

SENATE BILL REPORT

SB 6112

As of January 28, 2020

Title: An act relating to youth solitary confinement.

Brief Description: Concerning youth solitary confinement.

Sponsors: 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, Reentry & Rehabilitation: 1/16/20.

Brief Summary of Bill

- Prohibits the use of solitary confinement in juvenile institutions.
- Limits the use of isolation or room confinement in juvenile institutions.
- Requires adoption of a model policy relating to juvenile solitary confinement by July 1, 2021.
- Creates reporting requirements for county juvenile detention facilities and state departments and facilities.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kevin Black (786-7747)

Background: Juveniles in this state may be detained for criminal offenses in county juvenile facilities and in institutions and facilities operated by Juvenile Rehabilitation (JR). JR is a division of the Department of Youth and Families (DCYF). In more uncommon circumstances, juveniles may be confined in adult jails, subject to federal restrictions under the Juvenile Justice and Delinquency Protection Act, including sight and sound separation.

In 2017, the Metropolitan King County Council passed an ordinance banning the use of solitary confinement in county juvenile facilities. According to information supplied by the Office of the Attorney General, ten states have passed laws that ban or limit solitary confinement for juveniles.

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.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The use of solitary confinement to separate a juvenile from the regular population for longer than 15 minutes for punitive reasons is prohibited.

The use of total isolation and room confinement for a juvenile is limited to no more than four hours per 24-hour period, unless:

- the reason for isolation or room confinement above four hours and duration is documented;
- an individualized plan to reintegrate the juvenile is developed;
- the superintendent or superintendent's designee provides documented authorization every four hours; and
- the secretary or juvenile court administrator or their designees provided documented authorization beyond 24 hours.

A juvenile in isolation or room confinement must be checked every 15 minutes. Every instance of isolation or room confinement must be documented. 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 material, paper, writing material, envelopes, and treatment material unless precluded by suicide precaution level or unless the items would hinder staff efforts to resolve any problems causing isolation or room confinement.

Juveniles who are pregnant may not be put into isolation.

Staff must remove a juvenile from isolation or room confinement when the purpose of confinement is met, the desired behavior is evident, or the juvenile is evaluated by a professional who determines the juvenile no longer presents an imminent risk to self, staff, or the general population. Isolation may be used to prevent imminent harm based on the juvenile's behavior if:

- less restrictive alternatives are unsuccessful;
- while awaiting transfer between facilities;
- done overnight due to behavior that disrupts the nighttime routine of others; or
- necessary to respond to an escape attempt.

Room confinement may be used to respond to behavior that disrupts the facility but does not rise to the level of imminent harm.

JR must adopt a model policy prohibiting solitary confinement in juvenile facilities by July 1, 2021. All detention facilities and institutions must review and either adopt the policy or notify JR and describe their reasons for not adopting the policy by December 1, 2021.

JR, county detention facilities, and jails must compile information on a monthly basis about the use of isolation and room confinement, including demographic information, until November 1, 2022, and then annually thereafter. DCYF must provide a report to the Legislature by December 1, 2022. DCYF must conduct periodic reviews of policies, procedures, and the use of solitary confinement at least once every three years, including a report to the Legislature, starting in January 2023.

Appropriation: None.

Fiscal Note: Requested on January 15, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Nationally there is a growing consensus that solitary confinement is both unconstitutional and inhumane. We have no way to track or monitor use of isolation or to ensure consistency across institutions. Solitary confinement is harmful to youth who are still developing and vulnerable. It is not effective as punishment. In 2015, Ohio reduced solitary confinement and also reduced violence. Use of solitary confinement increases violence and increases risk of suicide. This is a critical next step in juvenile justice system reform. King County reduced isolation in 2017 and passed an ordinance. We are committed to a public health approach. The bill should provide exceptions for routine separations and individualized interventions used to provide one on one counseling. Solitary confinement is torture, as confirmed by the United Nations in 2011, and has been ended in federal custody. Side effects can cause mental disorders, sleep disorders, and physical changes. These are the children of the state. Solitary confinement interferes with educational interests and ability to learn. This bill is not in conflict with federal sight and sound restrictions and accommodates emergency situations. How a society treats its youth is revealing. We heal our youth through compassionate rehabilitation. Children should not be isolated. JR is severely understaffed and often does not have enough staff for programming. Effective programming that engages youth will reduce room confinement. Please fund the staffing recommended by a recent consultant report. Adult jails should not be exempt from the terms of this bill. Kids have nothing to do in their cells for hours, days, and weeks. No television, no radio, and five minutes access to a tutor. The reporting requirement is essential because nobody knows what is happening across the state. Jails do not need to be exempt; just prohibit placement of children in adult facilities. JR has reduced but not eliminated the use of isolation.

CON: We are concerned about this bill's application to jails. For most jails, it is a rare exception when a juvenile is placed in adult jail, except when children are charged as adults or by specific order of a judge. We have to isolate youth in jails to comply with sight and sound separation. We do not want to have additional reporting requirements.

OTHER: We are working with the sponsor and are optimistic that with additional progress we will be able to support the final bill.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Mike West, King County; Kendrick Washington, ACLU of Washington; Davie Ross, Black and Brown Minds Matter Movement; Andrew Hong, March For Our Lives Washington; Brittany Gregory, Attorney General's Office; Matt Zuvich, Washington Federation of State Employees; Nick Straley, Columbia Legal Services; Frank Ordway, Department of Children, Youth and Families.

CON: James McMahan, Washington Association of Sheriffs & Police Chiefs.

OTHER: Jack Murphy, Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying: No one.