

SENATE BILL REPORT

SB 5296

As Reported by Senate Committee On:
Human Services, February 17, 2025
Ways & Means, February 27, 2025

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: Senators Wilson, C., Frame, Nobles, Slatter and Trudeau.

Brief History:

Committee Activity: Human Services: 2/03/25, 2/17/25 [DPS-WM, DNP].
Ways & Means: 2/24/25, 2/27/25 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Requires a court to make a finding that commitment to a Juvenile Rehabilitation (JR) institution is needed because a community-based placement would not adequately protect the community, except for youth adjudicated of certain offenses.
- Allows youth who are eligible for a community-based placement to be placed on one or more local sanctions, in addition to a determinate sentence of up to the minimum on electronic monitoring, and the court may also impose a suspended disposition.
- Expands the types of offenses that are eligible for a suspended disposition or certain disposition alternatives.
- Provides a juvenile court with concurrent jurisdiction over certain cases where a youth is sentenced to JR, for the purposes of conducting a mid-

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point review and for any community supervision that is imposed.

- Removes the requirement that the youth spend a minimum amount of time at a secured JR facility before the youth may be placed at a community facility.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5296 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wilson, C., Chair; Frame, Vice Chair; Orwall.

Minority Report: Do not pass.

Signed by Senators Christian, Ranking Member; Warnick.

Staff: Will Trondsen (786-7552)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5296 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Braun, Muzzall and Warnick.

Staff: Sarian Scott (786-7729)

Background: The Washington State Juvenile Justice Act was enacted in 1977, which provides juvenile courts with original jurisdiction over offenses committed by a youth under the age of 18, unless an exception applies. In 1989 the Legislature adopted a juvenile sentencing grid, which has been modified over time. The Department of Children, Youth, and Families (DCYF) oversees two secure juvenile rehabilitation (JR) facilities in Washington State, where youth who are committed over 30 days serve their confinement.

Sentencing Options. There are four options in which a court may sentence a youth in

juvenile court.

Option A Standard Range. Based on a combination of criminal history and offense category, a standard sentencing range is determined for that youth. Sentences may vary from local sanctions, which can include detention in a county juvenile detention facility for less than 30 days, community supervision, community restitution, and restitution to a JR commitment. Ranges include 0 to 30 days, 15 to 36 weeks, 30 to 40 weeks, 52 to 65 weeks, 80 to 100 weeks, and 103 to 129 weeks. For youth adjudicated of A+ offenses, their standard range is 180 weeks to age 21 while youth adjudicated of A++ offenses, have a standard range of 129 to 260 weeks.

Option B Suspended Disposition Alternative. For youth who are facing a standard range disposition involving confinement at DCYF, this sentencing option allows the court to suspend the disposition on the condition that the youth comply with one or more local sanctions and any educational or treatment requirement. The youth must comply with the conditions set by the court, and if the youth violates the conditions, the court may impose a standard probation violation or revoke the suspended sentence.

Certain offenses are ineligible for an Option B sentence, including youth who are adjudicated of an A+ or A++ offense, or youth who are 14 years or older and are adjudicated of any class A felony, manslaughter in the first degree, 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 infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon. Youth who are ordered to serve a disposition for a firearm violation, adjudicated of a sex offense, or who have had a prior Option B adjudication are also not eligible.

Option C Chemical Dependency and Mental Health Alternative. This option is available for youth facing a standard range disposition of local sanctions or 15 to 36 weeks of confinement, who has not committed an A- or B+ offense. The youth must be evaluated by a chemical dependency counselor or a mental health professional to determine if the youth is chemically dependent, substance abusing, or suffers from significant mental health or co-occurring disorders.

A youth granted an option C disposition may have their sentence suspended based upon compliance with conditions set by the court, to include chemical dependency treatment and mental health treatment. Youth must comply with court conditions, and if a youth violates the conditions, the court may impose a standard probation violation or revoke the suspended sentence.

Option D Manifest Injustice. If the court determines that an option A, B, or C disposition would effectuate a manifest injustice, the court may order a disposition above or below the

standard range. The court may not impose a sentence that would be greater than the equivalent of an adult maximum sentence for the offense.

There are also certain offenses that require mandatory sentences based on a youth's criminal history, among those are felony motor vehicle offenses, and certain firearm offenses.

Community Facilities. DCYF operates eight community facilities, which allow young people to gain community employment skills, strengthen family connections through enhanced visitation and home leaves, and attend public school, in a therapeutic environment.

Youth may not be placed in a community facility until 10 percent of their sentence, or at least 30 days, whichever is greater, has been served in a JR secure facility, DCYF's risk assessment and security classification have been completed to meet a minimum security status, and local law enforcement has been notified.

Community Transition Services. A youth may serve up to 18 months in the community if they have served 60 percent of their minimum sentence and no less than 15 weeks, and JR has determined that the community transition services program is in the best interest of the youth and the community, using a risk assessment tool and considering placement, treatment, programming and the person's behavior while in confinement, including disciplinary considerations.

The youth is ineligible for community transition services if they:

- have pending charges or warrants;
- are classified as a level three sex offender;
- will be transferred to DOC, are currently in DOC's custody or under DOC supervision;
- were adjudicated of murder in the first or second degree;
- meet the definition of a persistent offender; or
- require an out-of-state placement.

Summary of Bill (Second Substitute): Juvenile Sentencing. Commitment in a JR secure facility is required upon disposition for any youth that meets the definition for an offense listed in the automatic decline statute, which includes:

- any 16 or 17 year old on the date the alleged offense is committed and the alleged offense is:
 1. a serious violent offense as defined in state law;
 2. a violent offense as defined in state law and the juvenile has a criminal history consisting of one or more prior serious violent offenses; two or more prior violent offense; or three or more of any combination of a class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately; or

3. rape of a child in the first degree.

Independent Court Finding. Before a court may commit a youth to a JR for an offense not listed above, the court must make an independent finding, supported by clear and convincing evidence, that commitment to an institution is needed because a community-based placement would not adequately protect the community. A stipulation by the parties to a JR commitment is not enough to support a finding that commitment to an institution is needed. In making a finding that commitment to an institution is needed, the court must consider the following factors:

- the severity of the offense or offenses for which the juvenile has most recently been adjudicated, including the juvenile's role in the offense, the juvenile's behavior, and harm done to victims;
- the juvenile's criminal history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the juvenile;
- whether the programming, treatment, and education offered and provided in a JR facility is appropriate to meet the treatment and security needs of the juvenile;
- whether the goals of rehabilitation and community safety can be met by assigning the juvenile to a less restrictive disposition that is available to the court; 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 committing the juvenile to a term of confinement in juvenile court.

If a court does not make a finding that commitment is required, the court may impose one or more local sanctions, in addition to the youth being placed on electronic monitoring for a determinate sentence of up to the minimum of the juvenile's standard range sentence while on community supervision. The court is also allowed to impose a suspended disposition.

Any violation of an electronic monitoring agreement can result in a community supervision violation or a revocation of electronic monitoring and order of confinement for up to the remainder of the determinate electronic monitoring sentence previously imposed. Any time served in detention due to a violation of the terms of an electronic monitoring agreement shall be applied as credit for time served for the remaining time on electronic monitoring, or if revoked, confinement.

If a court finds a manifest injustice disposition is appropriate, the court will maintain concurrent jurisdiction over the youth and hold a mid-point review hearing to assess the youth's progress at JR. At the review hearing, the court must release the youth and place the youth on up to a year of community supervision, unless the court makes a finding under the above factors that commitment is still appropriate.

Short-term Commitment. When a disposition exceeds 30 days but the term imposed for each offense is less than 30 days, or the court-ordered electronic monitoring for the minimum standard range, the confinement may at the discretion of the court be served in a juvenile

facility operated by or pursuant to a contract with the state or a county.

If the release date would result in less than 90 days of confinement, the remaining time may be served in a detention facility or electronic monitoring. Subject to appropriations, DCYF must establish contracts with at least four juvenile court administrators, including one that is located east of the Cascade mountains, for the physical custody of young people who have less than 90 days to serve before their release. All contracts between DCYF and a juvenile court administrator shall include costs associated with physical custody, treatment or relevant programming, medical costs, and other costs associated with the confinement of the juvenile. Any existing contractual agreements between DCYF and a juvenile court administrator as of January 1, 2025, for the confinement of a juvenile pending transportation to a juvenile rehabilitation facility after sentencing do not apply to this agreement.

Appeal. To uphold a finding that commitment to a JR facility is needed, the court of appeals must find that the reasons supplied by the disposition judge are supported by the record which was before the judge and that those reasons clearly and convincingly support the conclusion that commitment is needed because a community-based placement would not adequately protect the community.

Disposition Alternatives. Eligibility for suspended dispositions and disposition alternatives is expanded by allowing more offenses to receive a suspended disposition under Option B Suspended Disposition Alternative or Option C the Chemical Dependency or Mental Health Disposition Alternative. All offenses are eligible for a disposition alternative unless the offense is categorized as an automatic decline offense.

Before revoking a Mental Health or Chemical Dependency Disposition Alternative, the court must use the same analysis that a community-based placement option would not adequately protect the community by clear and convincing evidence.

Review of Commitment at a Juvenile Rehabilitation Facility. If the court makes a finding that commitment at JR is required, the juvenile court must maintain concurrent jurisdiction over the youth and hold a mid-point review set at the minimum range for the juvenile, to determine the progress of the youth. DCYF must provide a written report to the court 14 days prior to the review hearing that provides the following information:

- the services received by the juvenile;
- any infractions committed by the juvenile;
- how often the juvenile and juvenile's family have had in-person visitation and video visits since the disposition hearing or the last review hearing, whichever is later; and
- how often the juvenile has been under room confinement due to staffing issues or overpopulation and whether there have been any major disruptions to programming over the last six months.

The juvenile shall appear remotely at the review hearing unless otherwise ordered by the

court to be in-person. During the review hearings, the court must consider the juvenile's progress and shall release the youth on one year of community supervision, which will be administered by the county, unless the court makes a finding under the above factors that commitment is still appropriate or the youth will be placed on mandatory parole. The prosecutor must provide notice to the victim at least two weeks before each review hearing, if the victim requests to be notified. The respondent may appear remotely for the hearing upon agreement of the respondent.

Community Facilities and Notification. The requirement is removed that a youth must serve at least 10 percent of their sentence or at a minimum 30 days at a secured institution operated by DCYF, and allows for immediate placement at a community facility.

Notification of an offense by DCYF to the police chief of the city, if any, and sheriff of the county the juvenile will reside in, is only required for a juvenile found to have committed a serious violent offense, sex offense, or stalking. Notification to a school in which a juvenile will attend is only required for a juvenile found to have committed a serious violent offense.

The requirement that the community facility notify an employer or school of the criminal history of the juvenile is removed.

A youth with pending charges or warrants from an offense that occurred at a JR institution may be eligible for community transition services.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Requires, subject to appropriations, DCYF to contract with at least four juvenile court administrators, including at least one that is located east of the Cascade Mountains for the confinement of youth in a juvenile facility with terms of confinement that are less than 90 days. Clarifies that existing contracts as of January 1, 2025, for confinement of juveniles pending transport to a juvenile rehabilitation facility do not apply to this subsection.
- Amends a statutory reference.

EFFECT OF CHANGES MADE BY HUMAN SERVICES COMMITTEE (First Substitute):

- Excludes offenses that qualify as auto-decline offenses from being subject the clear and convincing standard determination.
- After the court makes a determination on the clear and convincing standard, and if the court determines that commitment to DCYF is not necessary, then the court may either impose one or more local sanctions, in addition to electronic monitoring for a determinate sentence up to the minimum range, or impose a suspended disposition.
- Allows for a youth to be given a community supervision violation or revocation of

- electronic monitoring if they fail to comply with an electronic monitoring agreement.
- Creates a mid-point review for youth sentenced to JR that replaces the six month review in the original bill, where the youth must appear remotely unless ordered by the court to appear in person.
- Permits the local juvenile court to maintain concurrent jurisdiction with DCYF for the purposes of conducting the midpoint review hearings and any community supervision that may be ordered if the juvenile is released.
- Subject to appropriations, DCYF must establish contracts with at least four juvenile court administrators, including at least one that is located east of the cascade mountains, for the physical custody of young people who have less than 90 days to serve before their release.
- Permits a transfer to community transitions services when a youth has a pending offense from a juvenile rehabilitation facility.
- Changes institution to department throughout.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services): *The committee recommended a different version of the bill than what was heard.* PRO: This bill will help keep young people from being at Juvenile Rehabilitation(JR) and will help keep the youth and staff at JR safe. If the needs of the youth are addressed with upstream services, it will prevent youth from going to JR. Alternatives to incarceration can have a better impact on public safety. This will allow judges to make a determination on whether incarceration is needed to protect public safety. This bill addresses three main concerns, community safety, youth accountability, and Department of Children, Youth, and Families accountability. When working with young people, having options is important for growth of that youth and can still provide safety for the community.

The approaches offered under this bill will lower overcrowding, and still hold youth accountable. It is possible to help youth in the community, without the need for that youth to go to JR. Disconnecting youth from their community creates long-term challenges to staying in school and continuing their education after they have completed their time in the juvenile system. When enacted, courts will be considering supports that the youth needs, and this bill will help tailor services to the needs of the youth. The review hearings will provide incentives for youth who are in the juvenile system. Unmet health and well-being needs impede youth's ability to thrive, and incarceration exposes youth to a range of harmful experiences.

The average daily population at JR facilities may be reduced by nearly 50 youth. This bill will safely reduce overall admissions to JR. Research indicates the presenting offense bears no relationship to a youth's recidivism or risk of recidivism. Washington is an outlier in the country when it comes to juvenile sentencing, as most states do not rely on a determinate sentence. Evidence shows that prisons can cause youth to have additional risk factors, and the focus should be on limiting the number of youth going to JR facilities. Youth who commit crimes are fully capable of change. Research shows that youth who are incarcerated have worse outcomes, higher rates of rearrest, and lower rates of graduation. Juveniles that are kept close to home rather than at institutions are far less likely to reoffend.

CON: This proposal puts enormous amounts of strain on local courts. The bill will make the outcomes of juvenile cases much more variable than the uniformity that is in place now. The six-month review requirement will substantially increase the cost of local jurisdictions.

OTHER: The size and scope of this bill is not something that is ready to be considered. Option B is a common sentence and needs to be better funded. There needs to be a taskforce of experts working out the details in this bill as the proposal will be difficult to enact. There are many technical changes that need to happen in order for this bill to be effective. The average daily population would likely only impact one to four individuals between the facilities. The workload impacts of the concurrent jurisdictions would create a significant amount of work on the already strained resources of the agency.

Persons Testifying (Human Services): PRO: Senator Claire Wilson, Prime Sponsor; Katie Hurley, King County Department of Public Defense; Emily Justin; Karen Pillar, TeamChild; Keri-Anne Jetzer, WA State Sentencing Guidelines Commission; Sandra Toussaint, ACLU Washington; Esther Matthews.

CON: Russell Brown, WA Association of Prosecuting Attorneys.

OTHER: Jack Murphy, Douglas County Juvenile Court; Allison Krutsinger, Dept of Children, Youth, and Families.

Persons Signed In To Testify But Not Testifying (Human Services): PRO: Dr. Eric Trupin.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Washington is an outlier by requiring determinant sentences for youth in place of brain science. The predictable result has been overcrowded facilities and inhumane conditions. Children who have been locked in their cells for up to 20 hours a day, and there is more trauma, higher recidivism and racial inequalities. This bill allows judges to consider alternatives like treatment or home detention after assessing any public safety risks. By implementing these reforms, Washington can reduce costs, improve outcomes for youth, and enhance public safety.

Before being at Green Hill, my son was on house arrest for over two years and was enrolled in high school and on track to graduate with his class. He went to weekly counseling sessions. Now, in Green Hill, they do not offer adequate therapy, there are not enough programs and not enough staffing for him to even be able to use the bathroom when he needs to.

This is a common sense bill that will reduce admissions to juvenile prisons, and reduce length of stay. Many kids can serve, and should serve, their sentences locally and this bill gives critical pathways for community dispositions. Consequences of overcrowding in our state juvenile detention facilities requires immediate legislative action not only to alleviate overcrowding but to slow down the influx of youth into the facilities. There is limited access to therapy and programming due to staffing. This gives the judges the discretion to determine whether a youth requires incarceration or whether they could be rehabilitated in their communities. Community based alternatives lead to lower recidivism and this is important for overall community safety.

CON: We do not believe we should be shifting the costs of our JR challenges to our local communities. This creates a review process, which alone is expensive, but then it opens it up to multiple reviews after that as the judge has discretion to add additional reviews. All of those come at the cost of the county. The level of cost shift is alarming, costs for electronic home monitoring, costs for expanding juveniles eligible for disposition, every time a review is done, and costs for housing. Costs would shift away from the state to the counties, this is partly why we ended up in litigation with DCYF over the summer when this initially happened. The litigation is still active.

Persons Testifying (Ways & Means): PRO: Judge André Peñalver, Minority and Justice Commission; Rashida Robbins; Katie Hurley, King County Department of Public Defense; Ramona Brandes, Washington Defender Association/Washington Association of Criminal Defense Lawyers.

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

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