 to address the child's at-risk behavior under RCW 13.32A.197.

15 (6) At no time shall information regarding a parent's or child's  
16 rights be withheld. The department shall develop and distribute to all  
17 law enforcement agencies and to each crisis residential center  
18 administrator a written statement delineating the services and rights.  
19 Every officer taking a child into custody shall provide the child and  
20 his or her parent(s) or responsible adult with whom the child is placed  
21 with a copy of the statement. In addition, the administrator of the  
22 facility or his or her designee shall provide every resident and parent  
23 with a copy of the statement.

24 (7) A crisis residential center and its administrator or his or her  
25 designee acting in good faith in carrying out the provisions of this  
26 section are immune from criminal or civil liability for such actions.

27 (8) This section does not apply to children admitted to either (a)  
28 a secure crisis residential center which is a separate, secure section  
29 of a juvenile detention facility; or (b) detention by a court order  
30 issued under RCW 13.32A.250(3) or 28A.225.090(2). In no case shall a  
31 child in contempt be confined in a crisis residential center that is a  
32 free-standing facility outside a juvenile detention facility.

33 **Sec. 4.** RCW 13.32A.250 and 1998 c 296 s 37 are each amended to  
34 read as follows:

35 (1) In all child in need of services proceedings and at-risk youth  
36 proceedings, the court shall verbally notify the parents and the child  
37 of the possibility of a finding of contempt for failure to comply with  
38 the terms of a court order entered pursuant to this chapter. Except as

1 otherwise provided in this section, the court shall treat the parents  
2 and the child equally for the purposes of applying contempt of court  
3 processes and penalties under this section.

4 (2) Failure by a party to comply with an order entered under this  
5 chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e),  
6 subject to the limitations of subsection (3) of this section.

7 (3) The court may impose remedial sanctions including a fine of up  
8 to one hundred dollars and confinement for up to seven days, or both  
9 for contempt of court under this section.

10 (4) A child placed in confinement for contempt under this section  
11 shall be placed in confinement (~~(only)~~) either in a secure juvenile  
12 detention facility operated by or pursuant to a contract with a county  
13 or a secure crisis residential center which is a separate, secure  
14 section of a juvenile detention facility. In no case shall a child in  
15 contempt be confined in a crisis residential center that is a free-  
16 standing facility outside a juvenile detention facility.

17 (5) A motion for contempt may be made by a parent, a child,  
18 juvenile court personnel, or by any public agency, organization, or  
19 person having custody of the child under a court order adopted pursuant  
20 to this chapter.

21 (6) Whenever the court finds probable cause to believe, based upon  
22 consideration of a motion for contempt and the information set forth in  
23 a supporting declaration, that a child has violated a placement order  
24 entered under this chapter, the court may issue an order directing law  
25 enforcement to pick up and take the child to detention or to a secure  
26 crisis residential center. The order may be entered ex parte without  
27 prior notice to the child or other parties. Following the child's  
28 admission to detention or to the secure facility, a (~~(detention)~~)  
29 review hearing must be held in accordance with RCW 13.32A.065.

30 NEW SECTION. Sec. 5. A new section is added to chapter 13.32A RCW  
31 to read as follows:

32 The court may only provide for confinement of a child in a secure  
33 crisis residential center under RCW 13.32A.250(3) or 28A.225.090(2) if:  
34 (1) The department and the center director certify that space is  
35 available to accommodate the child held in contempt; and (2) such  
36 confinement is consistent with any local court rule of the superior  
37 court of the county in which the secure crisis residential center is  
38 located. If the department and the center director rescind their

1 certification, the court shall immediately transfer the child to a  
2 juvenile detention facility for the remainder of the period of  
3 confinement.

4 **Sec. 6.** RCW 28A.225.090 and 1999 c 319 s 4 are each amended to  
5 read as follows:

6 (1) A court may order a child subject to a petition under RCW  
7 28A.225.035 to:

8 (a) Attend the child's current school;

9 (b) If there is space available and the program can provide  
10 educational services appropriate for the child, order the child to  
11 attend another public school, an alternative education program, center,  
12 a skill center, dropout prevention program, or another public  
13 educational program;

14 (c) Attend a private nonsectarian school or program including an  
15 education center. Before ordering a child to attend an approved or  
16 certified private nonsectarian school or program, the court shall: (i)  
17 Consider the public and private programs available; (ii) find that  
18 placement is in the best interest of the child; and (iii) find that the  
19 private school or program is willing to accept the child and will not  
20 charge any fees in addition to those established by contract with the  
21 student's school district. If the court orders the child to enroll in  
22 a private school or program, the child's school district shall contract  
23 with the school or program to provide educational services for the  
24 child. The school district shall not be required to contract for a  
25 weekly rate that exceeds the state general apportionment dollars  
26 calculated on a weekly basis generated by the child and received by the  
27 district. A school district shall not be required to enter into a  
28 contract that is longer than the remainder of the school year. A  
29 school district shall not be required to enter into or continue a  
30 contract if the child is no longer enrolled in the district;

31 (d) Be referred to a community truancy board, if available; or

32 (e) Submit to testing for the use of controlled substances or  
33 alcohol based on a determination that such testing is appropriate to  
34 the circumstances and behavior of the child and will facilitate the  
35 child's compliance with the mandatory attendance law.

36 (2) If the child fails to comply with the court order, the court  
37 may order the child to be (~~subject to detention, as provided in RCW~~  
38 7.21.030(2)(e)) placed in confinement for contempt, either in a



1 juvenile detention facility operated by or under a contract with a  
2 county or in a secure crisis residential center which is a separate,  
3 secure section of a juvenile detention facility, or may impose  
4 alternatives to ((detention)) confinement such as community service.  
5 Failure by a child to comply with an order issued under this subsection  
6 shall not be subject to detention for a period greater than that  
7 permitted pursuant to a civil contempt proceeding against a child under  
8 chapter 13.32A RCW. In no case shall a child in contempt be confined  
9 in a crisis residential center that is a free-standing facility outside  
10 a juvenile detention facility.

11 (3) Any parent violating any of the provisions of either RCW  
12 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than  
13 twenty-five dollars for each day of unexcused absence from school. It  
14 shall be a defense for a parent charged with violating RCW 28A.225.010  
15 to show that he or she exercised reasonable diligence in attempting to  
16 cause a child in his or her custody to attend school or that the  
17 child's school did not perform its duties as required in RCW  
18 28A.225.020. The court may order the parent to provide community  
19 service instead of imposing a fine. Any fine imposed pursuant to this  
20 section may be suspended upon the condition that a parent charged with  
21 violating RCW 28A.225.010 shall participate with the school and the  
22 child in a supervised plan for the child's attendance at school or upon  
23 condition that the parent attend a conference or conferences scheduled  
24 by a school for the purpose of analyzing the causes of a child's  
25 absence.

26 (4) If a child continues to be truant after entering into a court-  
27 approved order with the truancy board under RCW 28A.225.035, the  
28 juvenile court shall find the child in contempt, and the court may  
29 order the child to be subject to detention, as provided in RCW  
30 7.21.030(2)(e), or may impose alternatives to detention such as  
31 meaningful community service. Failure by a child to comply with an  
32 order issued under this subsection may not subject a child to detention  
33 for a period greater than that permitted under a civil contempt  
34 proceeding against a child under chapter 13.32A RCW.

35 (5) Subsections (1), (2), and (4) of this section shall not apply  
36 to a six or seven year-old child required to attend public school under  
37 RCW 28A.225.015.

1       **Sec. 7.** RCW 74.13.033 and 1995 c 312 s 62 are each amended to read  
2 as follows:

3       (1) If a resident of a center becomes by his or her behavior  
4 disruptive to the facility's program, such resident may be immediately  
5 removed to a separate area within the facility and counseled on an  
6 individual basis until such time as the child regains his or her  
7 composure. The department may set rules and regulations establishing  
8 additional procedures for dealing with severely disruptive children on  
9 the premises. A child confined in a secure crisis residential center  
10 which is a separate, secure section of a juvenile detention facility  
11 under RCW 13.32A.250(3) or 28A.225.090(2) may be moved to an available  
12 bed in a juvenile detention facility. In no case shall a child in  
13 contempt be confined in a crisis residential center that is a free-  
14 standing facility outside a juvenile detention facility.

15       (2) When the juvenile resides in this facility, all services deemed  
16 necessary to the juvenile's reentry to normal family life shall be made  
17 available to the juvenile as required by chapter 13.32A RCW. In  
18 assessing the child and providing these services, the facility staff  
19 shall:

20       (a) Interview the juvenile as soon as possible;

21       (b) Contact the juvenile's parents and arrange for a counseling  
22 interview with the juvenile and his or her parents as soon as possible;

23       (c) Conduct counseling interviews with the juvenile and his or her  
24 parents, to the end that resolution of the child/parent conflict is  
25 attained and the child is returned home as soon as possible;

26       (d) Provide additional crisis counseling as needed, to the end that  
27 placement of the child in the crisis residential center will be  
28 required for the shortest time possible, but not to exceed five  
29 consecutive days or, in the case of a child admitted by court order  
30 issued under RCW 13.32A.250(3) or 28A.225.090(2), seven consecutive  
31 days; and

32       (e) Convene, when appropriate, a multidisciplinary team.

33       (3) Based on the assessments done under subsection (2) of this  
34 section the facility staff may refer any child who, as the result of a  
35 mental or emotional disorder, or intoxication by alcohol or other  
36 drugs, is suicidal, seriously assaultive, or seriously destructive  
37 toward others, or otherwise similarly evidences an immediate need for  
38 emergency medical evaluation and possible care, for evaluation pursuant  
39 to chapter 71.34 RCW, to a mental health professional pursuant to

1 chapter 71.05 RCW, or to a chemical dependency specialist pursuant to  
2 chapter 70.96A RCW whenever such action is deemed appropriate and  
3 consistent with law.

4 (4) A juvenile taking unauthorized leave from a facility shall be  
5 apprehended and returned to it by law enforcement officers or other  
6 persons designated as having this authority as provided in RCW  
7 13.32A.050. If returned to the facility after having taken  
8 unauthorized leave for a period of more than twenty-four hours a  
9 juvenile shall be supervised by such a facility for a period, pursuant  
10 to this chapter, which, unless where otherwise provided, may not exceed  
11 five consecutive days on the premises. Costs of housing juveniles  
12 admitted to crisis residential centers shall be assumed by the  
13 department for a period not to exceed five consecutive days.

14 **Sec. 8.** RCW 74.13.034 and 1995 c 312 s 63 are each amended to read  
15 as follows:

16 (1) A child taken into custody and taken to a crisis residential  
17 center established pursuant to RCW 74.13.032 may, if the center is  
18 unable to provide appropriate treatment, supervision, and structure to  
19 the child, be taken at department expense to another crisis residential  
20 center, the nearest regional secure crisis residential center, or a  
21 secure facility with which it is collocated under RCW 74.13.032.  
22 Placement in both locations shall not exceed five consecutive days from  
23 the point of intake as provided in RCW 13.32A.130 or, in the case of a  
24 child admitted by court order issued under RCW 13.32A.250(3) or  
25 28A.225.090(2), seven consecutive days.

26 (2) A child taken into custody and taken to a crisis residential  
27 center established by this chapter may be placed physically by the  
28 department or the department's designee and, at departmental expense  
29 and approval, in a secure juvenile detention facility operated by the  
30 county in which the center is located for a maximum of forty-eight  
31 hours, including Saturdays, Sundays, and holidays, if the child has  
32 taken unauthorized leave from the center and the person in charge of  
33 the center determines that the center cannot provide supervision and  
34 structure adequate to ensure that the child will not again take  
35 unauthorized leave. Juveniles placed in such a facility pursuant to  
36 this section may not, to the extent possible, come in contact with  
37 alleged or convicted juvenile or adult offenders.

1 (3) Any child placed in secure detention pursuant to this section  
2 shall, during the period of confinement, be provided with appropriate  
3 treatment by the department or the department's designee, which shall  
4 include the services defined in RCW 74.13.033(2). If the child placed  
5 in secure detention is not returned home or if an alternative living  
6 arrangement agreeable to the parent and the child is not made within  
7 twenty-four hours after the child's admission, the child shall be taken  
8 at the department's expense to a crisis residential center. Placement  
9 in the crisis residential center or centers plus placement in juvenile  
10 detention shall not exceed five consecutive days from the point of  
11 intake as provided in RCW 13.32A.130 or, in the case of a child  
12 admitted by court order issued under RCW 13.32A.250(3) or  
13 28A.225.090(2), seven consecutive days.

14 (4) Juvenile detention facilities used pursuant to this section  
15 shall first be certified by the department to ensure that juveniles  
16 placed in the facility pursuant to this section are provided with  
17 living conditions suitable to the well-being of the child. Where space  
18 is available, juvenile courts, when certified by the department to do  
19 so, shall provide secure placement for juveniles pursuant to this  
20 section, at department expense.

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