

SSB 5596 - H COMM AMD

By Committee on Early Learning & Human Services

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that it is a goal  
4 of our state to divert juveniles who have committed status offenses,  
5 behaviors that are prohibited under law only because of an  
6 individual's status as a minor, away from the juvenile justice system  
7 because a stay in detention is a predictive factor for future  
8 criminal justice system involvement. The legislature finds that  
9 Washington has been using the valid court order exception of the  
10 juvenile justice and delinquency prevention act, a loophole in  
11 federal law allowing judges to detain status offenders for disobeying  
12 court orders, more than any other state in the country. The  
13 legislature finds that use of the valid court order exception to  
14 detain youth for acts like truancy, breaking curfew, or running away  
15 from home is counterproductive and may worsen outcomes for at-risk  
16 youth. The legislature further finds that these youth should not be  
17 confined with or treated with the same interventions as criminal  
18 offenders. The legislature finds that community-based interventions  
19 are more effective at addressing underlying causes of status offenses  
20 than detention. Finally, the legislature finds that community-based  
21 interventions can reduce court caseloads and lower system costs.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.21 RCW  
23 to read as follows:

24 (1) It is the policy of the state of Washington to entirely phase  
25 out the use of juvenile detention as a remedy for contempt of a valid  
26 court order by July 1, 2021. After this date, no youth may be  
27 committed to juvenile detention as a contempt sanction under chapter  
28 13.32A, 13.34, or 28A.225 RCW, nor may a warrant be issued under  
29 these chapters for failure to appear at a court hearing that requires  
30 commitment of a youth to juvenile detention.

1 (2) Until July 1, 2021, any youth committed to juvenile detention  
2 as a sanction for contempt under chapter 13.32A, 13.34, or 28A.225  
3 RCW, or for failure to appear at a court hearing under these  
4 chapters, must be detained in such a manner so that no direct  
5 communication or physical contact may be made between the youth and  
6 any youth who is detained to juvenile detention pursuant to a  
7 violation of criminal law.

8 **Sec. 3.** RCW 7.21.030 and 2001 c 260 s 6 are each amended to read  
9 as follows:

10 (1) The court may initiate a proceeding to impose a remedial  
11 sanction on its own motion or on the motion of a person aggrieved by  
12 a contempt of court in the proceeding to which the contempt is  
13 related. Except as provided in RCW 7.21.050, the court, after notice  
14 and hearing, may impose a remedial sanction authorized by this  
15 chapter.

16 (2) If the court finds that the person has failed or refused to  
17 perform an act that is yet within the person's power to perform, the  
18 court may find the person in contempt of court and impose one or more  
19 of the following remedial sanctions:

20 (a) Imprisonment if the contempt of court is of a type defined in  
21 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so  
22 long as it serves a coercive purpose.

23 (b) A forfeiture not to exceed two thousand dollars for each day  
24 the contempt of court continues.

25 (c) An order designed to ensure compliance with a prior order of  
26 the court.

27 (d) Any other remedial sanction other than the sanctions  
28 specified in (a) through (c) of this subsection if the court  
29 expressly finds that those sanctions would be ineffectual to  
30 terminate a continuing contempt of court.

31 (e) In cases under chapters 13.32A(~~(7)~~) and 13.34(~~(7) and~~  
32 ~~28A.225~~) RCW, commitment to juvenile detention for a period of time  
33 not to exceed seven days. This sanction may be imposed in addition  
34 to, or as an alternative to, any other remedial sanction authorized  
35 by this chapter. This remedy is specifically determined to be a  
36 remedial sanction.

37 (3) The court may, in addition to the remedial sanctions set  
38 forth in subsection (2) of this section, order a person found in  
39 contempt of court to pay a party for any losses suffered by the party

1 as a result of the contempt and any costs incurred in connection with  
2 the contempt proceeding, including reasonable attorney's fees.

3 (4) If the court finds that a person under the age of eighteen  
4 years has willfully disobeyed the terms of an order issued under  
5 chapter 10.14 RCW, the court may find the person in contempt of court  
6 and may, as a sole sanction for such contempt, commit the person to  
7 juvenile detention for a period of time not to exceed seven days.

8 **Sec. 4.** RCW 7.21.030 and 2001 c 260 s 6 are each amended to read  
9 as follows:

10 (1) The court may initiate a proceeding to impose a remedial  
11 sanction on its own motion or on the motion of a person aggrieved by  
12 a contempt of court in the proceeding to which the contempt is  
13 related. Except as provided in RCW 7.21.050, the court, after notice  
14 and hearing, may impose a remedial sanction authorized by this  
15 chapter.

16 (2) If the court finds that the person has failed or refused to  
17 perform an act that is yet within the person's power to perform, the  
18 court may find the person in contempt of court and impose one or more  
19 of the following remedial sanctions:

20 (a) Imprisonment if the contempt of court is of a type defined in  
21 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so  
22 long as it serves a coercive purpose.

23 (b) A forfeiture not to exceed two thousand dollars for each day  
24 the contempt of court continues.

25 (c) An order designed to ensure compliance with a prior order of  
26 the court.

27 (d) Any other remedial sanction other than the sanctions  
28 specified in (a) through (c) of this subsection if the court  
29 expressly finds that those sanctions would be ineffectual to  
30 terminate a continuing contempt of court.

31 ~~((e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW,~~  
32 ~~commitment to juvenile detention for a period of time not to exceed~~  
33 ~~seven days. This sanction may be imposed in addition to, or as an~~  
34 ~~alternative to, any other remedial sanction authorized by this~~  
35 ~~chapter. This remedy is specifically determined to be a remedial~~  
36 ~~sanction.))~~

37 (3) The court may, in addition to the remedial sanctions set  
38 forth in subsection (2) of this section, order a person found in  
39 contempt of court to pay a party for any losses suffered by the party

1 as a result of the contempt and any costs incurred in connection with  
2 the contempt proceeding, including reasonable attorney's fees.

3 (4) If the court finds that a person under the age of eighteen  
4 years has willfully disobeyed the terms of an order issued under  
5 chapter 10.14 RCW, the court may find the person in contempt of court  
6 and may, as a sole sanction for such contempt, commit the person to  
7 juvenile detention for a period of time not to exceed seven days.

8 **Sec. 5.** RCW 13.32A.250 and 2000 c 162 s 14 are each amended to  
9 read as follows:

10 (1) In all child in need of services proceedings and at-risk  
11 youth proceedings, the court shall verbally notify the parents and  
12 the child of the possibility of a finding of contempt for failure to  
13 comply with the terms of a court order entered pursuant to this  
14 chapter. Except as otherwise provided in this section, the court  
15 shall treat the parents and the child equally for the purposes of  
16 applying contempt of court processes and penalties under this  
17 section.

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

22 (3) The court may impose remedial sanctions including a fine of  
23 up to one hundred dollars and confinement for up to seven days, or  
24 both for contempt of court under this section. A child may not be  
25 placed in confinement as a remedial sanction under this section.

26 ~~(4) ((A child placed in confinement for contempt under this~~  
27 ~~section shall be placed in confinement only in a secure juvenile~~  
28 ~~detention facility operated by or pursuant to a contract with a~~  
29 ~~county.~~

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

34 ~~((6) Whenever the court finds probable cause to believe, based~~  
35 ~~upon consideration of a motion for contempt and the information set~~  
36 ~~forth in a supporting declaration, that a child has violated a~~  
37 ~~placement order entered under this chapter, the court may issue an~~  
38 ~~order directing law enforcement to pick up and take the child to~~  
39 ~~detention. The order may be entered ex parte without prior notice to~~

1 ~~the child or other parties. Following the child's admission to~~  
2 ~~detention, a detention review hearing must be held in accordance with~~  
3 ~~RCW 13.32A.065.))~~

4 **Sec. 6.** RCW 13.34.165 and 2000 c 122 s 21 are each amended to  
5 read as follows:

6 ~~((1) Failure by a party to comply with an order entered under~~  
7 ~~this chapter is civil contempt of court as provided in RCW~~  
8 ~~7.21.030(2)(e).~~

9 ~~(2) The maximum term of confinement that may be imposed as a~~  
10 ~~remedial sanction for contempt of court under this section is~~  
11 ~~confinement for up to seven days.~~

12 ~~(3) A child held for contempt under this section shall be~~  
13 ~~confined only in a secure juvenile detention facility operated by or~~  
14 ~~pursuant to a contract with a county.~~

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

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

28 **Sec. 7.** RCW 28A.225.090 and 2017 c 291 s 5 are each amended to  
29 read as follows:

30 (1) A court may order a child subject to a petition under RCW  
31 28A.225.035 to do one or more of the following:

32 (a) Attend the child's current school, and set forth minimum  
33 attendance requirements, which shall not consider a suspension day as  
34 an unexcused absence;

35 (b) If there is space available and the program can provide  
36 educational services appropriate for the child, order the child to  
37 attend another public school, an alternative education program,

1 center, a skill center, dropout prevention program, or another public  
2 educational program;

3 (c) Attend a private nonsectarian school or program including an  
4 education center. Before ordering a child to attend an approved or  
5 certified private nonsectarian school or program, the court shall:

6 (i) Consider the public and private programs available; (ii) find  
7 that placement is in the best interest of the child; and (iii) find  
8 that the private school or program is willing to accept the child and  
9 will not charge any fees in addition to those established by contract  
10 with the student's school district. If the court orders the child to  
11 enroll in a private school or program, the child's school district  
12 shall contract with the school or program to provide educational  
13 services for the child. The school district shall not be required to  
14 contract for a weekly rate that exceeds the state general  
15 apportionment dollars calculated on a weekly basis generated by the  
16 child and received by the district. A school district shall not be  
17 required to enter into a contract that is longer than the remainder  
18 of the school year. A school district shall not be required to enter  
19 into or continue a contract if the child is no longer enrolled in the  
20 district;

21 (d) Submit to a substance abuse assessment if the court finds on  
22 the record that such assessment is appropriate to the circumstances  
23 and behavior of the child and will facilitate the child's compliance  
24 with the mandatory attendance law and, if any assessment, including a  
25 urinalysis test ordered under this subsection indicates the use of  
26 controlled substances or alcohol, order the minor to abstain from the  
27 unlawful consumption of controlled substances or alcohol and adhere  
28 to the recommendations of the substance abuse assessment at no  
29 expense to the school; or

30 (e) Submit to a mental health evaluation or other diagnostic  
31 evaluation and adhere to the recommendations of the drug assessment,  
32 at no expense to the school, if the court finds on the court records  
33 that such evaluation is appropriate to the circumstances and behavior  
34 of the child, and will facilitate the child's compliance with the  
35 mandatory attendance law.

36 (2)((+a)) If the child fails to comply with the court order, the  
37 court may impose:

38 ((+i)) (a) Community restitution;

39 ((+ii)) (b) Nonresidential programs with intensive wraparound  
40 services;

1       ~~((iii))~~ (c) A requirement that the child meet with a mentor for  
2 a specified number of times; or

3       ~~((iv))~~ (d) Other services and interventions that the court  
4 deems appropriate.

5       ~~((b) If the child continues to fail to comply with the court  
6 order and the court makes a finding that other measures to secure  
7 compliance have been tried but have been unsuccessful and no less  
8 restrictive alternative is available, the court may order the child  
9 to be subject to detention, as provided in RCW 7.21.030(2)(e).  
10 Failure by a child to comply with an order issued under this  
11 subsection shall not be subject to detention for a period greater  
12 than that permitted pursuant to a civil contempt proceeding against a  
13 child under chapter 13.32A RCW. Detention ordered under this  
14 subsection may be for no longer than seven days. Detention ordered  
15 under this subsection shall preferably be served at a secure crisis  
16 residential center close to the child's home rather than in a  
17 juvenile detention facility. A warrant of arrest for a child under  
18 this subsection may not be served on a child inside of school during  
19 school hours in a location where other students are present.))~~

20       (3) Any parent violating any of the provisions of either RCW  
21 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than  
22 twenty-five dollars for each day of unexcused absence from school.  
23 The court shall remit fifty percent of the fine collected under this  
24 section to the child's school district. It shall be a defense for a  
25 parent charged with violating RCW 28A.225.010 to show that he or she  
26 exercised reasonable diligence in attempting to cause a child in his  
27 or her custody to attend school or that the child's school did not  
28 perform its duties as required in RCW 28A.225.020. The court may  
29 order the parent to provide community restitution instead of imposing  
30 a fine. Any fine imposed pursuant to this section may be suspended  
31 upon the condition that a parent charged with violating RCW  
32 28A.225.010 shall participate with the school and the child in a  
33 supervised plan for the child's attendance at school or upon  
34 condition that the parent attend a conference or conferences  
35 scheduled by a school for the purpose of analyzing the causes of a  
36 child's absence.

37       (4) If a child continues to be truant after entering into a  
38 court-approved order with the truancy board under RCW 28A.225.035,  
39 the juvenile court shall find the child in contempt, and the court  
40 may ~~((order the child to be subject to detention, as provided in RCW~~

1 ~~7.21.030(2)(c), or may)) impose alternatives to detention ((such as~~  
2 ~~meaningful community restitution. Failure by a child to comply with~~  
3 ~~an order issued under this subsection may not subject a child to~~  
4 ~~detention for a period greater than that permitted under a civil~~  
5 ~~contempt proceeding against a child under chapter 13.32A RCW))~~  
6 consistent with best practice models for reengagement with school.

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

10 **Sec. 8.** RCW 43.185C.260 and 2017 c 277 s 4 are each amended to  
11 read as follows:

12 (1) A law enforcement officer shall take a child into custody:

13 (a) If a law enforcement agency has been contacted by the parent  
14 of the child that the child is absent from parental custody without  
15 consent; or

16 (b) If a law enforcement officer reasonably believes, considering  
17 the child's age, the location, and the time of day, that a child is  
18 in circumstances which constitute a danger to the child's safety or  
19 that a child is violating a local curfew ordinance; or

20 (c) If an agency legally charged with the supervision of a child  
21 has notified a law enforcement agency that the child has run away  
22 from placement(~~;~~ ~~or~~

23 ~~(d) If a law enforcement agency has been notified by the juvenile~~  
24 ~~court that the court finds probable cause exists to believe that the~~  
25 ~~child has violated a court placement order issued under this chapter~~  
26 ~~or chapter 13.34 RCW or that the court has issued an order for law~~  
27 ~~enforcement pick-up of the child under this chapter or chapter 13.34~~  
28 ~~RCW)).~~

29 (2) Law enforcement custody shall not extend beyond the amount of  
30 time reasonably necessary to transport the child to a destination  
31 authorized by law and to place the child at that destination. Law  
32 enforcement custody continues until the law enforcement officer  
33 transfers custody to a person, agency, or other authorized entity  
34 under this chapter, or releases the child because no placement is  
35 available. Transfer of custody is not complete unless the person,  
36 agency, or entity to whom the child is released agrees to accept  
37 custody.

38 (3) If a law enforcement officer takes a child into custody  
39 pursuant to either subsection (1)(a) or (b) of this section and



1 transports the child to a crisis residential center, the officer  
2 shall, within twenty-four hours of delivering the child to the  
3 center, provide to the center a written report detailing the reasons  
4 the officer took the child into custody. The center shall provide the  
5 department of social and health services with a copy of the officer's  
6 report if the youth is in the care of or receiving services from the  
7 department of social and health services children's administration.

8 (4) If the law enforcement officer who initially takes the  
9 juvenile into custody or the staff of the crisis residential center  
10 have reasonable cause to believe that the child is absent from home  
11 because he or she is abused or neglected, a report shall be made  
12 immediately to the department of social and health services.

13 (5) Nothing in this section affects the authority of any  
14 political subdivision to make regulations concerning the conduct of  
15 minors in public places by ordinance or other local law.

16 (6) If a law enforcement officer has a reasonable suspicion that  
17 a child is being unlawfully harbored in violation of RCW 13.32A.080,  
18 the officer shall remove the child from the custody of the person  
19 harboring the child and shall transport the child to one of the  
20 locations specified in RCW 43.185C.265.

21 (7) No child may be placed in a secure facility except as  
22 provided in this chapter.

23 NEW SECTION. **Sec. 9.** (1) The department of children, youth, and  
24 families shall conduct a study, jointly with the office of homeless  
25 youth prevention and protection programs within the department of  
26 commerce, on the public system response to families and youth in  
27 crisis who are seeking services to address family conflict in the  
28 absence of child abuse and neglect.

29 (2) In conducting the study required under this section, the  
30 department and the office shall involve stakeholders involved in  
31 advocating and providing services to truants and at-risk youth, and  
32 shall consult with local jurisdictions, the Washington administrative  
33 office of the courts, and other entities as appropriate. The study  
34 shall review the utilization of existing resources such as secure  
35 crisis residential centers, crisis residential centers, and HOPE beds  
36 and make recommendations to assure effective use or redeployment of  
37 these resources.

38 (3) The department and office shall develop recommendations to  
39 improve the delivery of services to youth and families in conflict

1 which shall include a plan to provide community-based early  
2 intervention services as well as intensive interventions for families  
3 and youth facing crisis so severe that a youth cannot continue to  
4 reside in the home or is at risk of experiencing homelessness.  
5 Recommendations may include changes to family reconciliation  
6 services, and revisions to the at-risk youth and child in need of  
7 services petition processes, including consideration of a combined  
8 family in need of services petition process or a civil citation  
9 process.

10 (4) The department and the office shall jointly submit  
11 recommendations required by this section to the governor and the  
12 appropriate legislative committees no later than December 15, 2018.

13 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
14 each repealed:

15 (1) RCW 43.185C.270 (Youth services—Officer taking child into  
16 custody—Placing in detention—Detention review hearing—Hearing on  
17 contempt) and 2015 c 69 s 15; and

18 (2) 1998 c 296 s 35 (uncodified).

19 NEW SECTION. **Sec. 11.** (1) Sections 3 and 7 of this act take  
20 effect July 1, 2019.

21 (2) Sections 4, 5, 8, and 10 of this act take effect July 1,  
22 2021."

23 Correct the title.

EFFECT: (1) Specifies that the elimination of detention as a  
remedial sanction for truancy contempt of court proceedings is  
effective July 1, 2019.

(2) Delays the elimination of detention as a remedial sanction  
for At-Risk Youth, Child in Need of Services, and Dependency  
proceedings until July 1, 2021.

(3) Requires that the Department of Children, Youth, and Families  
conduct a study, jointly with the office of homeless youth prevention  
and protection programs within the department of commerce, on the  
public system response to families and youth in crisis who are  
seeking services to address family conflict in the absence of child  
abuse and neglect. The department and the office must submit  
recommendations related to this study to the Governor and Legislature  
by December 30, 2018.

(4) Specifies that the phase out of the use of detention for  
status offenses will happen by July 1, 2021, instead of July 1, 2020,  
to be consistent with the other provisions of the bill.

(5) Makes technical changes.

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