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**SENATE BILL 5613**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Darneille, Kuderer, and Saldaña

AN ACT Relating to confinement in juvenile rehabilitation facilities for juveniles convicted in adult court; amending RCW 72.01.410; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature recognizes state and national efforts to reform policies that incarcerate youth in the adult criminal justice system.

The legislature acknowledges that transferring youth to the adult criminal justice system is not effective in reducing future criminal behavior. Youth incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities.

The legislature intends to enhance community safety by emphasizing rehabilitation of juveniles convicted under the adult criminal justice system. Juveniles adjudicated as adults shall be served and housed within the facilities of the juvenile rehabilitation administration up until their twenty-fifth birthday but shall be released earlier if their sentence ends prior to that birthday. This emphasis on rehabilitation up to age twenty-five reflects similar programming in other states, which has significantly reduced recidivism of juveniles confined in adult correctional facilities.

**Sec.**  RCW 72.01.410 and 2015 c 156 s 2 are each amended to read as follows:

(1) Whenever any child under the age of eighteen is convicted as an adult in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement, that child shall be ((~~initially~~)) placed in a facility operated by the department of ((~~corrections~~)) social and health services to determine the child's earned release date.

(a) ((~~If the earned release date is prior to the child's twenty-first birthday, the department of corrections shall transfer the child to the custody of the department of social and health services, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child completes the ordered term of confinement or arrives at the age of twenty-one years.~~

~~(i)~~)) While in the custody of the department of social and health services, the ((~~child~~)) individual must have the same treatment, housing options, transfer, and access to program resources as any other ((~~child~~)) individual committed directly to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Treatment, placement, and program decisions shall be at the sole discretion of the department of social and health services. The ((~~youth~~)) individual shall only be transferred ((~~back~~)) to the custody of the department of corrections with the approval of the department of social and health services or when the ((~~child~~)) individual reaches the age of ((~~twenty-one~~)) twenty-five.

((~~(ii)~~)) (b) If the ((~~child's~~)) individual's sentence includes a term of community custody, the department of social and health services ((~~shall not~~)) is required to consult the department of corrections prior to the individual's release ((~~the child~~)) to community custody ((~~until the department of corrections has approved the child's release plan~~)) pursuant to RCW 9.94A.729(5)(b). If ((~~a child~~)) an individual is held past his or her earned release date pending release plan approval, the department of social and health services shall retain custody until a plan is approved or the ((~~child~~)) individual completes the ordered term of confinement prior to age ((~~twenty-one~~)) twenty-five.

((~~(iii)~~)) (c) If the department of social and health services determines that retaining custody of the ((~~child~~)) individual presents a significant safety risk to the individual himself or herself or to other individuals in the juvenile facility, the ((~~child~~)) individual may be ((~~returned~~)) transferred to the custody of the department of corrections.

((~~(b)~~)) (d) If the ((~~child's~~)) individual's earned release date is on or after the ((~~child's twenty-first~~)) individual's twenty-fifth birthday, the ((~~department of corrections shall, with the consent of the~~)) secretary of social and health services((~~, transfer~~)) shall retain the ((~~child to~~)) individual in a facility or institution operated by the department of social and health services with the consent of the department of corrections. ((~~Despite the transfer, the department of corrections retains authority over custody decisions and must approve any leave from the facility.~~)) When the ((~~child~~)) individual turns age ((~~twenty-one~~)) twenty-five, he or she must be transferred ((~~back~~)) to the department of corrections unless there are six months or less remaining on the individual's term of confinement, in which case the individual may remain at a department of social and health services facility to serve the remaining term of confinement. The department of social and health services has all routine and day-to-day operations authority for the ((~~child~~)) individual while in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, an offender under the age of eighteen who is ((~~convicted in adult criminal court and who is committed to a term of confinement at~~)) transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from offenders eighteen years of age or older, until the offender reaches the age of eighteen.

(b) An offender who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for offenders under the age of eighteen if the secretary of corrections determines that: (i) The offender's needs and the ((~~correctional~~)) rehabilitation goals for the offender could continue to be better met by the programs and housing environment that is separate from offenders eighteen years of age and older; and (ii) the programs or housing environment for offenders under the age of eighteen will not be substantially affected by the continued placement of the offender in that environment. The offender may remain placed in a housing unit for offenders under the age of eighteen until such time as the secretary of corrections determines that the offender's needs and ((~~correctional~~)) rehabilitation goals are no longer better met in that environment but in no case past the offender's ((~~twenty-first~~)) twenty-fifth birthday.

(c) An offender transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

NEW SECTION. **Sec.**  The Washington state institute for public policy shall assess the impact of this act on community safety and youth rehabilitation and submit a report to the governor and the appropriate committees of the legislature by December 1, 2019.

NEW SECTION. **Sec.**  This act applies prospectively only and not retroactively. This act applies only to individuals who are under age eighteen at the time of conviction, who are convicted as an adult in the courts of this state of a crime amounting to a felony, and who are committed for a term of confinement on or after the effective date of this section.

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