

HOUSE BILL REPORT

HB 1917

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

Title: An act relating to management of individuals who are placed in juvenile rehabilitation institutions.

Brief Description: Concerning management of individuals who are placed in juvenile rehabilitation institutions.

Sponsors: Representatives Callan and Eslick.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/11/25, 2/19/25 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Children, Youth, and Families (DCYF) to develop rules for the safe operational capacity of institutions that include developing the maximum number of people that constitute safe operating capacity.
- Allows the DCYF, when the population of a juvenile institution reaches 105 percent of the safe operational capacity, to transfer people adjudicated in adult court to community facilities and to transfer the oldest people with the longest sentences who were convicted in adult court to Department of Corrections (DOC) institutions and take steps to avoid transferring individuals for whom a transfer would disrupt substantive progress or near completion of rehabilitative, educational, or treatment goals.
- Discontinues the placement of individuals convicted in adult court who are over age 21 and have an earned release date after the age of 26 from placement in a DCYF institution, and requires that those individuals would be placed in a DOC institution.

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.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Bergquist, Chair; Cortes, Vice Chair; Eslick, Ranking Minority Member; Burnett, Assistant Ranking Minority Member; Bernbaum, Goodman, Ortiz-Self, Penner and Taylor.

Minority Report: Without recommendation. Signed by 2 members: Representatives Dent and Hill.

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 that 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 (DCYF) 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.

Placement of Individuals Convicted in Adult Court in Juvenile Institutions.

Any person who is convicted in adult court of a felony offense that was committed when the person was under age 18 and committed for a term of confinement is initially placed in a facility operated by DCYF. While the person is placed in a DCYF facility, the person must have the same treatment, housing, transfer, and access to program resources as any other person committed to that juvenile institution.

These individuals may not be transferred to the custody of the Department of Corrections (DOC) without the approval of the DCYF until the person reaches age 25.

If the DCYF determines that retaining custody of the person in a facility of the DCYF presents a significant safety risk, the DCYF may transfer the person to the DOC.

The DCYF must review the placement of a person over age 21 to determine whether the

person should be transferred to the custody of the DOC. This review must occur before the person turns age 23 if their commitment period extends beyond that age.

Settlement Agreement.

A settlement agreement between the DCYF and class members represented by Columbia Legal Services provides additional procedural requirements for the DCYF before transferring individuals convicted in adult court of offenses that occurred before turning age 18 to the DOC, including a requirement that all class members receive a residential review board hearing.

If the circumstances necessitating the transfer are so severe that the DCYF cannot ensure the safety of the facility or others while the pre-transfer hearing is pending, the DCYF may file an emergency motion before the court seeking an exception to move the class member to the DOC pending the residential review board hearing.

The residential review board consists of the Assistant Secretary of Juvenile Rehabilitation of the DCYF or a designee who acts as chairperson, and two administrators with the Juvenile Rehabilitation division of the DCYF appointed by the chair.

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

Summary of Substitute Bill:

Safe Operational Capacity.

"Safe operational capacity" is defined as the maximum number of individuals that can reside in a juvenile rehabilitation institution in order to safely provide treatment aligned with juvenile justice standards.

The Department of Children, Youth, and Families (DCYF) must develop rules for the safe operational capacity of institutions that include developing the maximum number of people that constitute safe operating capacity.

The DCYF must take action to reduce the population at any institution if the population exceeds 105 percent of the safe operational capacity. To do so, the DCYF may:

- transfer people adjudicated in juvenile court to community facilities;
- transfer people from an institution where the population exceeds 105 percent of the safe operational capacity to another DCYF institution where the population is below 105 percent of the safe operational capacity; and
- release individuals adjudicated in juvenile court on the minimum of their standard range.

The DCYF must monitor the number of people residing at each institution and when that number reaches 90 percent of the safe operational capacity, begin planning for methods to avoid exceeding the safe operational capacity. The planning required at this stage includes:

- notifying those that may be released or transferred to the Department of Corrections (DOC);
- discussing early release options with the DOC;
- reviewing community facility capacity; and
- notifying county courts.

Individuals convicted in adult court of offenses that occurred before turning age 18 are no longer placed in a DCYF facility when the facility is at or above 105 percent of safe operational capacity and the person is over age 21 with an earned release date after the age of 26. These individuals may request a transfer to a DCYF facility when the population of the facility is below 95 percent of the safe operational capacity. The DCYF must notify county courts when the population of an institution or institutions reaches 105 percent of the safe operational capacity such that certain individuals will be placed directly in the custody of the DOC.

Transfer Provisions.

The DCYF may transfer individuals convicted in adult court of offenses that occurred before turning age 18 to the DOC if:

- the DCYF establishes before a review board that continued placement of the person presents a significant safety risk to other people in the facility;
- the DCYF establishes before a review board that the population exceeds 105 percent of the safe operational capacity at in institution, which allows the DCYF to transfer and prioritize the transfer of the oldest individuals with the longest terms of confinement and take steps to avoid the transfer of individuals for whom a transfer

would disrupt substantive progress or near completion of rehabilitative, educational, or treatment goals; and

- the individual knowingly, voluntarily, and willingly requests a transfer. Individuals must have access to counsel when volunteering to transfer and the transfer may not occur until at least one week following the individual's meeting with counsel.

Review of Placement.

The DCYF must review the placement of persons age 21 or older who are placed in the custody of the DCYF to provide information to individuals regarding voluntary transfer to the custody of the DOC based on considerations of the person's treatment needs, goals, future plans, length of confinement, classification, and current behavior. This review must happen once before someone turns 21, as soon as possible following the placement of someone age 21 or older, and by request.

Reporting.

The DCYF, subject to funding provided, must submit an annual report to the Legislature and Governor with:

- the number of transfers that occurred to the DOC, along with the reason for the transfer and the age of people who transferred;
- which DOC facility people transferred to; and
- outcome information for transfer hearings.

Substitute Bill Compared to Original Bill:

The substitute bill allows the Department of Children, Youth, and Families (DCYF) to transfer individuals from one DCYF institution where the population exceeds 105 percent of the safe operational capacity to another DCYF institution where the population does not exceed 105 percent of the safe operating capacity.

The substitute bill requires that the DCYF notify county courts when the population of an institution or institutions reaches 90 percent of the safe operational capacity and when the population reaches 105 percent (which triggers placement of individuals convicted in adult court of offenses that occurred before turning age 18, and who are over age 21, with an earned release date after age 26 in a DOC facility instead of a DCYF facility).

The substitute bill allows individuals who are placed in a DOC facility based on the DCYF facility reaching 105 percent of safe operational capacity to request a transfer to a DCYF facility when the population of the DCYF facility is below 95 percent of the safe operational capacity.

The substitute bill specifies that individuals convicted in adult court of offenses that occur before turning age 18 who are placed in a DCYF facility must have access to counsel to review a decision to voluntarily transfer to a DOC institution and the voluntary transfer may not occur until at least one week following the person's meeting with counsel, and the

person may request that a review board review the voluntary transfer decision.

The substitute bill specifies that any transfer of individuals placed in a DCYF facility who were convicted in adult court of offenses that occur before turning age 18, if the population of the institution exceeds 105 percent of the safe operational capacity, may only happen after exhausting other available transfer options and requires the DCYF to take steps to avoid the transfer of individuals for whom a transfer would disrupt substantive progress or near completion of rehabilitative, educational, or treatment goals.

The substitute bill specifies that the DCYF must review the placement of persons who will remain in the custody of the DCYF beyond age 21 to provide information to these individuals regarding voluntary transfer to the DOC based on consideration of the person's treatment needs, goals, future plans, length of confinement, classification, and current behavior and requires that this review occur at least once before the person turns age 21 (instead of before age 23) or as soon as possible following the placement of someone age 21 or older and if requested.

The substitute bill requires that, subject to funding provided, the DCYF must submit an annual report to the Legislature and Governor with:

- the number of transfers that occurred to the DOC, along with the reason for the transfer and the age of people who transferred;
- which DOC facility people transferred to; and
- outcome information for transfer hearings.

Appropriation: None.

Fiscal Note: Requested on February 7, 2025.

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) The state is in a difficult position. The problem that this legislation attempts to tackle is managing the overcrowding and unsafe operating conditions at Green Hill School.

This bill attempts to be more responsive. There is an obligation to make sure that due process exists for these young people. It is important to determine the right population mix and rehabilitative focus. The youth who are living at Green Hill School are not able to receive the appropriate education and other services.

This bill provides some options for transferring young people to community facilities. The Department of Children, Youth, and Families (DCYF) is looking at establishing another

facility.

We need to get to a solution to relieve this problem this session.

This state has reduced juvenile institution capacity. When facilities are over capacity, stress and violence rise. Young people are cycling through a system that does not help them and staff are getting injured.

This bill provides good solutions to the existing problem.

(Opposed) This state is committed to serving young people in a developmentally appropriate way. Opening a transfer of young people to DOC facilities without adequate due process and guardrails is not appropriate.

This bill would allow transfer out of one facility if it is over capacity without considering the management of all institutions to determine whether young people could be moved between facilities to maintain the safety of institutions.

The automatic transfer protocol in this bill would effectively end the "JR to 25" policy. Communities are kept safer when young people can be served in juvenile facilities rather than adult ones. Efforts should be made to improve the "JR to 25" policies.

There is a negotiated settlement agreement between individuals who were transferred to DOC facilities and the DCYF. There are some tools provided in this bill that are supported, but there is opposition to the ability to transfer young people to the DOC only based on capacity issues. Green Hill did not grow in capacity overnight. There should be a reduction in barriers to placement in community facilities and other policies to address the current issues without allowing transfer to the DOC simply based on capacity concerns.

There is opposition to unilateral transfer based on capacity. "JR to 25" prioritizes the unique capacity of young people to grow and change. Young people at Green Hill are watching these bills and are worried about their future.

This is a system problem and a result of mismanagement of this agency. Individuals were improperly transferred to the DOC last year. The DCYF was aware of this issue based on increased population and understaffing. The DCYF Secretary acknowledged this issue. The older population at Green Hill are not the problem. The older population are mentors and providing good examples for the younger people at Green Hill.

A false narrative has been spread about the DCYF and this issue. This narrative has harmed the people who "JR to 25" was meant to improve. If "JR to 25" was taken away like this bill would do, education opportunities for these people would go away.

Last summer, officers took young people out of Green Hill with no notice and placed them

in DOC facilities, which made those people hide their faith and identities to maintain their safety. When the COVID-19 dam broke and courts began sentencing people, there was an overcrowding issue, but this shouldn't have been a surprise.

The people that have been charged with Prison Riot have been ages 18-21 and not over the age of 21.

Brain development science demonstrates that belief from others in young people allows people to succeed while in an institution.

Lewis County has been giving people additional prison time. Some people came to Green Hill with 15-36 month sentences and left with more than four years based on charges brought by Lewis County.

Young people are concerned about what the new Stafford Creek facility will look like and how similar this will be to the existing DCYF facilities.

The \$30 million that is proposed for Stafford Creek funding should be used to enhance the current campus at Green Hill or improve alternate housing options.

(Other) The state has a complex challenge in its juvenile rehabilitation population as the population exceeds the number that can be appropriately served.

This bill introduces the safe number of individuals that can be served in a juvenile institution and provides some options for those institutions when the number exceeds that safe capacity either through transferring some people to community facilities or for those with adult sentences to DOC facilities.

In March and April of last year, the population at Green Hill went from 180 to between 230 and 240. There was a significant increase in violence there last summer. On July 5, the DCYF froze intakes. In mid July, the DCYF made the decision to transfer some young men into DOC facilities. Those actions were met with a legal challenge. There were agreements made in those legal challenges and intakes were reinstated and young people who wanted to return were allowed to return to Green Hill.

There are two secure juvenile institutions, and Green Hill serves males ages 17 through 25. There is a third site identified that would have up to 45 beds on the Stafford Creek campus that the DCYF is hoping to open in the next few months.

When there is a freeze on intakes at the DCYF that only makes the problem worse for everyone else. This problem should not be a surprise. The state has reduced capacity and extended the number of people who can reside in juvenile institutions. This bill should be a last resort.

This bill strikes certain notifications regarding the criminal history of people transferring to community facilities and there is opposition to that change.

There were trends of decline in juvenile incarceration and juvenile crime and that led to the closure of facilities. This closure did lead to the current problem that we are experiencing. The DCYF toured 20 different facilities around the state to identify appropriate facilities. Of these, the Stafford Creek facility was the only facility that was ready. The other facilities needed significant capital improvement.

Persons Testifying: (In support) Representative Lisa Callan, prime sponsor; and Nicole Gomez, Washington Federation of State Employees, Lobbyist.

(Opposed) Karen Pillar, TeamChild; Xaxira Velasco Ponce de Leon, Columbia Legal Services; Sara Zier, TeamChild; Chris Ativalu-Ford, TVW's Capitol Classroom; Ronald Ackerson Jr, TVW's Capitol Classroom; and Kahlev Elkhanon, TVW's Capitol Classroom.

(Other) James McMahan, WA Assoc Sheriffs and Police Chiefs; Nicholas Oakley, Center for Children and Youth Justice; and Allison Krutsinger, Dept of Children, Youth, and Families.

Persons Signed In To Testify But Not Testifying: None.