

HOUSE BILL REPORT

E2SSB 5296

As Reported by House Committee On:

Early Learning & Human Services
Appropriations

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: Senate Committee on Ways & Means (originally sponsored by Senators Wilson, C., Frame, Nobles, Slatter and Trudeau).

Brief History:

Committee Activity:

Early Learning & Human Services: 3/18/25, 4/1/25 [DPA];
Appropriations: 4/5/25, 4/7/25 [DPA(APP w/o ELHS)].

Brief Summary of Engrossed Second Substitute Bill (As Amended by Committee)

- Requires the court to make an independent finding supported by a preponderance of the 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, modifies provisions related to juvenile rehabilitation institutions, and requires the court to hold review hearings at the mid-point of a commitment to a juvenile institution that is eight months or longer.

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: Do pass as amended. Signed by 6 members: Representatives Bergquist, Chair; Cortes, Vice Chair; Bernbaum, Goodman, Hill and Ortiz-Self.

Minority Report: Without recommendation. Signed by 5 members: Representatives Eslick, Ranking Minority Member; Burnett, Assistant Ranking Minority Member; Dent, Penner and Taylor.

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.

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 Amended 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 a preponderance of the 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 for:

- a serious violent offense;
- a violent offense when 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 which must have been committed after the person's thirteenth birthday and prosecuted separately:
 - any class A or B felony;
 - Vehicular Assault; or
 - Manslaughter in the second degree;
- Rape of a Child in the first degree or second degree;
- Rape in the second degree;
- Hit and Run Resulting in Death; and
- Child Molestation 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.

If the court does not make the finding described above, the court may impose local sanctions or electronic monitoring for up to the minimum of a juvenile's standard range.

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 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 supplied by the disposition judge and supported by the record support the conclusion, by the preponderance of the evidence, that commitment to the Department of Children, Youth, and Families (DCYF) is needed because a community-based placement would not adequately protect the community.

Expanded Eligibility for Disposition Alternatives.

Eligibility for the Chemical Dependency/Mental Health Disposition Alternative is modified to allow eligibility except when the offense is:

- a serious violent offense;
- a violent offense when 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 which must have been committed after the person's thirteenth birthday and prosecuted separately:
 - any class A or B felony;
 - Vehicular Assault; or
 - Manslaughter in the second degree;
- Rape of a Child in the first degree or second degree;
- Rape in the second degree;
- Hit and Run Resulting in Death; and
- Child Molestation in the First Degree.

Eligibility for the "Option B" disposition alternative is expanded to allow eligibility for individuals age 14 or older adjudicated of Robbery in the first degree. The following are not eligible for the "Option B" disposition alternative:

- a serious violent offense;
- a violent offense when 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 which must have been committed after the person's thirteenth birthday and prosecuted separately:
 - any class A or B felony;
 - Vehicular Assault; or
 - Manslaughter in the second degree;

- Rape of a Child in the first degree or second degree;
- Rape in the second degree;
- Hit and Run Resulting in Death; and
- Child Molestation in the First Degree.

A court may only revoke a suspended disposition if the court makes the finding described at the beginning of this summary.

Other Provisions Related to Juvenile Rehabilitation Institutions.

The court must conduct review hearings over certain juveniles committed to the DCYF at the midpoint 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 for juveniles who would serve less than 90 days under the supervision of the DCYF and consider any infractions that the juvenile received while in the custody of the DCYF.

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 DCYF must negotiate these contractual agreements with each county interested in providing this physical custody and counties are not required to provide this function under existing contracts.

Community Transition Services.

Eligibility for the Community Transition Services program is expanded to include individuals with a pending charge that allegedly occurred in a juvenile rehabilitation institution.

Amended Bill Compared to Engrossed Second Substitute Bill:

The striking amendment excludes the following from the court finding required in the underlying bill that is necessary before committing a person adjudicated of a juvenile offense to a juvenile rehabilitation institution, the Option B disposition alternative, or the Chemical Dependency/Mental Health Disposition Alternative:

- a serious violent offense (committed at any age and not just age 16 and 17 as provided in the underlying bill);
- a violent offense with certain criminal history (committed at any age and not just age 16 and 17 as provided in the underlying bill);

- Rape of a Child in the first or second degree;
- Rape in the second degree;
- Hit and Run resulting in death; and
- Child Molestation in the first degree.

The striking amendment requires the Department of Children, Youth, and Families (DCYF) to negotiate the contractual agreements with juvenile court administrators for the confinement of youth in a juvenile detention facility with terms of confinement of less than 90 days with each county interested in providing this custody, and specifies that counties are not required to provide this custody for young people under existing contracts.

The striking amendment requires the DCYF to prioritize setting the release date for juveniles who would serve less than 90 days under the supervision of the DCYF and consider any infractions that the juvenile received while in the custody of the DCYF.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) Juvenile justice, like other systems, is a complicated system. Other bills this session deal with what happens once young people are committed to juvenile institutions. This bill deals with who should be committed to those institutions.

This bill addresses overcrowding in institutions by looking upstream and allowing community-based alternatives to commitment and determining whether confinement is necessary to maintain public safety.

Halfway through a sentence a judge can review whether young people are being rehabilitated, receiving needed services, and whether they are rehabilitated enough to allow for a return to the community under the terms of this bill.

Overcrowding in juvenile institutions has created unsafe conditions for young people and staff.

There are young people in our system that need to be confined, but there are many other young people that do not need to be committed to a juvenile institution and can effectively receive services in the community.

This bill provides judges with discretion over whether to commit someone to a juvenile institution. The standard range still applies in this bill for the most serious offenses.

There are many expanded pathways under this bill and other bills being considered that expand pathways out of juvenile institutions.

This bill, along with another bill before the Legislature, will adequately address the overcrowding issues in juvenile institutions, along with the opening of Harbor Heights.

Some young people do not need incarceration, but need treatment and support. Community facilities can be effective places to address underlying behavioral issues.

Young people at Green Hill are exposed to violence and their behaviors often deteriorate.

This bill makes common sense updates to juvenile justice practices that align with brain development research and the practices of other states.

Other states require a similar analysis before committing a young person to prison. This state should invest in alternatives to incarceration.

The review hearings in this bill provide young people with an incentive to engage in positive behavior while in an institution.

This bill does three things to safely reduce the number of people at juvenile rehabilitation. First, the court will look at the young person in front of them and determine whether commitment to an institution is necessary to protect the community. If the judge finds that it is, the person goes to an institution. If the person does not go to an institution, the person is supervised on probation with support and possibly house arrest.

There is an individualized public safety analysis in this bill that is missing from the current one-size-fits-all approach based on the statutory sentencing grid that doesn't take an individualized look at a young person.

There is a concern about an extraordinary discretion for courts, but there is never a complaint about the extraordinary discretion of prosecutors.

The one time review hearing will provide incentive for young people and allow courts to determine whether these young people can safely return to the community.

This bill addresses the overcrowding at Green Hill. There must be a change to the front end of who enters juvenile institutions. That issue can't be addressed with just transfer options and new facilities. Youth leave juvenile rehabilitation with worse outcomes than those who receive community-based services.

A large majority of the young people in the juvenile justice system are better served in the community than using incarceration. Juveniles who experience confinement are more likely to drop out. It is appropriate to serve some people in an institution, but most people are better served in the community.

Longer sentences do not have a public safety impact. Longer sentences are also correlated with higher recidivism.

This bill alleviates the front end of the system that will reduce the number of young people going to Green Hill. The situation at Green Hill is alarming. One hundred eighty is the largest number of residents that allow Green Hill to provide effective programming, but there are currently over 230 to 240 residents. There is an unsustainable problem at Green Hill and the current programming is not therapeutic. Green Hill residents are unnecessarily confined to their rooms for 23 hours per day and not allowed appropriate use of the restrooms.

Young people receiving electronic monitoring receive effective community-based services. When these young people are transferred to Green Hill, many of the improvements seen in the community are eroded and young people will need time to process the trauma that they experience in that institution.

(Opposed) Juveniles are different from adults. Juveniles can and do sometimes commit heinous and violent crimes. Rehabilitation and public safety are not opposed to one another. Young people are not committed to an institution unless they commit a serious offense. This bill creates another hoop that people have to go through before taking these offenses seriously.

This bill ultimately tilts against public safety.

There is significant overcrowding at juvenile institutions based on recent policies and the closure of facilities.

This bill allows judges a significant amount of discretion about whether to send someone to a juvenile institution.

This bill allows young people to appeal commitments to institutions.

It is harmful for victims to have a review at the middle of someone's juvenile sentence.

Prosecutors are concerned that this change will result in more charging in adult courts. This will create a disparity based on geography because some areas don't have the necessary community services or have philosophical differences.

There is a need for support and services and it is important for young people to return to

become positive members of society.

There is a concern that this bill will increase costs for local entities. This bill could inadvertently lead to different outcomes in different areas.

This state once had six juvenile rehabilitation institutions, and now there are two. There is a facility in Yakima that could be used as a juvenile rehabilitation institution.

(Other) There are parts of this bill that are supported, including increased eligibility for disposition alternatives. Proper resources must be provided to make this bill successful.

There is support for keeping young people in juvenile detention for people who are serving commitment periods of less than 90 days.

There is also a need to ensure funding for electronic monitoring.

This bill is a good step, but currently workers at Green Hill are getting injured and young people are not getting the help they need.

The Option B disposition alternative is not currently well funded and never has been. This bill will result in an increase in county provided services including electronic monitoring.

There is a concern that without a task force of experts involved in studying this issue this bill will not be effective.

Persons Testifying: (In support) Senator Claire Wilson, prime sponsor; Dr. Esther Matthews; Katie Hurley, King County Department of Public Defense; Dana Kaplan, National Institute for Criminal Justice Reform; Rashida Robbins; Karen Pillar, TeamChild; Ramona Brandes, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Liz Trautman, Stand for Children Washington; Sandra Toussaint, ACLU Washington; and Nicole Gomez, Washington Federation of State Employees and Lobbyist.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs; Russell Brown, Washington Association of Prosecuting Attorneys; and LaDon Linde, Yakima County Commissioner.

(Other) Jack Murphy, Washington Association of Juvenile Court Administrators; and Judge Cindy Larsen, Superior Court Judges' Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services. Signed by 19 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Peterson, Pollet, Ryu, Springer, Stonier, Street, Thai and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Caldier, Corry, Dye, Keaton, Manjarrez, Marshall and Rude.

Staff: Yvonne Walker (786-7841).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Human Services:

The Appropriations Committee recommends adding a null and void clause, making the bill null and void if not funded in the budget.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 3, 2025.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill takes a good step towards reducing future overcrowding at juvenile rehabilitation (JR) facilities that continues to put staff at risk.

Although this bill is funded in the Senate's budget, the House should also consider providing additional funding for local probation departments through the Department of Children, Youth, and Family's block grant so that they can appropriately provide for evidence-based, rehabilitative, individual supports to youth in juvenile court. This bill will reduce the number of kids that are subjected to expensive JR facilities. It will also create more opportunities for youth to receive more treatment and intervention in the community and incentivize young people to work toward their rehabilitative goals. Sentencing alternatives are one of the ways young people are rehabilitated, public safety is enhanced, and recidivism is lowered.

(Opposed) This bill is largely just a shift of costs and responsibilities onto counties and juvenile courts, and imposes a burden onto local communities. Issues presented in the bill

such as electronic home monitoring, expansion of Option B, and local physical custody for youth incarcerated for less than 90 days are all options that would not only lead to counties incurring significant costs but also expose such counties to liability. The only provision of this bill that is funded in the Senate budget is the pilot program. However, none of the other items included in this bill are funded in either the House or Senate budget.

The bill fundamentally alters the sentencing framework for juvenile offenders, thereby creating a sentencing system that is inconsistent. It creates an opportunity for a judge to offer discretion for someone who would already be sentenced to JR. It also creates an opportunity for a person that is already in JR to appeal that decision where that option would not be eligible today. Lastly, this bill is resource intensive and detrimental to victims.

(Other) Juvenile court administrators are committed to solutions that push the historical boundaries of community-based rehabilitation. However, if courts find that institutionalization does not maximize rehabilitation of these youth, then one must be careful to not expect a different outcome without addressing the same environment that created the risk. For courts to accomplish this, it is necessary to expand resources, staff, and community partnerships. Funding for local courts to undertake this task is imperative. It is hoped that the Legislature considers the impact of this bill on superior courts. The estimated fiscal impact of this bill to superior courts, which is not included in the fiscal note, ranges from \$5 million to \$15 million per year.

Public safety and juvenile court staff are working everyday as behavior change partners in communities by advancing the ideals of a reduced institutional landscape while at the same time balancing public safety. Most young people impacted by the juvenile legal system are served in their local communities rather than state institutions. This bill pushes the threshold of community-based rehabilitation to include youth that have historically been considered too risky to be served in the community.

Persons Testifying: (In support) Katie Hurley, King County Department of Public Defense; Karen Pillar, TeamChild; and Nicole Gomez, Washington Federation of State Employees and Lobbyist.

(Opposed) Brad Banks, Washington State Association of Counties (WSAC); and Russell Brown, WA Association of Prosecuting Attorneys.

(Other) Judge Cindy Larsen, Superior Court Judge for Snohomish County; Chris Simonsmeier, Juvenile Court Administrator for Clark County; and Linnea Anderson, Superior Court Services Administrator for San Juan County.

Persons Signed In To Testify But Not Testifying: None.