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**SUBSTITUTE SENATE BILL 5596**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Darneille, Hunt, Hasegawa, Kuderer, and Saldaña)

READ FIRST TIME 01/11/18.

1 AN ACT Relating to phasing out use of the valid court order  
2 exception to place youth in detention for noncriminal behavior;  
3 amending RCW 7.21.030, 13.32A.250, 28A.225.090, and 43.185C.260;  
4 adding a new section to chapter 7.21 RCW; creating a new section;  
5 repealing RCW 43.185C.270; repealing 1998 c 296 s 35 (uncodified);  
6 and providing effective dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that it is a goal of  
9 our state to divert juveniles who have committed status offenses,  
10 behaviors that are prohibited under law only because of an  
11 individual's status as a minor, away from the juvenile justice system  
12 because a stay in detention is a predictive factor for future  
13 criminal justice system involvement. The legislature finds that  
14 Washington has been using the valid court order exception of the  
15 juvenile justice and delinquency prevention act, a loophole in  
16 federal law allowing judges to detain status offenders for disobeying  
17 court orders, more than any other state in the country. The  
18 legislature finds that use of the valid court order exception to  
19 detain youth for acts like truancy, breaking curfew, or running away  
20 from home is counterproductive and may worsen outcomes for at-risk  
21 youth. The legislature further finds that these youth should not be

1 confined with or treated with the same interventions as criminal  
2 offenders. The legislature finds that community-based interventions  
3 are more effective at addressing underlying causes of status offenses  
4 than detention. Finally, the legislature finds that community-based  
5 interventions can reduce court caseloads and lower system costs.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.21 RCW  
7 to read as follows:

8 (1) It is the policy of the state of Washington to entirely phase  
9 out the use of juvenile detention as a remedy for contempt of a valid  
10 court order by July 1, 2020. After this date, no youth may be  
11 committed to juvenile detention as a contempt sanction under chapter  
12 13.32A, 13.34, or 28A.225 RCW, nor may a warrant be issued under  
13 these chapters for failure to appear at a court hearing that requires  
14 commitment of a youth to juvenile detention.

15 (2) Until July 1, 2020, any youth committed to juvenile detention  
16 as a sanction for contempt under chapter 13.32A, 13.34, or 28A.225  
17 RCW, or for failure to appear at a court hearing under these  
18 chapters, must be detained in such a manner so that no direct  
19 communication or physical contact may be made between the youth and  
20 any youth who is detained to juvenile detention pursuant to a  
21 violation of criminal law.

22 **Sec. 3.** RCW 7.21.030 and 2001 c 260 s 6 are each amended to read  
23 as follows:

24 (1) The court may initiate a proceeding to impose a remedial  
25 sanction on its own motion or on the motion of a person aggrieved by  
26 a contempt of court in the proceeding to which the contempt is  
27 related. Except as provided in RCW 7.21.050, the court, after notice  
28 and hearing, may impose a remedial sanction authorized by this  
29 chapter.

30 (2) If the court finds that the person has failed or refused to  
31 perform an act that is yet within the person's power to perform, the  
32 court may find the person in contempt of court and impose one or more  
33 of the following remedial sanctions:

34 (a) Imprisonment if the contempt of court is of a type defined in  
35 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so  
36 long as it serves a coercive purpose.

37 (b) A forfeiture not to exceed two thousand dollars for each day  
38 the contempt of court continues.

1 (c) An order designed to ensure compliance with a prior order of  
2 the court.

3 (d) Any other remedial sanction other than the sanctions  
4 specified in (a) through (c) of this subsection if the court  
5 expressly finds that those sanctions would be ineffectual to  
6 terminate a continuing contempt of court.

7 ~~((e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW,  
8 commitment to juvenile detention for a period of time not to exceed  
9 seven days. This sanction may be imposed in addition to, or as an  
10 alternative to, any other remedial sanction authorized by this  
11 chapter. This remedy is specifically determined to be a remedial  
12 sanction.))~~

13 (3) The court may, in addition to the remedial sanctions set  
14 forth in subsection (2) of this section, order a person found in  
15 contempt of court to pay a party for any losses suffered by the party  
16 as a result of the contempt and any costs incurred in connection with  
17 the contempt proceeding, including reasonable attorney's fees.

18 (4) If the court finds that a person under the age of eighteen  
19 years has willfully disobeyed the terms of an order issued under  
20 chapter 10.14 RCW, the court may find the person in contempt of court  
21 and may, as a sole sanction for such contempt, commit the person to  
22 juvenile detention for a period of time not to exceed seven days.

23 **Sec. 4.** RCW 13.32A.250 and 2000 c 162 s 14 are each amended to  
24 read as follows:

25 (1) In all child in need of services proceedings and at-risk  
26 youth proceedings, the court shall verbally notify the parents and  
27 the child of the possibility of a finding of contempt for failure to  
28 comply with the terms of a court order entered pursuant to this  
29 chapter. Except as otherwise provided in this section, the court  
30 shall treat the parents and the child equally for the purposes of  
31 applying contempt of court processes and penalties under this  
32 section.

33 (2) Failure by a party to comply with an order entered under this  
34 chapter is a civil contempt of court as provided in RCW 7.21.030(2)  
35 ~~((e))~~, subject to the limitations of subsection (3) of this  
36 section.

37 (3) The court may impose remedial sanctions including a fine of  
38 up to one hundred dollars and confinement for up to seven days, or

1 both for contempt of court under this section. A child may not be  
2 placed in confinement as a remedial sanction under this section.

3 ~~(4) ((A child placed in confinement for contempt under this~~  
4 ~~section shall be placed in confinement only in a secure juvenile~~  
5 ~~detention facility operated by or pursuant to a contract with a~~  
6 ~~county.~~

7 ~~(5))~~) A motion for contempt may be made by a parent, a child,  
8 juvenile court personnel, or by any public agency, organization, or  
9 person having custody of the child under a court order adopted  
10 pursuant to this chapter.

11 ~~((6) Whenever the court finds probable cause to believe, based~~  
12 ~~upon consideration of a motion for contempt and the information set~~  
13 ~~forth in a supporting declaration, that a child has violated a~~  
14 ~~placement order entered under this chapter, the court may issue an~~  
15 ~~order directing law enforcement to pick up and take the child to~~  
16 ~~detention. The order may be entered ex parte without prior notice to~~  
17 ~~the child or other parties. Following the child's admission to~~  
18 ~~detention, a detention review hearing must be held in accordance with~~  
19 ~~RCW 13.32A.065.))~~

20 **Sec. 5.** RCW 28A.225.090 and 2017 c 291 s 5 are each amended to  
21 read as follows:

22 (1) A court may order a child subject to a petition under RCW  
23 28A.225.035 to do one or more of the following:

24 (a) Attend the child's current school, and set forth minimum  
25 attendance requirements, which shall not consider a suspension day as  
26 an unexcused absence;

27 (b) If there is space available and the program can provide  
28 educational services appropriate for the child, order the child to  
29 attend another public school, an alternative education program,  
30 center, a skill center, dropout prevention program, or another public  
31 educational program;

32 (c) Attend a private nonsectarian school or program including an  
33 education center. Before ordering a child to attend an approved or  
34 certified private nonsectarian school or program, the court shall:  
35 (i) Consider the public and private programs available; (ii) find  
36 that placement is in the best interest of the child; and (iii) find  
37 that the private school or program is willing to accept the child and  
38 will not charge any fees in addition to those established by contract  
39 with the student's school district. If the court orders the child to

1 enroll in a private school or program, the child's school district  
2 shall contract with the school or program to provide educational  
3 services for the child. The school district shall not be required to  
4 contract for a weekly rate that exceeds the state general  
5 apportionment dollars calculated on a weekly basis generated by the  
6 child and received by the district. A school district shall not be  
7 required to enter into a contract that is longer than the remainder  
8 of the school year. A school district shall not be required to enter  
9 into or continue a contract if the child is no longer enrolled in the  
10 district;

11 (d) Submit to a substance abuse assessment if the court finds on  
12 the record that such assessment is appropriate to the circumstances  
13 and behavior of the child and will facilitate the child's compliance  
14 with the mandatory attendance law and, if any assessment, including a  
15 urinalysis test ordered under this subsection indicates the use of  
16 controlled substances or alcohol, order the minor to abstain from the  
17 unlawful consumption of controlled substances or alcohol and adhere  
18 to the recommendations of the substance abuse assessment at no  
19 expense to the school; or

20 (e) Submit to a mental health evaluation or other diagnostic  
21 evaluation and adhere to the recommendations of the drug assessment,  
22 at no expense to the school, if the court finds on the court records  
23 that such evaluation is appropriate to the circumstances and behavior  
24 of the child, and will facilitate the child's compliance with the  
25 mandatory attendance law.

26 (2)((+a)) If the child fails to comply with the court order, the  
27 court may impose:

28 ((+i)) (a) Community restitution;

29 ((+ii)) (b) Nonresidential programs with intensive wraparound  
30 services;

31 ((+iii)) (c) A requirement that the child meet with a mentor for  
32 a specified number of times; or

33 ((+iv)) (d) Other services and interventions that the court  
34 deems appropriate.

35 ~~((b) If the child continues to fail to comply with the court  
36 order and the court makes a finding that other measures to secure  
37 compliance have been tried but have been unsuccessful and no less  
38 restrictive alternative is available, the court may order the child  
39 to be subject to detention, as provided in RCW 7.21.030(2)(e).  
40 Failure by a child to comply with an order issued under this~~

1 ~~subsection shall not be subject to detention for a period greater~~  
2 ~~than that permitted pursuant to a civil contempt proceeding against a~~  
3 ~~child under chapter 13.32A RCW. Detention ordered under this~~  
4 ~~subsection may be for no longer than seven days. Detention ordered~~  
5 ~~under this subsection shall preferably be served at a secure crisis~~  
6 ~~residential center close to the child's home rather than in a~~  
7 ~~juvenile detention facility. A warrant of arrest for a child under~~  
8 ~~this subsection may not be served on a child inside of school during~~  
9 ~~school hours in a location where other students are present.))~~

10 (3) Any parent violating any of the provisions of either RCW  
11 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than  
12 twenty-five dollars for each day of unexcused absence from school.  
13 The court shall remit fifty percent of the fine collected under this  
14 section to the child's school district. It shall be a defense for a  
15 parent charged with violating RCW 28A.225.010 to show that he or she  
16 exercised reasonable diligence in attempting to cause a child in his  
17 or her custody to attend school or that the child's school did not  
18 perform its duties as required in RCW 28A.225.020. The court may  
19 order the parent to provide community restitution instead of imposing  
20 a fine. Any fine imposed pursuant to this section may be suspended  
21 upon the condition that a parent charged with violating RCW  
22 28A.225.010 shall participate with the school and the child in a  
23 supervised plan for the child's attendance at school or upon  
24 condition that the parent attend a conference or conferences  
25 scheduled by a school for the purpose of analyzing the causes of a  
26 child's absence.

27 (4) If a child continues to be truant after entering into a  
28 court-approved order with the truancy board under RCW 28A.225.035,  
29 the juvenile court shall find the child in contempt, and the court  
30 may ~~((order the child to be subject to detention, as provided in RCW~~  
31 ~~7.21.030(2)(e), or may))~~ impose alternatives to detention ~~((such as~~  
32 ~~meaningful community restitution. Failure by a child to comply with~~  
33 ~~an order issued under this subsection may not subject a child to~~  
34 ~~detention for a period greater than that permitted under a civil~~  
35 ~~contempt proceeding against a child under chapter 13.32A RCW))~~  
36 consistent with best practice models for reengagement with school.

37 (5) Subsections (1), (2), and (4) of this section shall not apply  
38 to a six or seven year old child required to attend public school  
39 under RCW 28A.225.015.

1       **Sec. 6.** RCW 43.185C.260 and 2017 c 277 s 4 are each amended to  
2 read as follows:

3       (1) A law enforcement officer shall take a child into custody:

4       (a) If a law enforcement agency has been contacted by the parent  
5 of the child that the child is absent from parental custody without  
6 consent; or

7       (b) If a law enforcement officer reasonably believes, considering  
8 the child's age, the location, and the time of day, that a child is  
9 in circumstances which constitute a danger to the child's safety or  
10 that a child is violating a local curfew ordinance; or

11       (c) If an agency legally charged with the supervision of a child  
12 has notified a law enforcement agency that the child has run away  
13 from placement(~~(; or~~

14       ~~(d) If a law enforcement agency has been notified by the juvenile~~  
15 ~~court that the court finds probable cause exists to believe that the~~  
16 ~~child has violated a court placement order issued under this chapter~~  
17 ~~or chapter 13.34 RCW or that the court has issued an order for law~~  
18 ~~enforcement pick up of the child under this chapter or chapter 13.34~~  
19 ~~RCW)).~~

20       (2) Law enforcement custody shall not extend beyond the amount of  
21 time reasonably necessary to transport the child to a destination  
22 authorized by law and to place the child at that destination. Law  
23 enforcement custody continues until the law enforcement officer  
24 transfers custody to a person, agency, or other authorized entity  
25 under this chapter, or releases the child because no placement is  
26 available. Transfer of custody is not complete unless the person,  
27 agency, or entity to whom the child is released agrees to accept  
28 custody.

29       (3) If a law enforcement officer takes a child into custody  
30 pursuant to either subsection (1)(a) or (b) of this section and  
31 transports the child to a crisis residential center, the officer  
32 shall, within twenty-four hours of delivering the child to the  
33 center, provide to the center a written report detailing the reasons  
34 the officer took the child into custody. The center shall provide the  
35 department of social and health services with a copy of the officer's  
36 report if the youth is in the care of or receiving services from the  
37 department of social and health services children's administration.

38       (4) If the law enforcement officer who initially takes the  
39 juvenile into custody or the staff of the crisis residential center  
40 have reasonable cause to believe that the child is absent from home

1 because he or she is abused or neglected, a report shall be made  
2 immediately to the department of social and health services.

3 (5) Nothing in this section affects the authority of any  
4 political subdivision to make regulations concerning the conduct of  
5 minors in public places by ordinance or other local law.

6 (6) If a law enforcement officer has a reasonable suspicion that  
7 a child is being unlawfully harbored in violation of RCW 13.32A.080,  
8 the officer shall remove the child from the custody of the person  
9 harboring the child and shall transport the child to one of the  
10 locations specified in RCW 43.185C.265.

11 (7) No child may be placed in a secure facility except as  
12 provided in this chapter.

13 NEW SECTION. **Sec. 7.** The following acts or parts of acts are  
14 each repealed:

15 (1) RCW 43.185C.270 (Youth services—Officer taking child into  
16 custody—Placing in detention—Detention review hearing—Hearing on  
17 contempt) and 2015 c 69 s 15; and

18 (2) 1998 c 296 s 35 (uncodified).

19 NEW SECTION. **Sec. 8.** (1) Section 5 of this act takes effect  
20 July 1, 2019.

21 (2) Sections 3, 4, 6, and 7 of this act take effect July 1, 2020.

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