

HOUSE BILL REPORT

HB 1322

As Reported by House Committee On:

Early Learning & Human Services

Title: An act relating to improving outcomes for individuals adjudicated of juvenile offenses by increasing opportunities for community placement options and refining procedural requirements.

Brief Description: Improving outcomes for individuals adjudicated of juvenile offenses by increasing opportunities for community placement options and refining procedural requirements.

Sponsors: Representatives Goodman, Cortes, Simmons, Reed, Ormsby, Salahuddin, Nance and Doglio.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/5/25, 2/19/25 [DPS].

Brief Summary of Substitute Bill

- Requires the court to make an independent finding supported by clear and convincing evidence that commitment to juvenile rehabilitation is needed because a community-based placement would not adequately protect the community before committing a juvenile to a juvenile rehabilitation institution for certain offenses.
- Expands eligibility for juvenile disposition alternatives, removes certain requirements related to juvenile community facilities, modifies provisions related to juvenile rehabilitation institutions, and eliminates mandatory detention for juveniles adjudicated of Taking a Motor Vehicle Without Permission in the second degree.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

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

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Bergquist, Chair; Cortes, Vice Chair; Bernbaum, Goodman, Hill, Ortiz-Self and Taylor.

Minority Report: Do not pass. Signed by 4 members: Representatives Eslick, Ranking Minority Member; Burnett, Assistant Ranking Minority Member; Dent and Penner.

Staff: Luke Wickham (786-7146).

Background:

Juvenile Justice in the State of Washington.

In Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under the age of 18 who are alleged to have committed a crime. However, there are several exceptions to that jurisdiction where state law requires youth to be tried in adult courts.

There are three situations where adult criminal courts may have jurisdiction over persons under the age of 18:

- The juvenile court declines jurisdiction to adult court following a discretionary decline hearing which a court can initiate on its own motion or any party may file a motion requesting the court transfer the juvenile to adult court only if:
 - the respondent is at least age 15 and is charged with a serious violent offense;
 - the respondent is age 14 or younger and is charged with Murder in the first or second degree; or
 - the respondent is any age and is charged with Custodial Assault and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age 21.
- The juvenile court is required to hold a decline hearing in circumstances when the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
- Adult criminal courts have exclusive jurisdiction over juveniles age 16 or 17 on the date of the offense when the offense is:
 - a serious violent offense;
 - a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense, two or more prior violent offenses, or three or more of any combination of class A felonies, class B felonies, Vehicular Assault, or Manslaughter in the second degree; or
 - Rape of a Child in the first degree.

Juvenile court dispositions are subject to statutory sentencing guidelines. Juvenile offenses are categorized using letters E through A++ to indicate the seriousness level of the offense. A statutory grid establishes the standard sentencing range for a particular offense based on the offense category and an individual's prior adjudications. Each prior felony adjudication

counts as 1 point, and each prior violation, misdemeanor, or gross misdemeanor counts as 0.25 points. Fractional points are rounded down.

If a court finds that a disposition within the standard range would create a manifest injustice, the court must impose a disposition outside the standard range. The following factors may be used to form the basis for a manifest injustice finding:

- the age of the juvenile;
- the crime for which the juvenile is to be sentenced;
- the number of previous offenses committed by the juvenile;
- the nature of the previous offenses committed by the juvenile; and
- the length of time since the juvenile's last offense.

The sentencing category called "local sanctions" is the least serious category for juvenile sentencing purposes. Local sanctions include a range of up to 30 days in confinement, up to 12 months of community service, up to 150 hours of community service, and up to a \$500 fine.

When a juvenile court sentences a juvenile offender to local sanctions, the court must impose a determinate sentence within the standard range. Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility. Any confinement imposed that is greater than 30 days is served through commitment at a Department of Children, Youth, and Families juvenile rehabilitation institution.

There are two juvenile rehabilitation institutions: (1) Green Hill School in Chehalis, which serves males ages 17 through 25; and (2) Echo Glen Children's Center in Snoqualmie which serves females ages 12 through 25 and males ages 11 through 17.

Disposition Alternatives.

There are three disposition alternatives that allow a court to impose a disposition and then suspend that disposition while a juvenile complies with community-based services or requirements. These three disposition alternatives include:

- Option B (the Suspended Disposition Alternative);
- the Chemical Dependency/Mental Health Disposition Alternative; and
- the Special Sex Offender Disposition Alternative.

Individuals may only use an "Option B" disposition alternative once and the following offenses are not eligible for this disposition alternative:

- an A+ or A++ offense;
- those age 14 and older adjudicated of a:
 - class A offense;
 - Manslaughter;
 - Assault in the second degree;
 - Extortion in the first degree;
 - Kidnapping in the second degree;

- Drive-by Shooting;
- Vehicular Homicide;
- Hit and Run death;
- Manslaughter in the second degree; or
- violation of the Uniform Controlled Substances Act when the offense includes bodily harm when the respondent was armed with a deadly weapon;
- certain firearm violations; and
- sex offenses.

Individuals are eligible for the Chemical Dependency/Mental Health Disposition Alternative if they are found to have committed an offense that is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement that is not a B++ or B+ offense.

Community Facilities.

Community facilities allow youth to begin transitioning back to the community after being committed to a juvenile rehabilitation institution. These facilities provide treatment, education, and vocational services. To be eligible for community facility placement, a youth must be placed on minimum security status. Minimum security status is based on risk and behavior assessments and requires that the individual has served 10 percent of his or her aggregate minimum disposition or 30 days, whichever is greater, and all placement assessment requirements have been met. Individuals who escape or attempt to escape, individuals who are eligible for civil commitment, and individuals who meet other criteria are not eligible for minimum security status.

There are eight community facilities across the state including:

- Canyon View in Wenatchee;
- Oakridge in Lakewood;
- Parke Creek in Ellensburg;
- Ridgeview in Yakima;
- Sunrise in Ephrata;
- Touchstone in Olympia;
- Twin Rivers in Richland; and
- Woodinville in Kirkland.

Taking a Motor Vehicle Without Permission in the Second Degree.

There are minimum dispositional requirements for certain crimes involving motor vehicle theft, including Taking a Motor Vehicle Without Permission in the second degree (TMVWOP2). A juvenile adjudicated of TMVWOP2 with a prior criminal history score of 0.75 to 1.5 must receive at least one day of detention, and a juvenile with a prior criminal history score of 2 or more points must receive no less than three days of detention.

Community Transition Services.

Community Transition Services (CTS) allows a person to serve a portion of their term of

confinement residing in the community after the person has served 60 percent and no less than 15 weeks of their term of confinement.

Certain individuals are not eligible for CTS, including those with pending charges or warrants.

Court Appeals of Juvenile Dispositions.

A juvenile disposition outside the standard range may be appealed, but dispositions within the standard range are not appealable.

Summary of Substitute Bill:

Judicial Finding for Commitment to Juvenile Rehabilitation Institution.

When the court sentences a juvenile offender to a standard range disposition that includes a term of confinement of over 30 days in a juvenile rehabilitation institution, the court must make an independent finding supported by clear and convincing evidence that commitment to juvenile rehabilitation is needed because a community-based placement would not adequately protect the community. The court is not required to make this finding when a person is 16 or 17 years old and the offense is:

- a serious violent offense;
- a violent offense and the person has a criminal history consisting of: (1) one or more prior serious violent offenses; (2) two or more prior violent offenses; or (3) three or more of any combination of the following offenses: any class A felony, any class B felony, Vehicular Assault, or Manslaughter in the second degree, all of which must have been committed after the person's thirteenth birthday and prosecuted separately; or
- Rape of a Child in the first degree.

In making the finding described above, the court must consider certain factors, including:

- the severity of the offense(s);
- the juvenile's criminal history;
- whether the programming offered in a juvenile facility is appropriate to meet the needs of the juvenile;
- whether the goals of rehabilitation and community safety can be met in a less restrictive environment;
- whether the goals of rehabilitation and community safety can be met in a less restrictive disposition that is available; and
- the juvenile's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs impacting the safety or suitability of institutional commitment.

The court is authorized to place juveniles on electronic monitoring for up to the minimum of a juvenile's standard range when the court does not make a finding described above, and

the juvenile is not committed to a juvenile rehabilitation institution. The court may impose sanctions when an individual violates the terms of an electronic monitoring agreement and order confinement for up to the remainder of the determinate electronic monitoring sentence previously imposed.

Individuals may appeal revocations of suspended dispositions and dispositions with a term of confinement over 30 days, except for standard range dispositions that do not require the independent finding described above.

In order to uphold a finding that commitment to a juvenile rehabilitation institution is needed, an appellate court must find:

- that the reasons supplied by the disposition judge are supported by the record; and
- that those reasons clearly and convincingly support the conclusion that commitment to juvenile rehabilitation is needed because a community-based placement would not adequately protect the community.

Expanded Eligibility for Disposition Alternatives.

Eligibility for a substance use disorder or mental health disposition alternative is expanded to all juveniles except when a person is 16 or 17 years old and the offense is:

- a serious violent offense;
- a violent offense and the person has a criminal history consisting of: (1) one or more prior serious violent offenses; (2) two or more prior violent offenses; or (3) three or more of any combination of the following offenses: any class A felony, any class B felony, Vehicular Assault, or Manslaughter in the second degree, all of which must have been committed after the person's thirteenth birthday and prosecuted separately; or
- Rape of a Child in the first degree.

Eligibility for the "Option B" disposition alternative is expanded to allow an individual to receive this disposition alternative more than once and additional offenses are made eligible for this disposition alternative. Sex offenses are not eligible for the "Option B" disposition alternative in addition to when a person is 16 or 17 years old and the offense is:

- a serious violent offense;
- a violent offense and the person has a criminal history consisting of: (1) one or more prior serious violent offenses; (2) two or more prior violent offenses; or (3) three or more of any combination of the following offenses: any class A felony, any class B felony, Vehicular Assault, or Manslaughter in the second degree, all of which must have been committed after the person's thirteenth birthday and prosecuted separately; or
- Rape of a Child in the first degree.

Community Facilities.

The following two prerequisites for placing someone in a juvenile community facility are removed:

- that a juvenile serve at least 10 percent of their sentence and in no case less than 30 days in a secure institution; and
- the receipt and review of the person's student records by the Department of Children, Youth, and Families (DCYF).

Community facilities are no longer required to provide written notice of a juvenile offender's criminal history to schools that the person attends and employers that employ the person while the person is placed in a community residential facility.

Other Provisions Related to Juvenile Rehabilitation Institutions.

The court must conduct review hearings over certain juveniles committed to the DCYF at the mid-point of the minimum range and after the person has served at least four months of confinement to assess the youth's progress and consider the youth's release from juvenile prison and placement on up to a year of community supervision, unless the person will be placed on mandatory parole, in which case the person must be released to parole rather than community supervision.

The juvenile must appear remotely for the review hearings described above unless otherwise ordered by the court.

The DCYF must prioritize setting the release date as soon as possible for juveniles who would serve less than 90 days in a juvenile rehabilitation institution.

The DCYF must, subject to funding provided, establish contractual agreements with at least four juvenile court administrators for the physical custody of young people with terms of confinement of less than 90 days.

The written notice that the DCYF is required to provide to law enforcement regarding a person's anticipated release from a juvenile rehabilitation institution or transfer to a community facility is limited to individuals found to have committed a *serious* violent offense, sex offense or stalking (current law requires that notice be sent for *violent* offenses, sex offenses, and stalking).

Taking a Motor Vehicle Without Permission in the Second Degree.

The requirement that juveniles adjudicated of Taking a Motor Vehicle Without Permission in the second degree that have a criminal history score of 0.75 or higher spend at least one day in detention (or three days if the person's score is 2 or higher) is removed.

Community Transition Services.

Individuals with a pending charge that allegedly occurred in a juvenile rehabilitation institution are made eligible for the community transition program.

Substitute Bill Compared to Original Bill:

The substitute bill modifies the category of offenses that are not subject to the independent finding required by the underlying bill and the disqualifying offenses for the Chemical Dependency/Mental Health Disposition Alternatives to include when a person is 16 or 17 years old and the offense is:

- a serious violent offense;
- a violent offense and the person has a criminal history consisting of: (1) one or more prior serious violent offenses; (2) two or more prior violent offenses; or (3) three or more of any combination of the following offenses: any class A felony, any class B felony, Vehicular Assault, or Manslaughter in the second degree, all of which must have been committed after the person's thirteenth birthday and prosecuted separately; or
- Rape of a Child in the first degree.

The substitute bill modifies the disqualifying offenses for an "Option B" disposition alternative to include the offenses listed above and sex offenses.

The substitute bill limits the court's concurrent jurisdiction following the independent finding required in the underlying bill to specify that this concurrent jurisdiction may only be for the purpose of conducting review hearings and monitoring community supervision that is ordered.

The substitute bill allows the court to impose sanctions when an individual violates the terms of an electronic monitoring agreement and to order confinement for up to the remainder of the determinate electronic monitoring sentence previously imposed.

The substitute bill expands the dispositions that may be appealed to include revocations of suspended dispositions.

The substitute bill requires the Department of Children, Youth, and Families, subject to funding provided, to establish contractual agreements with at least four juvenile court administrators for the physical custody of young people with terms of confinement of less than 90 days.

The substitute bill replaces the requirement for review hearings every six months where the court makes the independent finding requirement in the underlying bill and commits a juvenile to a juvenile institution with a requirement that there be a review hearing at the mid-point of the minimum range and after the person has served at least four months of confinement.

The substitute bill allows individuals to be placed on mandatory parole instead of community supervision if the court releases a person following a review hearing established in the underlying bill.

The substitute bill requires remote participation for remote hearings required in the

underlying bill unless otherwise ordered by the court.

The substitute bill also makes technical changes.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) Washington is the only state that has a statutory sentencing grid that prevents a court from sentencing someone outside of that statutory grid.

There is a crisis in our state juvenile institutions. Not only do judges not have discretion to stray from the statutory grid, they do not have the ability to review the progress of a young person and allow for progress made by that person.

This bill requires that the court consider certain factors including the severity of the offense, the person's criminal history, and other factors that ensure that courts will make a rigorous finding of whether a young person should be sent to an institution.

There is research that shows that these kinds of approaches are effective.

Many young people accused of crimes have mental health issues that are exacerbated by being sent to juvenile detention and institutions.

This bill is good for young people and keeps everyone safer.

Community based programs and services can rehabilitate people and transform lives. When mistakes happen, a young person should be supported and not isolated. These community-based programs involve community service, and other educational programming. This bill will help young people thrive.

This bill will ensure longevity in services. Continuity of care is deeply tied to improved outcomes for both youth and the community.

Rehabilitation is not one size fits all. House arrest can be an effective alternative to imprisonment and allow judges to monitor the progress of the young person.

There is not enough programming at Green Hill and there is not enough staff for young

people to even use the bathroom.

Taking people away from their communities is not always the answer.

This bill gives judges the ability to use house arrest instead of institutionalization.

As many prisons for young people as we have, they will always be overfilled and understaffed.

Confinement has been the main currency of accountability. This expands the eligibility for various disposition alternatives.

Keeping kids in their community, connected to their families and local resources, provides the greatest opportunity for young people to succeed.

Judges should be able to have discretion to consider certain factors before sending someone to a juvenile prison.

There should be more information considered during a dispositional hearing than just reviewing a grid.

This bill would bring the State of Washington in line with brain science.

Unmet health and well-being needs impede the ability for kids to thrive and drives juvenile justice involvement.

Research study after research study finds that confinement leads to higher rates of further arrest than keeping someone in the community.

This bill just requires that a court consider certain factors before making the significant decision to send someone to juvenile prison.

There are wildly different rates of incarceration around the state.

This bill is a strategic approach to improve public safety by providing eligible youth who are involved in highly effective programs to remain in the community. This bill also saves significant tax dollars. This bill will improve safety at Green Hill by lowering their population.

The Washington State Institute for Public Policy studies demonstrate that community-based programs are much more effective than institutional placement. The longer a young person is incarcerated, the more likely they are to re-offend.

There has been a 80 percent decrease in juvenile arrests since 1998.

Victims should expect that the state uses strategies that lead to crime prevention.

(Opposed) There are public safety concerns regarding this bill. Individuals who end up with a standard range sentence to a juvenile institution have had multiple opportunities for detention alternatives or have been charged with a serious offense.

The frequency of these review hearings would be traumatizing for victims.

This bill requires possible release hearings every six months for sometimes very long commitments that are years long.

There is value in notification, limiting this notification in the bill to serious violent offenses and not violent offenses is a mistake and puts the community at risk.

(Other) The intent of this bill is supported. Generally, the "Option B" expansion is positive, but services used for that disposition alternative must be funded.

There are concerns about the frequency of the six-month review hearings. Frequent review hearings may have a negative impact on crime victims.

There should be continued focus on the issues at juvenile rehabilitation institutions.

There is support for upstream solutions to the problems occurring at juvenile rehabilitation institutions.

Sixty-day sentences in the community is the right public policy, but the impact will be pretty small.

Nearly half of the Green Hill population are there as part of an adult court sentence and this bill would not impact that part of the population.

There is a significant workload for the DCYF in preparing for these review hearings.

This bill isn't ready yet.

There is support for maintaining young people locally. Without a task force of experts to review the provisions of this bill, there is skepticism about whether many components of this bill would be effective.

Persons Testifying: (In support) Representative Roger Goodman, prime sponsor; Katie Hurley, King County Department of Public Defense; Keri-Anne Jetzer, WA State Sentencing Guidelines Commission; Rashida Robbins; Dr. Eric Trupin; Julissa Sanchez, CHOOSE 180; Grace Kimm, TeamChild; Mamie Lackie, TeamChild; and Hailey Conner,

TeamChild.

(Opposed) Russell Brown, WA Association of Prosecuting Attorneys.

(Other) Judge Kristin Ferrera, Superior Court Judges' Association; Allison Krutsinger, Dept of Children, Youth, and Families; and Jack Murphy, Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying: None.