
SUBSTITUTE HOUSE BILL 2298

State of Washington

62nd Legislature

2012 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Kagi, Goodman, Darneille, Orwall, Fitzgibbon, Appleton, Stanford, Dickerson, Jenkins, Ryu, Moscoso, Roberts, and Santos)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to the use of restraints on juveniles; amending RCW
2 13.32A.030; reenacting and amending RCW 13.32A.065; adding new sections
3 to chapter 13.40 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Many counties in Washington state use the
6 most restrictive restraints on juveniles who appear in court,
7 regardless of whether the juvenile has been charged with a criminal
8 offense or is before the court for a status offense. In most cases,
9 the most restrictive level of restraints is not necessary and very
10 damaging to the juvenile.

11 The policy of the state of Washington is to use the least
12 restrictive form of restraint for juveniles while protecting the safety
13 of the juvenile and the public. Therefore, restraints shall only be
14 used when necessary, based upon concerns regarding safety or risk of
15 flight.

16 **Sec. 2.** RCW 13.32A.030 and 2010 c 289 s 1 are each amended to read
17 as follows:

1 As used in this chapter the following terms have the meanings
2 indicated unless the context clearly requires otherwise:

3 (1) "Abuse or neglect" means the injury, sexual abuse, sexual
4 exploitation, negligent treatment, or maltreatment of a child by any
5 person under circumstances which indicate that the child's health,
6 welfare, and safety is harmed, excluding conduct permitted under RCW
7 9A.16.100. An abused child is a child who has been subjected to child
8 abuse or neglect as defined in this section.

9 (2) "Administrator" means the individual who has the daily
10 administrative responsibility of a crisis residential center, or his or
11 her designee.

12 (3) "At-risk youth" means a juvenile:

13 (a) Who is absent from home for at least seventy-two consecutive
14 hours without consent of his or her parent;

15 (b) Who is beyond the control of his or her parent such that the
16 child's behavior endangers the health, safety, or welfare of the child
17 or any other person; or

18 (c) Who has a substance abuse problem for which there are no
19 pending criminal charges related to the substance abuse.

20 (4) "Child," "juvenile," and "youth" mean any unemancipated
21 individual who is under the chronological age of eighteen years.

22 (5) "Child in need of services" means a juvenile:

23 (a) Who is beyond the control of his or her parent such that the
24 child's behavior endangers the health, safety, or welfare of the child
25 or other person;

26 (b) Who has been reported to law enforcement as absent without
27 consent for at least twenty-four consecutive hours on two or more
28 separate occasions from the home of either parent, a crisis residential
29 center, an out-of-home placement, or a court-ordered placement; and

30 (i) Has exhibited a serious substance abuse problem; or

31 (ii) Has exhibited behaviors that create a serious risk of harm to
32 the health, safety, or welfare of the child or any other person;

33 (c)(i) Who is in need of: (A) Necessary services, including food,
34 shelter, health care, clothing, or education; or (B) services designed
35 to maintain or reunite the family;

36 (ii) Who lacks access to, or has declined to utilize, these
37 services; and

1 (iii) Whose parents have evidenced continuing but unsuccessful
2 efforts to maintain the family structure or are unable or unwilling to
3 continue efforts to maintain the family structure; or

4 (d) Who is a "sexually exploited child".

5 (6) "Child in need of services petition" means a petition filed in
6 juvenile court by a parent, child, or the department seeking
7 adjudication of placement of the child.

8 (7) "Crisis residential center" means a secure or semi-secure
9 facility established pursuant to chapter 74.13 RCW.

10 (8) "Custodian" means the person or entity who has the legal right
11 to the custody of the child.

12 (9) "Department" means the department of social and health
13 services.

14 (10) "Extended family member" means an adult who is a grandparent,
15 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin
16 with whom the child has a relationship and is comfortable, and who is
17 willing and available to care for the child.

18 (11) "Guardian" means that person or agency that (a) has been
19 appointed as the guardian of a child in a legal proceeding other than
20 a proceeding under chapter 13.34 RCW, and (b) has the right to legal
21 custody of the child pursuant to such appointment. The term "guardian"
22 does not include a "dependency guardian" appointed pursuant to a
23 proceeding under chapter 13.34 RCW.

24 (12) "Multidisciplinary team" means a group formed to provide
25 assistance and support to a child who is an at-risk youth or a child in
26 need of services and his or her parent. The team shall include the
27 parent, a department case worker, a local government representative
28 when authorized by the local government, and when appropriate, members
29 from the mental health and substance abuse disciplines. The team may
30 also include, but is not limited to, the following persons: Educators,
31 law enforcement personnel, probation officers, employers, church
32 persons, tribal members, therapists, medical personnel, social service
33 providers, placement providers, and extended family members. The team
34 members shall be volunteers who do not receive compensation while
35 acting in a capacity as a team member, unless the member's employer
36 chooses to provide compensation or the member is a state employee.

37 (13) "Out-of-home placement" means a placement in a foster family
38 home or group care facility licensed pursuant to chapter 74.15 RCW or

1 placement in a home, other than that of the child's parent, guardian,
2 or legal custodian, not required to be licensed pursuant to chapter
3 74.15 RCW.

4 (14) "Parent" means the parent or parents who have the legal right
5 to custody of the child. "Parent" includes custodian or guardian.

6 (15) "Physical restraint" means the use of any bodily force or
7 physical intervention to control an offender or limit an offender's
8 freedom of movement in a way that does not involve a mechanical
9 restraint. Physical restraint does not include momentary periods of
10 minimal physical restriction by direct person to person contact,
11 without the aid of mechanical restraint, accomplished with limited
12 force and designed to:

13 (a) Prevent an offender from completing an act that would result in
14 potential bodily harm to self or others or damage property;

15 (b) Remove a disruptive offender who is unwilling to leave the area
16 voluntarily; or

17 (c) Guide an offender from one location to another.

18 (16) "Restraints" means anything used to control the movement of a
19 person's body or limbs and includes:

20 (a) Physical restraint; or

21 (b) Mechanical device including, but not limited to: Metal
22 handcuffs, plastic ties, ankle restraints, leather cuffs, other
23 hospital-type restraints, tasers, or batons.

24 (17) "Secure facility" means a crisis residential center, or
25 portion thereof, that has locking doors, locking windows, or a secured
26 perimeter, designed and operated to prevent a child from leaving
27 without permission of the facility staff.

28 ((+16+)) (18) "Semi-secure facility" means any facility, including
29 but not limited to crisis residential centers or specialized foster
30 family homes, operated in a manner to reasonably assure that youth
31 placed there will not run away. Pursuant to rules established by the
32 department, the facility administrator shall establish reasonable hours
33 for residents to come and go from the facility such that no residents
34 are free to come and go at all hours of the day and night. To prevent
35 residents from taking unreasonable actions, the facility administrator,
36 where appropriate, may condition a resident's leaving the facility upon
37 the resident being accompanied by the administrator or the
38 administrator's designee and the resident may be required to notify the

1 administrator or the administrator's designee of any intent to leave,
2 his or her intended destination, and the probable time of his or her
3 return to the center.

4 ~~((+17))~~ (19) "Sexually exploited child" means any person under the
5 age of eighteen who is a victim of the crime of commercial sex abuse of
6 a minor under RCW 9.68A.100, promoting commercial sexual abuse of a
7 minor under RCW 9.68A.101, or promoting travel for commercial sexual
8 abuse of a minor under RCW 9.68A.102.

9 ~~((+18))~~ (20) "Staff secure facility" means a structured group care
10 facility licensed under rules adopted by the department with a ratio of
11 at least one adult staff member to every two children.

12 ~~((+19))~~ (21) "Temporary out-of-home placement" means an out-of-
13 home placement of not more than fourteen days ordered by the court at
14 a fact-finding hearing on a child in need of services petition.

15 **Sec. 3.** RCW 13.32A.065 and 2000 c 162 s 12 and 2000 c 123 s 8 are
16 each reenacted and amended to read as follows:

17 (1) If a child is placed in detention under RCW 13.32A.050(1)(d),
18 the court shall hold a detention review hearing within twenty-four
19 hours, excluding Saturdays, Sundays, and holidays. The court shall
20 release the child after twenty-four hours, excluding Saturdays,
21 Sundays, and holidays, unless:

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

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

27 (2) If the court orders the child to remain in detention, the court
28 shall set the matter for a hearing on contempt within seventy-two
29 hours, excluding Saturdays, Sundays, and holidays.

30 (3) If a child is detained for a status offense pursuant to this
31 section, the use of restraints on the child is not permitted during his
32 or her appearance at the hearing set by the court unless a
33 determination has been made pursuant to subsection (4) of this section.

34 (4) The use of restraints on a child who has been detained and who
35 is appearing in court during his or her detention is permitted only if
36 the child is a flight risk or has exhibited violent behavior.

1 Any time restraints are used pursuant to this subsection, the
2 restraints must be the least restrictive available and the most
3 reasonable under the circumstances.

4 NEW SECTION. Sec. 4. A new section is added to chapter 13.40 RCW
5 to read as follows:

6 (1) Except as provided in RCW 13.32A.065 and subsection (3) of this
7 section, restraints may not be used on any youth held in an institution
8 or detention facility covered by this chapter during his or her
9 appearance at court.

10 (2) Any time restraints are used pursuant to subsection (3) of this
11 section, the restraints must be the least restrictive available and the
12 most reasonable under the circumstances.

13 (3)(a) The use of restraints on a youth is permitted while he or
14 she is within a courtroom for the purpose of attending a court
15 proceeding only if the youth is in court for a criminal proceeding and
16 the court makes an individualized determination that such restraints
17 are necessary to prevent the youth from escaping or from injuring
18 himself or herself, detention or court personnel, or others.

19 (b) The use of restraints is permitted during transportation if
20 detention personnel determine that the circumstances present a risk of
21 escape or of injury to the youth or others.

22 (4) If restraint of a youth is permitted under subsection (3) of
23 this section, the employee of the court, institution, or detention
24 facility who determines the type of restraints to be used must document
25 in writing the kind of restraints used and the reasons those restraints
26 were considered the least restrictive available and the most reasonable
27 under the circumstances.

28 NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW
29 to read as follows:

30 The director of the juvenile detention facility covered by this
31 chapter shall provide an informational packet about the requirements of
32 this act to all staff who are involved in transporting youth and to
33 other staff as appropriate. The informational packet shall be
34 developed as provided in section 6 of this act.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.40 RCW
2 to read as follows:

3 The Washington association of sheriffs and police chiefs, the
4 criminal justice training commission, and the administrative office of
5 the courts shall jointly develop the informational packet on the
6 requirements of this act. The packet shall be ready for distribution
7 no later than September 1, 2012.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.40 RCW
9 to read as follows:

10 No civil liability may be imposed by any court on the county or its
11 employees under this act except upon proof of gross negligence.

--- END ---