
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-4601.1/02

ATTY/TYPIST: SCG:rmh

BRIEF DESCRIPTION:

2 SHB 2406 - S AMD TO HSC COMM AMD (S-4457.1/02)
3 By Senator Benton

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5 On page 5, after line 2 of the amendment, insert the following:

6 "Sec. 3. RCW 13.40.040 and 1999 c 167 s 2 are each amended to read
7 as follows:

8 (1) A juvenile may be taken into custody:

9 (a) Pursuant to a court order if a complaint is filed with the
10 court alleging, and the court finds probable cause to believe, that the
11 juvenile has committed an offense or has violated terms of a
12 disposition order or release order; or

13 (b) Without a court order, by a law enforcement officer if grounds
14 exist for the arrest of an adult in identical circumstances. Admission
15 to, and continued custody in, a court detention facility shall be
16 governed by subsection (2) of this section; or

17 (c) Pursuant to a court order that the juvenile be held as a
18 material witness; or

19 (d) Where the secretary or the secretary's designee has suspended
20 the parole of a juvenile offender.

21 (2) A juvenile may not be held in detention unless there is
22 probable cause to believe that:

23 (a) The juvenile has committed an offense or has violated the terms
24 of a disposition order; and

25 (i) The juvenile will likely fail to appear for further
26 proceedings; or

27 (ii) Detention is required to protect the juvenile from himself or
28 herself; or

29 (iii) The juvenile is a threat to community safety; or

30 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
31 interfere with the administration of justice; or

32 (v) The juvenile has committed a crime while another case was
33 pending; or

34 (b) The juvenile is a fugitive from justice; or

35 (c) The juvenile's parole has been suspended or modified; or

36 (d) The juvenile is a material witness.

1 (3) Notwithstanding subsection (2) of this section, a juvenile who
2 has been found guilty of one of the following offenses shall be
3 detained pending disposition: Rape in the first or second degree (RCW
4 9A.44.040 and 9A.44.050); rape of a child in the first, second, or
5 third degree (RCW 9A.44.073, 9A.44.076, and 9A.44.079); child
6 molestation in the first, second, or third degree (RCW 9A.44.083,
7 9A.44.086, and 9A.44.089); sexual misconduct with a minor in the first
8 or second degree (RCW 9A.44.093 and 9A.44.096); indecent liberties (RCW
9 9A.44.100); incest (RCW 9A.64.020); luring (RCW 9A.40.090); any class
10 A or B felony that is a sexually motivated offense as defined in RCW
11 9.94A.030; a felony violation of RCW 9.68A.090; or any offense that is,
12 under chapter 9A.28 RCW, a criminal attempt, solicitation, or
13 conspiracy to commit one of those offenses.

14 (4) Upon a finding that members of the community have threatened
15 the health of a juvenile taken into custody, at the juvenile's request
16 the court may order continued detention pending further order of the
17 court.

18 (~~(4)~~) (5) Except as provided in RCW 9.41.280, a juvenile detained
19 under this section may be released upon posting a probation bond set by
20 the court. The juvenile's parent or guardian may sign for the
21 probation bond. A court authorizing such a release shall issue an
22 order containing a statement of conditions imposed upon the juvenile
23 and shall set the date of his or her next court appearance. The court
24 shall advise the juvenile of any conditions specified in the order and
25 may at any time amend such an order in order to impose additional or
26 different conditions of release upon the juvenile or to return the
27 juvenile to custody for failing to conform to the conditions imposed.
28 In addition to requiring the juvenile to appear at the next court date,
29 the court may condition the probation bond on the juvenile's compliance
30 with conditions of release. The juvenile's parent or guardian may
31 notify the court that the juvenile has failed to conform to the
32 conditions of release or the provisions in the probation bond. If the
33 parent notifies the court of the juvenile's failure to comply with the
34 probation bond, the court shall notify the surety. As provided in the
35 terms of the bond, the surety shall provide notice to the court of the
36 offender's noncompliance. A juvenile may be released only to a
37 responsible adult or the department of social and health services.
38 Failure to appear on the date scheduled by the court pursuant to this
39 section shall constitute the crime of bail jumping.

1 **Sec. 4.** RCW 13.40.210 and 2001 c 137 s 2 and 2001 c 51 s 1 are
2 each reenacted and amended to read as follows:

3 (1)(a) The secretary shall set a release date for each juvenile
4 committed to its custody. The release date shall be within the
5 prescribed range to which a juvenile has been committed under RCW
6 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning
7 offenders the department determines are eligible for the juvenile
8 offender basic training camp program. Such dates shall be determined
9 prior to the expiration of sixty percent of a juvenile's minimum term
10 of confinement included within the prescribed range to which the
11 juvenile has been committed. The secretary shall release any juvenile
12 committed to the custody of the department within four calendar days
13 prior to the juvenile's release date or on the release date set under
14 this chapter. Days spent in the custody of the department shall be
15 tolled by any period of time during which a juvenile has absented
16 himself or herself from the department's supervision without the prior
17 approval of the secretary or the secretary's designee.

18 (b) For any juvenile found guilty of a felony sex offense, the
19 juvenile rehabilitation administration shall approve the offender's
20 residence and may not approve a residence location if the proposed
21 residence: (i) Includes a minor victim or child of similar age or
22 circumstance as a previous victim who the department determines may be
23 put at substantial risk of harm by the offender's residence in the
24 household; or (ii) is within close proximity of the current residence
25 of a victim, unless the whereabouts of the victim cannot be determined
26 or unless such a restriction would impede family reunification efforts
27 ordered by the court or directed by the department.

28 (c) Out-of-home placements made pursuant to this subsection are not
29 subject to the provisions of chapter 26.44 RCW, unless the child
30 otherwise meets the criteria of chapter 26.44 RCW.

31 (2) The secretary shall monitor the average daily population of the
32 state's juvenile residential facilities. When the secretary concludes
33 that in-residence population of residential facilities exceeds one
34 hundred five percent of the rated bed capacity specified in statute, or
35 in absence of such specification, as specified by the department in
36 rule, the secretary may recommend reductions to the governor. On
37 certification by the governor that the recommended reductions are
38 necessary, the secretary has authority to administratively release a
39 sufficient number of offenders to reduce in-residence population to one

1 hundred percent of rated bed capacity. The secretary shall release
2 those offenders who have served the greatest proportion of their
3 sentence. However, the secretary may deny release in a particular case
4 at the request of an offender, or if the secretary finds that there is
5 no responsible custodian, as determined by the department, to whom to
6 release the offender, or if the release of the offender would pose a
7 clear danger to society. The department shall notify the committing
8 court of the release at the time of release if any such early releases
9 have occurred as a result of excessive in-residence population. In no
10 event shall an offender adjudicated of a violent offense be granted
11 release under the provisions of this subsection.

12 (3)(a) Following the release of any juvenile under subsection (1)
13 of this section, the secretary may require the juvenile to comply with
14 a program of parole to be administered by the department in his or her
15 community which shall last no longer than eighteen months, except that
16 in the case of a juvenile sentenced for rape in the first or second
17 degree, rape of a child in the first or second degree, child
18 molestation in the first degree, or indecent liberties with forcible
19 compulsion, the period of parole shall be twenty-four months and, in
20 the discretion of the secretary, may be up to thirty-six months when
21 the secretary finds that an additional period of parole is necessary
22 and appropriate in the interests of public safety or to meet the
23 ongoing needs of the juvenile. A parole program is mandatory for
24 offenders released under subsection (2) of this section. The decision
25 to place an offender on parole shall be based on an assessment by the
26 department of the offender's risk for reoffending upon release. The
27 department shall prioritize available parole resources to provide
28 supervision and services to offenders at moderate to high risk for
29 reoffending.

30 (b) The secretary shall, for the period of parole, facilitate the
31 juvenile's reintegration into his or her community and to further this
32 goal shall require the juvenile to refrain from possessing a firearm or
33 using a deadly weapon and refrain from committing new offenses and may
34 require the juvenile to: (i) Undergo available medical, psychiatric,
35 drug and alcohol, sex offender, mental health, and other offense-
36 related treatment services; (ii) report as directed to a parole officer
37 and/or designee; (iii) pursue a course of study, vocational training,
38 or employment; (iv) notify the parole officer of the current address
39 where he or she resides; (v) be present at a particular address during

1 specified hours; (vi) remain within prescribed geographical boundaries;
2 (vii) submit to electronic monitoring; (viii) refrain from using
3 illegal drugs and alcohol, and submit to random urinalysis when
4 requested by the assigned parole officer; (ix) refrain from contact
5 with specific individuals or a specified class of individuals; (x) meet
6 other conditions determined by the parole officer to further enhance
7 the juvenile's reintegration into the community; (xi) pay any court-
8 ordered fines or restitution; and (xii) perform community service.
9 Community service for the purpose of this section means compulsory
10 service, without compensation, performed for the benefit of the
11 community by the offender. Community service may be performed through
12 public or private organizations or through work crews.

13 (c) The secretary may further require up to twenty-five percent of
14 the highest risk juvenile offenders who are placed on parole to
15 participate in an intensive supervision program. Offenders
16 participating in an intensive supervision program shall be required to
17 comply with all terms and conditions listed in (b) of this subsection
18 and shall also be required to comply with the following additional
19 terms and conditions: (i) Obey all laws and refrain from any conduct
20 that threatens public safety; (ii) report at least once a week to an
21 assigned community case manager; and (iii) meet all other requirements
22 imposed by the community case manager related to participating in the
23 intensive supervision program. As a part of the intensive supervision
24 program, the secretary may require day reporting.

25 (d) After termination of the parole period, the juvenile shall be
26 discharged from the department's supervision.

27 (4)(a) The department may also modify parole for violation thereof.
28 If, after affording a juvenile all of the due process rights to which
29 he or she would be entitled if the juvenile were an adult, the
30 secretary finds that a juvenile has violated a condition of his or her
31 parole, the secretary shall order one of the following which is
32 reasonably likely to effectuate the purpose of the parole and to
33 protect the public: (i) Continued supervision under the same
34 conditions previously imposed; (ii) intensified supervision with
35 increased reporting requirements; (iii) additional conditions of
36 supervision authorized by this chapter; (iv) except as provided in
37 (a)(v) and (vi) of this subsection, imposition of a period of
38 confinement not to exceed thirty days in a facility operated by or
39 pursuant to a contract with the state of Washington or any city or

1 county for a portion of each day or for a certain number of days each
2 week with the balance of the days or weeks spent under supervision; (v)
3 the secretary may order any of the conditions or may return the
4 offender to confinement for the remainder of the sentence range if the
5 offense for which the offender was sentenced is rape in the first or
6 second degree, rape of a child in the first or second degree, child
7 molestation in the first degree, indecent liberties with forcible
8 compulsion, or a sex offense that is also a serious violent offense as
9 defined by RCW 9.94A.030; and (vi) the secretary may order any of the
10 conditions or may return the offender to confinement for the remainder
11 of the sentence range if the youth has completed the basic training
12 camp program as described in RCW 13.40.320.

13 (b) If the department finds that any juvenile in a program of
14 parole has possessed a firearm or used a deadly weapon during the
15 program of parole, the department shall modify the parole under (a) of
16 this subsection and confine the juvenile for at least thirty days.
17 Confinement shall be in a facility operated by or pursuant to a
18 contract with the state or any county.

19 (5) A parole officer of the department of social and health
20 services shall have the power to arrest a juvenile under his or her
21 supervision on the same grounds as a law enforcement officer would be
22 authorized to arrest the person.

23 (6) If so requested and approved under chapter 13.06 RCW, the
24 secretary shall permit a county or group of counties to perform
25 functions under subsections (3) through (5) of this section.

26 **Sec. 5.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read
27 as follows:

28 (1) In making all discretionary decisions regarding release plans
29 for and supervision of sex offenders, the department shall set
30 priorities and make decisions based on an assessment of public safety
31 risks.

32 (2) The department shall, no later than September 1, 1996,
33 implement a policy governing the department's evaluation and approval
34 of release plans for sex offenders. The policy shall include, at a
35 minimum, a formal process by which victims, witnesses, and other
36 interested people may provide information and comments to the
37 department on potential safety risks to specific individuals or classes
38 of individuals posed by a specific sex offender. The department shall

1 make all reasonable efforts to publicize the availability of this
2 process through currently existing mechanisms and shall seek the
3 assistance of courts, prosecutors, law enforcement, and victims'
4 advocacy groups in doing so. Notice of an offender's proposed
5 residence shall be provided to all people registered to receive notice
6 of an offender's release under RCW 9.94A.612(2), except that in no case
7 may this notification requirement be construed to require an extension
8 of an offender's release date.

9 (3) For any offender convicted of a felony sex offense against a
10 minor victim after June 6, 1996, or a victim of any age on or after the
11 effective date of this act, the department shall not approve a
12 residence location if the proposed residence: (a) Includes a minor
13 victim or child of similar age or circumstance as a previous victim who
14 the department determines may be put at substantial risk of harm by the
15 offender's residence in the household; or (b) is within close proximity
16 of the current residence of a ((minor)) victim, unless the whereabouts
17 of the ((minor)) victim cannot be determined or unless such a
18 restriction would impede family reunification efforts ordered by the
19 court or directed by the department of social and health services. The
20 department is further authorized to reject a residence location if the
21 proposed residence is within close proximity to schools, child care
22 centers, playgrounds, or other grounds or facilities where children of
23 similar age or circumstance as a previous victim are present who the
24 department determines may be put at substantial risk of harm by the sex
25 offender's residence at that location.

26 (4) When the department requires supervised visitation as a term or
27 condition of a sex offender's community placement under RCW
28 9.94A.700(6), the department shall, prior to approving a supervisor,
29 consider the following: (a) The relationships between the proposed
30 supervisor, the offender, and the minor; (b) the proposed supervisor's
31 acknowledgment and understanding of the offender's prior criminal
32 conduct, general knowledge of the dynamics of child sexual abuse, and
33 willingness and ability to protect the minor from the potential risks
34 posed by contact with the offender; and (c) recommendations made by the
35 department of social and health services about the best interests of
36 the child.

37 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.09 RCW
38 to read as follows:

1 When more than four sex offenders subject to level two or level
2 three community notification live in the same building or within the
3 same city block and are under the supervision of the department for
4 terms of community custody, community placement, or community
5 supervision, the secretary shall, upon a request from the community or
6 from law enforcement, meet with the community.

7 The secretary shall provide community education and technical
8 assistance to the community in establishing an appropriate neighborhood
9 watch program. Such a meeting should reinforce the policies underlying
10 the community notification program established in RCW 4.24.550 and
11 shall emphasize that no neighborhood watch program may be used to
12 harass or intimidate any person.

13 The department shall, to the extent possible, incorporate the
14 features of other successful neighborhood watch programs into its
15 technical assistance."

16 Renumber the remaining section consecutively and correct any
17 internal references accordingly.

18 **SHB 2406** - S AMD TO HSC COMM AMD (S-4457.1/02)
19 By Senator Benton

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21 On page 5, line 13 of the title amendment, after "43.43.540" strike
22 the remainder of the title amendment and insert ", 13.40.040, and
23 72.09.340; reenacting and amending RCW 4.24.550 and 13.40.210; adding
24 a new section to chapter 72.09 RCW; and creating a new section."

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