

HOUSE BILL REPORT

SSB 6112

As Reported by House Committee On:
Human Services & Early Learning

Title: An act relating to youth solitary confinement.

Brief Description: Concerning youth solitary confinement.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Wilson, C., Darneille, Nguyen, Cleveland, Das, Frockt, Hasegawa, Hunt, Kuderer, Lovelett, Mullet, Pedersen, Randall, Salomon, Wellman, Carlyle and Saldaña; by request of Attorney General).

Brief History:

Committee Activity:

Human Services & Early Learning: 2/26/20, 2/27/20 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Prohibits the use of juvenile solitary confinement in juvenile detention and juvenile rehabilitation institutions.
- Limits the use of juvenile room confinement or isolation to no more than four hours in any 24-hour period except in limited circumstances.
- Requires the Department of Children, Youth, and Families (DCYF) to adopt a model policy regarding the use of juvenile room confinement and isolation by July 1, 2021, and detention facilities or institutions to either adopt or indicate why they are not adopting this policy by December 1, 2021.
- Requires the DCYF to compile, on a monthly basis until November 1, 2022, certain information regarding juveniles confined in all juvenile rehabilitation institutions and facilities and county detention facilities who are receiving isolation or room confinement.
- Prohibits a juvenile who is subject to adult court jurisdiction from being held in an adult jail or holding facility for a period exceeding 24 hours excluding weekends and holidays, unless a court finds that it is in the interest of justice.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: Do pass as amended. Signed by 9 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; Goodman, Griffey, Kilduff, Lovick and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives Dent, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Klippert.

Minority Report: Without recommendation. Signed by 1 member: Representative Corry.

Staff: Luke Wickham (786-7146).

Background:

Juvenile Rehabilitation Institutions and County Detention Facilities.

The Department of Children, Youth, and Families (DCYF) operates three juvenile institutions for juveniles convicted of crimes and sentenced to more than 30 days of confinement. Echo Glen Children's Center in Snoqualmie serves younger male offenders and female offenders. Green Hill School in Chehalis serves older male offenders. Naselle Youth Camp in Naselle provides services to male offenders and offers a forestry work program.

Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility. Counties with more than 50,000 inhabitants are required to provide and maintain a juvenile detention facility, while counties with less inhabitants may provide and maintain such a facility.

A consortium of counties in Eastern Washington contract with Martin Hall Juvenile Detention Facility (Martin Hall) in Medical Lake for juvenile detention services.

Juvenile Rehabilitation Policy Regarding Isolation and Room Confinement.

On November 1, 2019, the DCYF updated its policy regarding isolation and room confinement. According to this policy, room confinement and isolation cannot be used as a punishment, but can only be used:

- as a time-limited response to specific behavior;
- to allow youth to regain emotional and behavioral control; and
- for the least amount of time necessary.

Room confinement is defined as any instance when a youth is separated from the youth population and placed in a room for 15 minutes or longer, which may occur to:

- protect other youth, staff, or property;
- give youth time to cool off; or
- protect the youth.

Isolation is a subcategory of confinement occurring in a room other than the one assigned for sleeping.

Youth receiving room confinement in institutions must be visually checked at least every 15 minutes on a random schedule, and this must be documented.

Youth receiving room confinement or isolation must have formal reviews every two hours to encourage the youth to return to the general programming and determine if they are committed to safety and emotionally regulated enough to return to programming.

Youth receiving room confinement or isolation must be provided an opportunity for:

- a daily bath or shower;
- hourly access to a toilet and sink;
- medical and mental health evaluations; and
- large muscle activity.

Summary of Amended Bill:

The term "juvenile solitary confinement," defined as involuntarily separating a youth from the youth population and placing the youth in a room other than the room assigned for sleeping for longer than 15 minutes, is prohibited in county detention facilities and juvenile rehabilitation institutions.

Juvenile institutions and county detention facilities must limit total isolation and room confinement of a juvenile to no more than four hours in any 24-hour period, except when:

- the reason for isolation and details regarding isolation are documented;
- an individualized plan is developed to reintegrate the juvenile to the general population; and
- the institution or facility superintendent provides documented authorization every four hours.

Placing pregnant juveniles in isolation is prohibited. Isolation is defined as confinement that occurs:

- when a youth is separated from the youth population and placed in a room for longer than 15 minutes for the purpose of discipline, behavior modification, or due to an imminent threat to the safety of the youth or others; and
- in a room other than the room assigned to the youth for sleeping.

If the total isolation or room confinement exceeds 24 hours, the Secretary of the DCYF must provide documented authorization.

Room confinement is defined as a juvenile separated from the youth population and placed in a room or cell that the juvenile is assigned to for sleeping, other than during normal sleeping hours, but does not include time a youth requests to spend in his or her room.

Juvenile institutions and county detention facilities may use isolation:

- to prevent imminent harm based on the juvenile's behavior;
- when awaiting transfer of facilities;
- overnight due to disruptive behavior that disrupts other residents; or

- when necessary to respond to an escape attempt.

Juvenile institutions and county detention facilities may use room confinement when:

- there is a repeated violation of facility or living unit rules;
- there is a refusal to follow staff directives;
- it is necessary to prevent behavior that causes disruption of the detention facility or institution.

Staff from institutions or facilities must remove the juvenile from isolation and room confinement when:

- the purpose of the confinement is met;
- the desired behavior is evident; or
- the juvenile has been evaluated by a professional who has determined the juvenile is no longer an imminent risk to self, staff, or the general population.

Staff from institutions or facilities must visually check every juvenile placed in isolation or room confinement.

When an institution or facility places a juvenile in isolation or room confinement, the juvenile must have access to:

- clothing;
- a mattress and bedding;
- medication under staff supervision;
- a toilet and sink at least hourly;
- a bath or shower at least daily;
- necessary mental health services; and
- reading, writing, and treatment material unless precluded by suicide precaution level.

Each juvenile in isolation or room confinement must be visually checked every 15 minutes, and these instances must be documented. The juvenile in isolation must have access to certain things (clothing, mattress and bedding, medication, toilet, bath or shower, mental health services, and reading and writing material). The DCYF must adopt a model policy by July 1, 2021, prohibiting the use of solitary confinement of juveniles in institutions and county detention facilities with the goal of limiting the use and duration of isolation and room confinement. By December 2, 2021, institutions and facilities must adopt the model policy or notify the DCYF of the reasons that they will not adopt the model policy. The DCYF must compile certain information regarding juveniles confined in state institutions and facilities, including the number and times isolation and room confinement were used and information about such isolation and room confinement.

Model Policy.

The DCYF must adopt a model policy prohibiting the use of solitary confinement in detention facilities and institutions with the goal of limiting the use and duration of isolation and room confinement by July 1, 2021. The DCYF must consult with stakeholders in determining the model policy, and the model policy must include certain elements regarding isolation and room confinement.

By December 1, 2021, the detention facility or institution must review and either:

- adopt the model policy; or
- notify the DCYF of the reasons the facility or institution will not adopt the model policy.

Reporting Requirements.

The DCYF must compile, on a monthly basis until November 1, 2022, certain information regarding juveniles confined in all state institutions and facilities receiving isolation or room confinement in excess of one hour. After November 1, 2022, the DCYF must annually compile this information and post the information on the DCYF website.

Counties operating a juvenile detention facility must compile, on a monthly basis until November 1, 2022, certain information regarding juveniles receiving isolation or room confinement in excess of one hour in those facilities and report this information to the DCYF. The DCYF must compile all of this information and provide a report to the Legislature by December 1, 2022. After November 1, 2022, county juvenile detention facilities must annually compile this information and post it on the detention facility's website.

Periodic Reviews.

The DCYF is required, beginning January 2023, to conduct periodic reviews of policies, procedures, and use of solitary confinement, isolation, and room confinement. The DCYF is required to prepare a report to the Legislature at least once every three years summarizing its reviews.

Juveniles Held in Adult Jails or Holding Facilities.

A juvenile who is subject to adult court jurisdiction may not be held in an adult jail or holding facility for a period exceeding 24 hours excluding weekends and holidays, unless a court finds that it is in the interest of justice. Juveniles in adult jails or holding facilities may not have sight or sound contact with adult inmates unless the court finds that it is in the interest of justice to permit such contact.

The court must hold a hearing every 30 days to review whether sight or sound contact with adults and placement in a jail or holding facility is still in the interest of justice.

Juveniles must not be held in an adult jail or holding facility or allowed to have sight or sound contact with adults for more than 180 days unless the court makes a finding of good cause or the juvenile waives the limitation.

Juveniles have a right to counsel during hearings to determine placement in a jail or holding facility.

Amended Bill Compared to Substitute Bill:

The amended bill modifies the definition of "detention facility" to mean a county juvenile detention facility or a juvenile correctional facility under alternative administration operated by a consortium of counties (Martin Hall).

The amended bill modifies the definition of "juvenile" to mean an individual under age 18 and an individual under age 25 confined in a juvenile institution.

The amended bill makes technical changes.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Brain development is impacted by solitary confinement, particularly for juveniles. Right now there is not a consistent policy or approach regarding youth solitary confinement in this state. Juveniles should be placed in the least restrictive placement, and solitary confinement should never be used as a punishment. This bill improves the criminal justice system. It is inhumane and unconstitutional to place juveniles in solitary confinement. This bill will also provide transparency to the public and to the Legislature. Solitary confinement should never be analogized with providing a time out. Imagine sending a child upstairs for a time out and then, when the child comes downstairs after the time out, their heart is racing, tears are streaming down their face, and they look you in the eye and tell you they are having light sensitivity issues. Then they whisper in your ear that they have been thinking about killing themselves. That is the core difference between solitary confinement and a time out. Solitary confinement is torture, cruel and unusual punishment, and unconstitutional, both under the state and federal constitutions. The federal government has banned solitary confinement for juveniles along with 10 other states.

(Opposed) None.

Persons Testifying: Senator Wilson, prime sponsor; Brittany Gregory, Attorney General's Office; and Kendrick Washington, American Civil Liberties Union of Washington.

Persons Signed In To Testify But Not Testifying: None.