
HOUSE BILL 2907

State of Washington

65th Legislature

2018 Regular Session

By Representative Goodman

1 AN ACT Relating to confinement in juvenile rehabilitation
2 facilities; amending RCW 72.01.410, 72.01.410, 13.40.300, and
3 13.40.300; creating new sections; providing an effective date; and
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes state and
7 national efforts to reform policies that incarcerate youth in the
8 adult criminal justice system. The legislature acknowledges that
9 transferring youth to the adult criminal justice system is not
10 effective in reducing future criminal behavior. Youth incarcerated in
11 the adult criminal justice system are more likely to recidivate than
12 their counterparts housed in juvenile facilities.

13 The legislature intends to enhance community safety by
14 emphasizing rehabilitation of juveniles convicted even of the most
15 serious violent offenses under the adult criminal justice system.
16 Juveniles adjudicated as adults should be served and housed within
17 the facilities of the juvenile rehabilitation administration up until
18 age twenty-five and one-half but released earlier if their sentence
19 ends prior to that. This emphasis on rehabilitation up to age twenty-
20 five and one-half reflects similar programming in other states, which

1 has significantly reduced recidivism of juveniles confined in adult
2 correctional facilities.

3 **Sec. 2.** RCW 72.01.410 and 2015 c 156 s 2 are each amended to
4 read as follows:

5 (1) Whenever any child under the age of eighteen is convicted as
6 an adult in the courts of this state of a crime amounting to a
7 felony, and is committed for a term of confinement, that child shall
8 be ~~((initially))~~ placed in a facility operated by the department of
9 ~~((corrections))~~ social and health services to determine the child's
10 earned release date.

11 ~~((a))~~ ~~((If the earned release date is prior to the child's twenty-~~
12 ~~first birthday, the department of corrections shall transfer the~~
13 ~~child to the custody of the department of social and health services,~~
14 ~~or to such other institution as is now, or may hereafter be~~
15 ~~authorized by law to receive such child, until such time as the child~~
16 ~~completes the ordered term of confinement or arrives at the age of~~
17 ~~twenty one years.~~

18 ~~((i))~~ While in the custody of the department of social and health
19 services, the ~~((child))~~ individual must have the same treatment,
20 housing options, transfer, and access to program resources as any
21 other ~~((child))~~ individual committed directly to that juvenile
22 correctional facility or institution pursuant to chapter 13.40 RCW.
23 Treatment, placement, and program decisions shall be at the sole
24 discretion of the department of social and health services. The
25 ~~((youth))~~ individual shall only be transferred back to the custody of
26 the department of corrections with the approval of the department of
27 social and health services or when the ~~((child))~~ individual reaches
28 the maximum age of ~~((twenty one))~~ juvenile offender commitment by a
29 juvenile court for the same offense provided under RCW 13.40.300.

30 ~~((ii))~~ ~~((b))~~ If the ~~((child's))~~ individual's sentence includes a
31 term of community custody, the department of social and health
32 services ~~((shall not))~~ is required to consult the department of
33 corrections prior to the individual's release ~~((the child))~~ to
34 community custody ~~((until the department of corrections has approved~~
35 ~~the child's release plan))~~ pursuant to RCW 9.94A.729(5)(b). If ~~((a~~
36 ~~child))~~ an individual is held past his or her earned release date
37 pending release plan approval, the department of social and health
38 services shall retain custody until a plan is approved or the
39 ~~((child))~~ individual completes the ordered term of confinement prior

1 to the maximum age ((~~twenty-one~~)) of juvenile offender commitment by
2 a juvenile court for the same offense provided under RCW 13.40.300.

3 ((~~(iii)~~)) (c) If the department of social and health services
4 determines that retaining custody of the ((~~child~~)) individual
5 presents a significant safety risk, the ((~~child~~)) individual may be
6 ((~~returned~~)) transferred to the custody of the department of
7 corrections.

8 ((~~(b)~~)) (d) If the ((~~child's~~)) individual's earned release date
9 is on or after the ((~~child's twenty-first birthday~~)) maximum age of
10 juvenile offender commitment by a juvenile court for the same offense
11 provided under RCW 13.40.300, the ((~~department of corrections shall,~~
12 ~~with the consent of the~~)) secretary of the department of social and
13 health services((~~, transfer~~)) shall retain the ((~~child to~~))
14 individual in a facility or institution operated by the department of
15 social and health services with the consent of the department of
16 corrections. ((~~Despite the transfer, the department of corrections~~
17 ~~retains authority over custody decisions and must approve any leave~~
18 ~~from the facility.~~)) When the ((~~child turns age twenty-one~~))
19 individual reaches the maximum age of juvenile offender commitment by
20 a juvenile court for the same offense provided under RCW 13.40.300,
21 he or she must be transferred ((~~back~~)) to the department of
22 corrections. The department of social and health services has all
23 routine and day-to-day operations authority for the ((~~child~~))
24 individual while he or she is in its custody.

25 (2)(a) Except as provided in (b) and (c) of this subsection, an
26 offender under the age of eighteen who is ((~~convicted in adult~~
27 ~~criminal court and who is committed to a term of confinement at~~))
28 transferred to the custody of the department of corrections must be
29 placed in a housing unit, or a portion of a housing unit, that is
30 separated from offenders eighteen years of age or older, until the
31 offender reaches the age of eighteen.

32 (b) An offender who is transferred to the custody of the
33 department of corrections and reaches eighteen years of age may
34 remain in a housing unit for offenders under the age of eighteen if
35 the secretary of corrections determines that: (i) The offender's
36 needs and the ((~~correctional~~)) rehabilitation goals for the offender
37 could continue to be better met by the programs and housing
38 environment that is separate from offenders eighteen years of age and
39 older; and (ii) the programs or housing environment for offenders
40 under the age of eighteen will not be substantially affected by the

1 continued placement of the offender in that environment. The offender
2 may remain placed in a housing unit for offenders under the age of
3 eighteen until such time as the secretary of corrections determines
4 that the offender's needs and ~~((correctional))~~ goals are no longer
5 better met in that environment but in no case past the ~~((offender's
6 twenty-first birthday))~~ maximum age of juvenile offender commitment
7 by a juvenile court for the same offense provided under RCW
8 13.40.300.

9 (c) An offender transferred to the custody of the department of
10 corrections who is under the age of eighteen may be housed in an
11 intensive management unit or administrative segregation unit
12 containing offenders eighteen years of age or older if it is
13 necessary for the safety or security of the offender or staff. In
14 these cases, the offender must be kept physically separate from other
15 offenders at all times.

16 **Sec. 3.** RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each
17 amended to read as follows:

18 (1) Whenever any child under the age of eighteen is convicted as
19 an adult in the courts of this state of a crime amounting to a
20 felony, and is committed for a term of confinement, that child shall
21 be ~~((initially))~~ placed in a facility operated by the department of
22 ~~((corrections))~~ children, youth, and families to determine the
23 child's earned release date.

24 (a) ~~((If the earned release date is prior to the child's twenty-
25 first birthday, the department of corrections shall transfer the
26 child to the custody of the department of children, youth, and
27 families, or to such other institution as is now, or may hereafter be
28 authorized by law to receive such child, until such time as the child
29 completes the ordered term of confinement or arrives at the age of
30 twenty-one years.~~

31 ~~(i))~~ While in the custody of the department of children, youth,
32 and families, the ~~((child))~~ individual must have the same treatment,
33 housing options, transfer, and access to program resources as any
34 other ~~((child))~~ individual committed directly to that juvenile
35 correctional facility or institution pursuant to chapter 13.40 RCW.
36 Treatment, placement, and program decisions shall be at the sole
37 discretion of the department of children, youth, and families. The
38 ~~((youth))~~ individual shall only be transferred ~~((back))~~ to the
39 custody of the department of corrections with the approval of the

1 department of children, youth, and families or when the ~~((child))~~
2 individual reaches the maximum age of ~~((twenty-one))~~ juvenile
3 offender commitment by a juvenile court for the same offense provided
4 under RCW 13.40.300.

5 ~~((+ii))~~ (b) If the ~~((child's))~~ individual's sentence includes a
6 term of community custody, the department of children, youth, and
7 families ~~((shall not))~~ is required to consult the department of
8 corrections prior to the individual's release ~~((the child))~~ to
9 community custody ~~((until the department of corrections has approved~~
10 ~~the child's release plan))~~ pursuant to RCW 9.94A.729(5)(b). If ~~((a~~
11 ~~child))~~ an individual is held past his or her earned release date
12 pending release plan approval, the department of children, youth, and
13 families shall retain custody until a plan is approved or the
14 ~~((child))~~ individual completes the ordered term of confinement prior
15 to the maximum age ~~((twenty-one))~~ of juvenile offender commitment by
16 a juvenile court for the same offense provided under RCW 13.40.300.

17 ~~((+iii))~~ (c) If the department of children, youth, and families
18 determines that retaining custody of the ~~((child))~~ individual
19 presents a significant safety risk, the ~~((child))~~ individual may be
20 ~~((returned))~~ transferred to the custody of the department of
21 corrections.

22 ~~((+b))~~ (d) If the ~~((child's))~~ individual's earned release date
23 is on or after the ~~((child's twenty-first birthday))~~ maximum age of
24 juvenile offender commitment by a juvenile court for the same offense
25 provided under RCW 13.40.300, the ~~((department of corrections shall,~~
26 ~~with the consent of the))~~ secretary of the department of children,
27 youth, and families ~~((, transfer))~~ shall retain the ~~((child to))~~
28 individual in a facility or institution operated by the department of
29 children, youth, and families with the consent of the department of
30 corrections. ~~((Despite the transfer, the department of corrections~~
31 ~~retains authority over custody decisions and must approve any leave~~
32 ~~from the facility.))~~ When the ~~((child turns age twenty-one))~~
33 individual reaches the maximum age of juvenile offender commitment by
34 a juvenile court for the same offense provided under RCW 13.40.300,
35 he or she must be transferred ~~((back))~~ to the department of
36 corrections. The department of children, youth, and families has all
37 routine and day-to-day operations authority for the ~~((child))~~
38 individual while he or she is in its custody.

39 (2)(a) Except as provided in (b) and (c) of this subsection, an
40 offender under the age of eighteen who is ~~((convicted in adult~~

1 ~~eriminal court and who is committed to a term of confinement at~~)
2 transferred to the custody of the department of corrections must be
3 placed in a housing unit, or a portion of a housing unit, that is
4 separated from offenders eighteen years of age or older, until the
5 offender reaches the age of eighteen.

6 (b) An offender who is transferred to the custody of the
7 department of corrections and reaches eighteen years of age may
8 remain in a housing unit for offenders under the age of eighteen if
9 the secretary of corrections determines that: (i) The offender's
10 needs and the ~~((correctional))~~ rehabilitation goals for the offender
11 could continue to be better met by the programs and housing
12 environment that is separate from offenders eighteen years of age and
13 older; and (ii) the programs or housing environment for offenders
14 under the age of eighteen will not be substantially affected by the
15 continued placement of the offender in that environment. The offender
16 may remain placed in a housing unit for offenders under the age of
17 eighteen until such time as the secretary of corrections determines
18 that the offender's needs and ~~((correctional))~~ goals are no longer
19 better met in that environment but in no case past the ~~((offender's~~
20 ~~twenty-first birthday))~~ maximum age of juvenile offender commitment
21 by a juvenile court for the same offense provided under RCW
22 13.40.300.

23 (c) An offender transferred to the custody of the department of
24 corrections who is under the age of eighteen may be housed in an
25 intensive management unit or administrative segregation unit
26 containing offenders eighteen years of age or older if it is
27 necessary for the safety or security of the offender or staff. In
28 these cases, the offender must be kept physically separate from other
29 offenders at all times.

30 **Sec. 4.** RCW 13.40.300 and 2005 c 238 s 2 are each amended to
31 read as follows:

32 (1) ~~((In no case may))~~ Except as provided in subsection (2) of
33 this section, a juvenile offender may not be committed by the
34 juvenile court to the department of social and health services for
35 placement in a juvenile correctional institution beyond the juvenile
36 offender's twenty-first birthday.

37 (2) A juvenile offender adjudicated of a serious violent offense
38 as defined under RCW 9.94A.030 may be committed by the juvenile court
39 to the department of social and health services for placement in a

1 correctional institution up to the time the juvenile offender is age
2 twenty-five and one-half years old, but not beyond.

3 (3) A juvenile may be under the jurisdiction of the juvenile
4 court or the authority of the department of social and health
5 services beyond the juvenile's eighteenth birthday only if prior to
6 the juvenile's eighteenth birthday:

7 (a) Proceedings are pending seeking the adjudication of a
8 juvenile offense and the court by written order setting forth its
9 reasons extends jurisdiction of juvenile court over the juvenile
10 beyond his or her eighteenth birthday;

11 (b) The juvenile has been found guilty after a fact finding or
12 after a plea of guilty and an automatic extension is necessary to
13 allow for the imposition of disposition;

14 (c) Disposition has been held and an automatic extension is
15 necessary to allow for the execution and enforcement of the court's
16 order of disposition. If an order of disposition imposes commitment
17 to the department, then jurisdiction is automatically extended to
18 include a period of up to twelve months of parole, in no case
19 extending beyond the offender's twenty-first birthday; or

20 (d) While proceedings are pending in a case in which jurisdiction
21 has been transferred to the adult criminal court pursuant to RCW
22 13.04.030, the juvenile turns eighteen years of age and is
23 subsequently found not guilty of the charge for which he or she was
24 transferred, or is convicted in the adult criminal court of a lesser
25 included offense, and an automatic extension is necessary to impose
26 the disposition as required by RCW 13.04.030(1)(e)(v)(E).

27 ~~((+2))~~ (4) If the juvenile court previously has extended
28 jurisdiction beyond the juvenile offender's eighteenth birthday and
29 that period of extension has not expired, the court may further
30 extend jurisdiction by written order setting forth its reasons.

31 ~~((+3) In no event may))~~ (5) Except as provided in this section
32 and for purposes of enforcing an order of restitution or penalty
33 assessment, the juvenile court ~~((have authority to))~~ may not extend
34 jurisdiction over any juvenile offender beyond the juvenile
35 offender's twenty-first birthday ~~((except for the purpose of~~
36 enforcing an order of restitution or penalty assessment)).

37 ~~((+4))~~ (6) Notwithstanding any extension of jurisdiction over a
38 person pursuant to this section, the juvenile court has no
39 jurisdiction over any offenses alleged to have been committed by a
40 person eighteen years of age or older.

1 **Sec. 5.** RCW 13.40.300 and 2017 3rd sp.s. c 6 s 613 are each
2 amended to read as follows:

3 (1) (~~In no case may~~) Except as provided in subsection (2) of
4 this section, a juvenile offender may not be committed by the
5 juvenile court to the department of children, youth, and families for
6 placement in a juvenile correctional institution beyond the juvenile
7 offender's twenty-first birthday.

8 (2) A juvenile offender adjudicated of a serious violent offense
9 as defined under RCW 9.94A.030 may be committed by the juvenile court
10 to the department of children, youth, and families for placement in a
11 correctional institution up to the time the juvenile offender is age
12 twenty-five and one-half years old, but not beyond.

13 (3) A juvenile may be under the jurisdiction of the juvenile
14 court or the authority of the department of children, youth, and
15 families beyond the juvenile's eighteenth birthday only if prior to
16 the juvenile's eighteenth birthday:

17 (a) Proceedings are pending seeking the adjudication of a
18 juvenile offense and the court by written order setting forth its
19 reasons extends jurisdiction of juvenile court over the juvenile
20 beyond his or her eighteenth birthday;

21 (b) The juvenile has been found guilty after a fact finding or
22 after a plea of guilty and an automatic extension is necessary to
23 allow for the imposition of disposition;

24 (c) Disposition has been held and an automatic extension is
25 necessary to allow for the execution and enforcement of the court's
26 order of disposition. If an order of disposition imposes commitment
27 to the department, then jurisdiction is automatically extended to
28 include a period of up to twelve months of parole, in no case
29 extending beyond the offender's twenty-first birthday; or

30 (d) While proceedings are pending in a case in which jurisdiction
31 has been transferred to the adult criminal court pursuant to RCW
32 13.04.030, the juvenile turns eighteen years of age and is
33 subsequently found not guilty of the charge for which he or she was
34 transferred, or is convicted in the adult criminal court of a lesser
35 included offense, and an automatic extension is necessary to impose
36 the disposition as required by RCW 13.04.030(1)(e)(v)(E).

37 (~~(+2)~~) (4) If the juvenile court previously has extended
38 jurisdiction beyond the juvenile offender's eighteenth birthday and
39 that period of extension has not expired, the court may further
40 extend jurisdiction by written order setting forth its reasons.

1 ~~((3) In no event may))~~ (5) Except as provided in this section
2 and for purposes of enforcing an order of restitution or penalty
3 assessment, the juvenile court ~~((have authority to))~~ may not extend
4 jurisdiction over any juvenile offender beyond the juvenile
5 offender's twenty-first birthday ~~((except for the purpose of~~
6 ~~enforcing an order of restitution or penalty assessment))~~.

7 ~~((4))~~ (6) Notwithstanding any extension of jurisdiction over a
8 person pursuant to this section, the juvenile court has no
9 jurisdiction over any offenses alleged to have been committed by a
10 person eighteen years of age or older.

11 NEW SECTION. Sec. 6. The Washington state institute for public
12 policy must assess the impact of this act on community safety, racial
13 disproportionality, and youth rehabilitation and submit a report, in
14 compliance with RCW 43.01.036, to the governor and the appropriate
15 committees of the legislature by December 1, 2027.

16 NEW SECTION. Sec. 7. This act applies to all individuals placed
17 or who will be placed, on or before the effective date of this
18 section, in juvenile rehabilitation facilities following an adult
19 court conviction. In all other respects, this act applies
20 prospectively.

21 NEW SECTION. Sec. 8. Sections 3 and 5 of this act take effect
22 July 1, 2019.

23 NEW SECTION. Sec. 9. Sections 2 and 4 of this act expire July
24 1, 2019.

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