
Early Learning & Human Services Committee

E2SSB 5278

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

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Braun, Christian, Dozier and Wilson, J.).

Brief Summary of Engrossed Second Substitute Bill

- Requires the Department of Children, Youth, and Families (DCYF) to develop rules for the rated bed capacity of juvenile rehabilitation institutions and monitor the number of persons residing in each institution and when that number reaches 90 percent of rated bed capacity begin planning and identifying methods to avoid exceeding the rated bed capacity, and to take certain discretionary actions to reduce the population of a juvenile rehabilitation institution when the population exceeds 105 percent of rated capacity.
- 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 when the facility is at or above 105 percent of rated bed capacity, and requires that those individuals be placed in a Department of Corrections (DOC) institution.
- Allows the DCYF to transfer persons convicted in adult court to the custody of the DOC when continued placement of the person in a DCYF facility presents a significant safety risk to others in the facility, and of certain persons when the population of the institution exceeds 105 percent of the rated bed capacity.
- Requires the DCYF to establish rules for defining and developing an

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internal behavioral management infraction system and procedures to respond to a continuing and serious threat to the safety of others in a juvenile institution.

Hearing Date: 3/18/25

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.

Transfer from a Juvenile Institution to a Department of Corrections Institution.

The DCYF, with the consent of the Department of Corrections (DOC), may transfer a juvenile offender to the DOC if it is established before a review board that continued placement of the juvenile presents a continuing and serious threat to the safety of others in the institution.

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 Bill:

Defines "rated bed capacity" to mean the number of in-residence individuals at a juvenile

rehabilitation institution that should not be exceeded in order to provide treatment aligned with juvenile justice standards.

The Department of Children, Youth, and Families (DCYF) must promulgate rules related to the rated bed capacity of juvenile rehabilitation institutions. The rated bed capacity number established by DCYF must include the following conditions:

- single capacity rooms;
- 10 percent of facility beds reserved for intensive management unit beds for flexibility of movement;
- appropriate bathroom and shower ratio to youth;
- adequate education space to ensure that all youth can maintain a full schedule; and
- education indoor and outdoor recreation space to safely manage population groups.

Before transferring individuals to the Department of Corrections (DOC), the DCYF must take discretionary action to reduce the population of a juvenile rehabilitation institution when the population exceeds 105 percent of rated bed capacity, on a case-by-case basis, in the following order of priority:

- transfer a sufficient number of people from a community facility to community transition services; and
- transfer a sufficient number of people from a juvenile rehabilitation institution to community facilities or community transition services.

Certain people may not be transferred from a juvenile institution into a community facility when the population of the juvenile institution exceeds 105 percent of rated bed capacity, including:

- a person that is deemed a high risk to reoffend;
- a person that would be better served by the services provided at an institution; and
- a person who would be unable to comply with residential disciplinary standards.

When placing a person in a community facility to reduce the juvenile institution population below 105 percent of the rated bed capacity, the requirement:

- that an individual spend at least 10 percent of their sentence and no less than 30 days in an institution does not apply; and
- that the DCYF send written notice to law enforcement and certain schools for individuals found to have committed a violent offense, sex offense, or stalking, may be provided less than 30 days before the individual's transfer.

The DCYF must monitor the number of persons residing in each institution and when that number reaches 90 percent of rated bed capacity, begin planning and identifying methods to avoid exceeding the rated bed capacity, including:

- notifying individuals who may be released or transferred to community transition services or community facilities;
- discussing with the DOC any early release options for individuals convicted in adult court of offenses that occurred before turning age 18; and
- notifying county juvenile court administrators, the Legislature, and the Governor of

current rated bed capacity and any measures or plans to reduce rated bed capacity.

The DCYF must submit an annual report to the Legislature and the Governor on the number of transfers that occurred in the last 12 months, the reason for each transfer, the age of the person transferred, information about which DOC facilities people were transferred to, and the outcome of each transfer hearing.

The Secretary of the DOC, with the consent of the Secretary of the DCYF, may directly transfer a person who was convicted in adult court of an offense that occurred before turning age 18 and who is placed in a DCYF institution and place the person in a work release program, if the DCYF concludes that the population of any juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity and the person meets eligibility criteria. To be eligible for this transfer to a DOC work release facility:

- the person must be above the age of 21;
- the person must be within 18 months of their earned release date; and
- the DOC must determine that the transfer would be appropriate.

Persons who are convicted in adult court of felony offenses committed under age 18 are no longer placed in a DCYF facility when the facility is at or above 105 percent of rated bed capacity and the person is over the age of 21 at the time of placement with an earned release date after age 26.

The DCYF is not allowed to transfer a person placed in a DCYF institution to the custody of the DOC unless:

- the DCYF establishes at a review board hearing that continued placement of the person in a DCYF facility presents a significant safety risk to others in the facility; or
- if the population exceeds 105 percent of the rated bed capacity and the rehabilitative goals cannot be met, the DCYF, with the consent of the DOC, transfer a sufficient number of persons to the custody of the DOC to reduce the population to 100 percent of rated bed capacity. The persons who may be transferred to the DOC to reduce the population of the DCYF institution include:
 - persons over age 21, or those under age 21 but over age 18, who have served at least three years in DCYF custody and who consistently refuse to participate in available programming, or engage in planning for such programming, provided the person receives a transfer hearing. These transfer hearings must take into account the person's engagement in programming, treatment needs, goals, future plans, length of confinement, classification, current behavior, mental and emotional health, and any disabilities or special needs impacting the safety or suitability of transferring the person to the DOC. Individuals must have at least seven calendar days to prepare for this hearing.

The DCYF must provide information to persons placed in juvenile institutions regarding voluntary transfer to the custody of the DOC during their placement reviews. During these placement reviews, the DCYF must provide information on all available placement options and

availability of those options at the DOC, and the person's specific eligibility for those options based on their classification and custody level determination made by the DOC before any voluntary transfer decision. The person shall be provided an opportunity to consult with counsel during the review to confirm that the person is making a knowing, voluntary, and fully informed request.

A person who requests transfer from a DCYF institution to the DOC must have seven days to reconsider the transfer request. After that period, the person must be transferred directly into the placement agreed upon by the DCYF and the DOC. A person who has been transferred to the DOC may request to be returned to the DCYF once within one year after transferring, provided the population of the DCYF institution is below 100 percent of the rated bed capacity.

The DCYF must establish rules for defining and developing an internal behavioral management infraction system and procedures to respond to a continuing and serious threat to the safety of others in the institution. These rules must provide guidance on when the following circumstances present a continuing and serious threat and warrant imposition of an infraction:

- assault involving serious bodily harm; and
- possession of any contraband that puts the safety of others or the security of the institution at risk.

The requirement that a juvenile has the burden to show cause as to why a transfer to an adult correctional facility, during a hearing alleging that continued placement of the juvenile in a DCYF institution presents a continuing and serious threat to the safety of others, is removed. The requirement that a transfer hearing must occur within 10 days after an assault on a staff member and that a second hearing occur within five days of a conviction for custodial assault are replaced with a requirement that the DCYF establish rules for the length of time required for a board hearing.

A person in the custody of the DCYF who was convicted in adult court of an offense that occurred before turning age 18 is eligible to be released by the DOC if:

- the person's earned release date is within six months of the person's twenty-fifth birthday;
- the person has not been deemed a high risk to reoffend; and
- the person has not committed any serious infractions as defined by the DCYF internal behavioral management infraction system.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 11, 2025.

Effective Date: The bill contains an emergency clause and takes effect immediately.