

SENATE BILL REPORT

2SHB 2277

As Passed Senate, March 5, 2020

Title: An act relating to youth solitary confinement.

Brief Description: Concerning youth solitary confinement.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Peterson, Ortiz-Self, Frame, Goodman, Kilduff, Callan, Senn, Lovick, Thai, Fitzgibbon, Leavitt, Ryu, Appleton, Valdez, Davis, Ormsby, Macri, Doglio, Gregerson and Pollet; by request of Attorney General).

Brief History: Passed House: 2/13/20, 76-20.

Committee Activity: Human Services, Reentry & Rehabilitation: 2/20/20, 2/26/20 [DP-WM].

Ways & Means: 2/29/20, 3/02/20 [DP, DNP, w/oRec].

Floor Activity:

Passed Senate: 3/05/20, 36-13.

Brief Summary of Bill

- Prohibits the use of solitary confinement in juvenile facilities and institutions.
- Limits the use of isolation or room confinement in juvenile facilities and institutions.
- Requires adoption of a model policy relating to juvenile solitary confinement by July 1, 2021.
- Prohibits juveniles charged as adults from being held in adult jail for longer than 24 hours without a court order.
- Creates reporting requirements for county and state juvenile detention facilities and institutions.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

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.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Van De Wege and Wagoner.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Schoesler and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senators Brown, Assistant Ranking Member, Operating; Becker and Wilson, L..

Staff: Kayla Hammer (786-7305)

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.

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 males and females. Green Hill School in Chehalis serves older males. Naselle Youth Camp in Naselle provides services to males 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 in Medical Lake for juvenile detention services.

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.

Summary of Bill: Use of Solitary Confinement. The use of solitary confinement to separate a juvenile from the regular population for longer than 15 minutes for punitive reasons is prohibited.

Use of Isolation and Room Confinement. 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 designee provides documented authorization for isolation or room confinement beyond 24 hours.

A juvenile in isolation or room confinement must be checked every 15 minutes. Every instance of isolation or room confinement longer than one hour 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. Maintaining appropriate gender separation does not constitute 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;
- the isolation occurs 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.

Juveniles Charged as Adults and Held in Adult Jail. A juvenile who is charged as an adult may not be held in adult jail for more than 24 hours, excluding weekends and holidays. Sight and sound separation from adult inmates must be observed. A court may find after a hearing and consideration of specified factors that it is in the interest of justice to hold a juvenile in an adult jail for longer than 24 hours, or to allow them to have sight and sound contact with

adult inmates. If the court so finds, it must review the circumstances no less than once every 30 days while the juvenile remains in adult jail and must enter additional written findings if the juvenile's stay extends beyond 180 days. County detention facilities must assist DCYF in gathering information relating to juveniles held in adult jail for incorporation in DCYF's reporting requirements under this act.

Definition of Juvenile and Affected Facilities. For the purpose of this act, a juvenile is any person under the age of 18 or any person confined in a juvenile institution who is under the age of 25. The provisions apply to county detention facilities, JR facilities, JR institutions, or any juvenile detention facility operated by a consortium of counties.

Creation of a Model Policy. 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 this policy or notify JR with a description of their reasons for not adopting the policy by December 1, 2021.

Reporting Requirements. JR and county detention facilities 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 and report to the Legislature every three years, starting in January 2023.

Appropriation: None.

Fiscal Note: Available.

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 (Human Services, Reentry & Rehabilitation): PRO: This addresses barriers to success in reentry. The impacts of isolation and solitary confinement are long lasting, and reentry is less successful if someone has these traumas while incarcerated. The Office of the Attorney General sat down with prosecutors and law enforcement and figured out a great solution. When I was in juvenile detention my peers and I were locked down in solitary for days at a time, the longest incident I experienced lasting 16 days. I have seen kids hurt themselves and others and suffer from serious depression, trauma, and anxiety. I had nothing but one blanket and the clothes on my back. You get depressed and hopeless and trapped in your own thoughts repeating trauma again and again. We need to fix this problem. Solitary confinement increases costs because kids need more counseling and treatment afterwards or they get into more trouble. We need a public health approach to juvenile justice. We need to respect the science about brain development and take trauma into account. Eliminating solitary confinement is working in King County. This policy can only be successfully implemented if staffing is provided. The key to avoiding room confinement altogether is effective programming, rec opportunities, and training for staff. All these things are woefully behind today in JR institutions. Solitary confinement works against rehabilitation for children. Ten other states have passed bills like this one.

This bill provides transparency to the Legislature and the public. Solitary confinement is not like putting a juvenile into time out. It causes suicidal thoughts, anxiety, revenge fantasies, heart palpitations. This is not something you would do to your child. It is a dark dank hole of depression and anxiety, and considered to be torture. You must welcome your child back into the fold, which cannot happen when a child is angry, hurt, and damaged.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Representative Strom Peterson, Prime Sponsor; Emily Murphy, Echo Glen Students; Matt Zuvich, Washington Federation of State Employees; Celia Jackson, King County; Kendrick Washington, ACLU of Washington; Brittany Gregory, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Appreciate the hard work and collaboration to develop this bill. The fiscal note reflects some cost at the Administrative Office of the Courts and this is needed to implement the bill. The estimated cost is related to the system needs of the agency in order to meet the data collection and reporting requirements of the bill.

Persons Testifying (Ways & Means): PRO: Tom McBride, Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.