

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6445

55th Legislature
1998 Regular Session

Passed by the Senate March 9, 1998
YEAS 45 NAYS 0

President of the Senate

Passed by the House March 4, 1998
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6445** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6445

AS AMENDED BY THE HOUSE

Passed Legislature - 1998 Regular Session

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove, Haugen, Zarelli, McAuliffe, Franklin and Winsley)

Read first time 02/10/98.

1 AN ACT Relating to the placement of children under the jurisdiction
2 of the department of social and health services; amending RCW
3 72.05.020, 74.15.020, and 28A.600.475; reenacting and amending RCW
4 13.50.010; adding new sections to chapter 72.05 RCW; adding a new
5 section to chapter 74.15 RCW; adding a new section to chapter 13.40
6 RCW; creating new sections; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to:

9 (1) Enhance public safety and maximize the rehabilitative potential
10 of juvenile offenders through modifications to licensed community
11 residential placements for juveniles;

12 (2) Ensure community support for community facilities by enabling
13 community participation in decisions involving these facilities and
14 assuring the safety of communities in which community facilities for
15 juvenile offenders are located; and

16 (3) Improve public safety by strengthening the safeguards in
17 placement, oversight, and monitoring of the juvenile offenders placed
18 in the community, and by establishing minimum standards for operation
19 of licensed residential community facilities. The legislature finds

1 that community support and participation is vital to the success of
2 community programming.

3 **Sec. 2.** RCW 72.05.020 and 1979 c 141 s 178 are each amended to
4 read as follows:

5 As used in this chapter, unless the context requires otherwise:

6 (1) "Community facility" means a group care facility operated for
7 the care of juveniles committed to the department under RCW 13.40.185.
8 A county detention facility that houses juveniles committed to the
9 department under RCW 13.40.185 pursuant to a contract with the
10 department is not a community facility.

11 (2) "Department" means the department of social and health
12 services.

13 (3) "Juvenile" means a person under the age of twenty-one who has
14 been sentenced to a term of confinement under the supervision of the
15 department under RCW 13.40.185.

16 (4) "Service provider" means the entity that operates a community
17 facility.

18 **Sec. 3.** RCW 74.15.020 and 1997 c 245 s 7 are each amended to read
19 as follows:

20 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
21 otherwise clearly indicated by the context thereof, the following terms
22 shall mean:

23 (1) "Department" means the state department of social and health
24 services;

25 (2) "Secretary" means the secretary of social and health services;

26 (3) "Agency" means any person, firm, partnership, association,
27 corporation, or facility which receives children, expectant mothers, or
28 persons with developmental disabilities for control, care, or
29 maintenance outside their own homes, or which places, arranges the
30 placement of, or assists in the placement of children, expectant
31 mothers, or persons with developmental disabilities for foster care or
32 placement of children for adoption, and shall include the following
33 irrespective of whether there is compensation to the agency or to the
34 children, expectant mothers or persons with developmental disabilities
35 for services rendered:

1 (a) "Group-care facility" means an agency, other than a foster-
2 family home, which is maintained and operated for the care of a group
3 of children on a twenty-four hour basis;

4 (b) "Child-placing agency" means an agency which places a child or
5 children for temporary care, continued care, or for adoption;

6 (c) "Maternity service" means an agency which provides or arranges
7 for care or services to expectant mothers, before or during
8 confinement, or which provides care as needed to mothers and their
9 infants after confinement;

10 (d) "Child day-care center" means an agency which regularly
11 provides care for a group of children for periods of less than twenty-
12 four hours;

13 (e) "Family day-care provider" means a child day-care provider who
14 regularly provides child day care for not more than twelve children in
15 the provider's home in the family living quarters;

16 (f) "Foster-family home" means an agency which regularly provides
17 care on a twenty-four hour basis to one or more children, expectant
18 mothers, or persons with developmental disabilities in the family abode
19 of the person or persons under whose direct care and supervision the
20 child, expectant mother, or person with a developmental disability is
21 placed;

22 (g) "Crisis residential center" means an agency which is a
23 temporary protective residential facility operated to perform the
24 duties specified in chapter 13.32A RCW, in the manner provided in RCW
25 74.13.032 through 74.13.036;

26 (h) "Community facility" means a group care facility operated for
27 the care of juveniles committed to the department under RCW 13.40.185.
28 A county detention facility that houses juveniles committed to the
29 department under RCW 13.40.185 pursuant to a contract with the
30 department is not a community facility;

31 (i) "Service provider" means the entity that operates a community
32 facility.

33 (4) "Agency" shall not include the following:

34 (a) Persons related to the child, expectant mother, or person with
35 developmental disability in the following ways:

36 (i) Any blood relative, including those of half-blood, and
37 including first cousins, nephews or nieces, and persons of preceding
38 generations as denoted by prefixes of grand, great, or great-great;

39 (ii) Stepfather, stepmother, stepbrother, and stepsister;

1 (iii) A person who legally adopts a child or the child's parent as
2 well as the natural and other legally adopted children of such persons,
3 and other relatives of the adoptive parents in accordance with state
4 law;

5 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
6 subsection (4)(a), even after the marriage is terminated; or

7 (v) Extended family members, as defined by the law or custom of the
8 Indian child's tribe or, in the absence of such law or custom, a person
9 who has reached the age of eighteen and who is the Indian child's
10 grandparent, aunt or uncle, brother or sister, brother-in-law or
11 sister-in-law, niece or nephew, first or second cousin, or stepparent
12 who provides care in the family abode on a twenty-four-hour basis to an
13 Indian child as defined in 25 U.S.C. Sec. 1903(4);

14 (b) Persons who are legal guardians of the child, expectant mother,
15 or persons with developmental disabilities;

16 (c) Persons who care for a neighbor's or friend's child or
17 children, with or without compensation, where: (i) The person
18 providing care for periods of less than twenty-four hours does not
19 conduct such activity on an ongoing, regularly scheduled basis for the
20 purpose of engaging in business, which includes, but is not limited to,
21 advertising such care; or (ii) the parent and person providing care on
22 a twenty-four-hour basis have agreed to the placement in writing and
23 the state is not providing any payment for the care;

24 (d) Parents on a mutually cooperative basis exchange care of one
25 another's children;

26 (e) A person, partnership, corporation, or other entity that
27 provides placement or similar services to exchange students or
28 international student exchange visitors or persons who have the care of
29 an exchange student in their home;

30 (f) Nursery schools or kindergartens which are engaged primarily in
31 educational work with preschool children and in which no child is
32 enrolled on a regular basis for more than four hours per day;

33 (g) Schools, including boarding schools, which are engaged
34 primarily in education, operate on a definite school year schedule,
35 follow a stated academic curriculum, accept only school-age children
36 and do not accept custody of children;

37 (h) Seasonal camps of three months' or less duration engaged
38 primarily in recreational or educational activities;

1 (i) Hospitals licensed pursuant to chapter 70.41 RCW when
2 performing functions defined in chapter 70.41 RCW, nursing homes
3 licensed under chapter 18.51 RCW and boarding homes licensed under
4 chapter 18.20 RCW;

5 (j) Licensed physicians or lawyers;

6 (k) Facilities providing care to children for periods of less than
7 twenty-four hours whose parents remain on the premises to participate
8 in activities other than employment;

9 (l) Facilities approved and certified under chapter 71A.22 RCW;

10 (m) Any agency having been in operation in this state ten years
11 prior to June 8, 1967, and not seeking or accepting moneys or
12 assistance from any state or federal agency, and is supported in part
13 by an endowment or trust fund;

14 (n) Persons who have a child in their home for purposes of
15 adoption, if the child was placed in such home by a licensed child-
16 placing agency, an authorized public or tribal agency or court or if a
17 replacement report has been filed under chapter 26.33 RCW and the
18 placement has been approved by the court;

19 (o) An agency operated by any unit of local, state, or federal
20 government or an agency, located within the boundaries of a federally
21 recognized Indian reservation, licensed by the Indian tribe;

22 (p) An agency located on a federal military reservation, except
23 where the military authorities request that such agency be subject to
24 the licensing requirements of this chapter.

25 (5) "Requirement" means any rule, regulation, or standard of care
26 to be maintained by an agency.

27 (6) "Probationary license" means a license issued as a disciplinary
28 measure to an agency that has previously been issued a full license but
29 is out of compliance with licensing standards.

30 (7) "Juvenile" means a person under the age of twenty-one who has
31 been sentenced to a term of confinement under the supervision of the
32 department under RCW 13.40.185.

33 **Sec. 4.** RCW 13.50.010 and 1997 c 386 s 21 and 1997 c 338 s 39 are
34 each reenacted and amended to read as follows:

35 (1) For purposes of this chapter:

36 (a) "Juvenile justice or care agency" means any of the following:
37 Police, diversion units, court, prosecuting attorney, defense attorney,
38 detention center, attorney general, the legislative children's

1 oversight committee, the office of family and children's ombudsman, the
2 department of social and health services and its contracting agencies,
3 schools; (~~and, in addition,~~) persons or public or private agencies
4 having children committed to their custody; and any placement oversight
5 committee created under section 9 of this act;

6 (b) "Official juvenile court file" means the legal file of the
7 juvenile court containing the petition or information, motions,
8 memorandums, briefs, findings of the court, and court orders;

9 (c) "Social file" means the juvenile court file containing the
10 records and reports of the probation counselor;

11 (d) "Records" means the official juvenile court file, the social
12 file, and records of any other juvenile justice or care agency in the
13 case.

14 (2) Each petition or information filed with the court may include
15 only one juvenile and each petition or information shall be filed under
16 a separate docket number. The social file shall be filed separately
17 from the official juvenile court file.

18 (3) It is the duty of any juvenile justice or care agency to
19 maintain accurate records. To this end:

20 (a) The agency may never knowingly record inaccurate information.
21 Any information in records maintained by the department of social and
22 health services relating to a petition filed pursuant to chapter 13.34
23 RCW that is found by the court(~~(, upon proof presented,)~~) to be false
24 or inaccurate shall be corrected or expunged from such records by the
25 agency;

26 (b) An agency shall take reasonable steps to assure the security of
27 its records and prevent tampering with them; and

28 (c) An agency shall make reasonable efforts to insure the
29 completeness of its records, including action taken by other agencies
30 with respect to matters in its files.

31 (4) Each juvenile justice or care agency shall implement procedures
32 consistent with the provisions of this chapter to facilitate inquiries
33 concerning records.

34 (5) Any person who has reasonable cause to believe information
35 concerning that person is included in the records of a juvenile justice
36 or care agency and who has been denied access to those records by the
37 agency may make a motion to the court for an order authorizing that
38 person to inspect the juvenile justice or care agency record concerning
39 that person. The court shall grant the motion to examine records

1 unless it finds that in the interests of justice or in the best
2 interests of the juvenile the records or parts of them should remain
3 confidential.

4 (6) A juvenile, or his or her parents, or any person who has
5 reasonable cause to believe information concerning that person is
6 included in the records of a juvenile justice or care agency may make
7 a motion to the court challenging the accuracy of any information
8 concerning the moving party in the record or challenging the continued
9 possession of the record by the agency. If the court grants the
10 motion, it shall order the record or information to be corrected or
11 destroyed.

12 (7) The person making a motion under subsection (5) or (6) of this
13 section shall give reasonable notice of the motion to all parties to
14 the original action and to any agency whose records will be affected by
15 the motion.

16 (8) The court may permit inspection of records by, or release of
17 information to, any clinic, hospital, or agency which has the subject
18 person under care or treatment. The court may also permit inspection
19 by or release to individuals or agencies, including juvenile justice
20 advisory committees of county law and justice councils, engaged in
21 legitimate research for educational, scientific, or public purposes.
22 The court may also permit inspection of, or release of information
23 from, records which have been sealed pursuant to RCW 13.50.050(11).
24 The court shall release to the sentencing guidelines commission records
25 needed for its research and data-gathering functions under RCW
26 9.94A.040 and other statutes. Access to records or information for
27 research purposes shall be permitted only if the anonymity of all
28 persons mentioned in the records or information will be preserved.
29 Each person granted permission to inspect juvenile justice or care
30 agency records for research purposes shall present a notarized
31 statement to the court stating that the names of juveniles and parents
32 will remain confidential.

33 (9) Juvenile detention facilities shall release records to the
34 sentencing guidelines commission under RCW 9.94A.040 upon request. The
35 commission shall not disclose the names of any juveniles or parents
36 mentioned in the records without the named individual's written
37 permission.

38 (10) Requirements in this chapter relating to the court's authority
39 to compel disclosure shall not apply to the legislative children's

1 oversight committee or the office of the family and children's
2 ombudsman.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 72.05 RCW
4 to read as follows:

5 (1) Whenever the department operates, or the secretary enters a
6 contract to operate, a community facility, the community facility may
7 be operated only after the public notification and opportunities for
8 review and comment as required by this section.

9 (2) The secretary shall establish a process for early and
10 continuous public participation in establishing or relocating community
11 facilities. The process shall include, at a minimum, public meetings
12 in the local communities affected, as well as opportunities for written
13 and oral comments, in the following manner:

14 (a) If there are more than three sites initially selected as
15 potential locations and the selection process by the secretary or a
16 service provider reduces the number of possible sites for a community
17 facility to no fewer than three, the secretary or the chief operating
18 officer of the service provider shall notify the public of the possible
19 siting and hold at least two public hearings in each community where a
20 community facility may be sited.

21 (b) When the secretary or service provider has determined the
22 community facility's location, the secretary or the chief operating
23 officer of the service provider shall hold at least one additional
24 public hearing in the community where the community facility will be
25 sited.

26 (c) When the secretary has entered negotiations with a service
27 provider and only one site is under consideration, then at least two
28 public hearings shall be held.

29 (d) To provide adequate notice of, and opportunity for interested
30 persons to comment on, a proposed location, the secretary or the chief
31 operating officer of the service provider shall provide at least
32 fourteen days advance notice of the meeting to all newspapers of
33 general circulation in the community, all radio and television stations
34 generally available to persons in the community, any school district in
35 which the community facility would be sited or whose boundary is within
36 two miles of a proposed community facility, any library district in
37 which the community facility would be sited, local business or
38 fraternal organizations that request notification from the secretary or

1 agency, and any person or property owner within a one-half mile radius
2 of the proposed community facility. Before initiating this process,
3 the department shall contact local government planning agencies in the
4 communities containing the proposed community facility. The department
5 shall coordinate with local government agencies to ensure that
6 opportunities are provided for effective citizen input and to reduce
7 the duplication of notice and meetings.

8 (3) The secretary shall not issue a license to any service provider
9 until the service provider submits proof that the requirements of this
10 section have been met.

11 (4) This section shall apply only to community facilities sited
12 after the effective date of this act.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.05 RCW
14 to read as follows:

15 The department shall adopt an infraction policy for juveniles
16 placed in community facilities. The policy shall require written
17 documentation by the department and service providers of all
18 infractions and violations by juveniles of conditions set by the
19 department. Any juvenile who commits a serious infraction or a serious
20 violation of conditions set by the department shall be returned to an
21 institution. The secretary shall not return a juvenile to a community
22 facility until a new risk assessment has been completed and the
23 secretary reasonably believes that the juvenile can adhere to the
24 conditions set by the department. The department shall define the
25 terms "serious infraction" and "serious violation" in rule and shall
26 include but not necessarily limited to the commission of any criminal
27 offense, any unlawful use or possession of a controlled substance, and
28 any use or possession of an alcoholic beverage.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.15 RCW
30 to read as follows:

31 (1) Whenever the secretary contracts with a service provider to
32 operate a community facility, the contract shall include a requirement
33 that each service provider must report to the department any known
34 infraction or violation of conditions committed by any juvenile under
35 its supervision. The report must be made immediately upon learning of
36 serious infractions or violations and within twenty-four hours for
37 other infractions or violations.

1 (2) The secretary shall adopt rules to implement and enforce the
2 provisions of this section. The rules shall contain a schedule of
3 monetary penalties not to exceed the total compensation set forth in
4 the contract, and include provisions that allow the secretary to
5 terminate all contracts with a service provider that has violations of
6 this section and the rules adopted under this section.

7 (3) The secretary shall document in writing all violations of this
8 section and the rules adopted under this section, penalties, actions by
9 the department to remove juveniles from a community facility, and
10 contract terminations. The department shall give great weight to a
11 service provider's record of violations, penalties, actions by the
12 department to remove juveniles from a community facility, and contract
13 terminations in determining to execute, renew, or renegotiate a
14 contract with a service provider.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.05 RCW
16 to read as follows:

17 (1) The department shall publish and operate a staffed, toll-free
18 twenty-four-hour hotline for the purpose of receiving reports of
19 violation of conditions set for juveniles who are placed in community
20 facilities.

21 (2) The department shall include the phone number on all documents
22 distributed to the juvenile and the juvenile's employer, school,
23 parents, and treatment providers.

24 (3) The department shall include the phone number in every contract
25 it executes with any service provider after the effective date of this
26 act.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 72.05 RCW
28 to read as follows:

29 (1) Promptly following the report due under section 17 of this act,
30 the secretary shall develop a process with local governments that
31 allows each community to establish a community placement oversight
32 committee. The department may conduct community awareness activities.
33 The community placement oversight committees developed pursuant to this
34 section shall be implemented no later than September 1, 1999.

35 (2) The community placement oversight committees may review and
36 make recommendations regarding the placement of any juvenile who the
37 secretary proposes to place in the community facility.

1 (3) The community placement oversight committees, their members,
2 and any agency represented by a member shall not be liable in any cause
3 of action as a result of its decision in regard to a proposed placement
4 of a juvenile unless the committee acts with gross negligence or bad
5 faith in making a placement decision.

6 (4) Members of the committee shall be reimbursed for travel
7 expenses as provided in RCW 43.03.050 and 43.03.060.

8 (5) Except as provided in RCW 13.40.215, at least seventy-two hours
9 prior to placing a juvenile in a community facility the secretary shall
10 provide to the chief law enforcement officer of the jurisdiction in
11 which the community facility is sited: (a) The name of the juvenile;
12 (b) the juvenile's criminal history; and (c) such other relevant and
13 disclosable information as the law enforcement officer may require.

14 NEW SECTION. **Sec. 10.** A new section is added to chapter 72.05 RCW
15 to read as follows:

16 (1) The department shall not initially place an offender in a
17 community facility unless:

18 (a) The department has conducted a risk assessment, including a
19 determination of drug and alcohol abuse, and the results indicate the
20 juvenile will pose not more than a minimum risk to public safety; and

21 (b) The offender has spent at least ten percent of his or her
22 sentence, but in no event less than thirty days, in a secure
23 institution operated by, or under contract with, the department.

24 The risk assessment must include consideration of all prior
25 convictions and all available nonconviction data released upon request
26 under RCW 10.97.050, and any serious infractions or serious violations
27 while under the jurisdiction of the secretary or the courts.

28 (2) No juvenile offender may be placed in a community facility
29 until the juvenile's student records and information have been received
30 and the department has reviewed them in conjunction with all other
31 information used for risk assessment, security classification, and
32 placement of the juvenile.

33 (3) A juvenile offender shall not be placed in a community facility
34 until the department's risk assessment and security classification is
35 complete and local law enforcement has been properly notified.

36 **Sec. 11.** RCW 28A.600.475 and 1992 c 205 s 120 are each amended to
37 read as follows:

1 School districts may participate in the exchange of information
2 with law enforcement and juvenile court officials to the extent
3 permitted by the family educational and privacy rights act of 1974, 20
4 U.S.C. Sec. 1232g. When directed by court order or pursuant to any
5 lawfully issued subpoena, a school district shall make student records
6 and information available to law enforcement officials, probation
7 officers, court personnel, and others legally entitled to the
8 information. Except as provided in section 12 of this act, parents and
9 students shall be notified by the school district of all such orders or
10 subpoenas in advance of compliance with them.

11 NEW SECTION. Sec. 12. A new section is added to chapter 13.40 RCW
12 to read as follows:

13 (1) Pursuant to RCW 28A.600.475, and to the extent permitted by the
14 family educational and privacy rights act of 1974, 20 U.S.C. Sec.
15 1232g(b), and in order to serve the juvenile while in detention and to
16 prepare any postconviction services, schools shall make all student
17 records and information necessary for risk assessment, security
18 classification, and placement available to court personnel and the
19 department within three working days of a request under this section.

20 (2)(a) When a juvenile has one or more prior convictions, a request
21 for records shall be made by the county prosecuting attorney, or
22 probation department if available, to the school not more than ten days
23 following the juvenile's arrest or detention, whichever occurs later,
24 and prior to trial. The request may be made by subpoena.

25 (b) Where a juvenile has no prior conviction, a request to release
26 records shall be made by subpoena upon the juvenile's conviction. When
27 the request for a juvenile's student records and information is made by
28 subpoena following conviction, the court or other issuing agency shall
29 order the school on which the subpoena is served not to disclose to any
30 person the existence or contents of the subpoena or any information
31 furnished in response to the subpoena. When the court or issuing
32 agency so orders, the school shall not provide notice to the juvenile
33 or his or her parents.

34 NEW SECTION. Sec. 13. A new section is added to chapter 72.05 RCW
35 to read as follows:

36 (1) The department shall establish by rule, in consultation with
37 the office of the superintendent of public instruction, those student

1 records and information necessary to conduct a risk assessment, make a
2 security classification, and ensure proper placement. Those records
3 shall include at least:

4 (a) Any history of placement in special education programs;

5 (b) Any past, current, or pending disciplinary action;

6 (c) Any history of violent, aggressive, or disruptive behavior, or
7 gang membership, or behavior listed in RCW 13.04.155;

8 (d) Any use of weapons that is illegal or in violation of school
9 policy;

10 (e) Any history of truancy;

11 (f) Any drug or alcohol abuse;

12 (g) Any health conditions affecting the juvenile's placement needs;

13 and

14 (h) Any other relevant information.

15 (2) For purposes of this section "gang" has the meaning defined in
16 RCW 28A.225.225.

17 NEW SECTION. **Sec. 14.** A new section is added to chapter 72.05 RCW
18 to read as follows:

19 (1) Whenever the department operates, or the secretary enters a
20 contract to operate, a community facility, the placement and
21 supervision of juveniles must be accomplished in accordance with this
22 section.

23 (2) The secretary shall require that any juvenile placed in a
24 community facility and who is employed or assigned as a volunteer be
25 subject to monitoring for compliance with requirements for attendance
26 at his or her job or assignment. The monitoring requirements shall be
27 included in a written agreement between the employer or supervisor, the
28 secretary or chief operating officer of the contracting agency, and the
29 juvenile. The requirements shall include, at a minimum, the following:

30 (a) Acknowledgment of the juvenile's offender status;

31 (b) The name, address, and telephone number of the community
32 facility at which the juvenile resides;

33 (c) The twenty-four-hour telephone number required under section 8
34 of this act;

35 (d) The name and work telephone number of all persons responsible
36 for the supervision of the juvenile;

1 (e) A prohibition on the juvenile's departure from the work or
2 volunteer site without prior approval of the person in charge of the
3 community facility;

4 (f) A prohibition on personal telephone calls except to the
5 community facility;

6 (g) A prohibition on receiving compensation in any form other than
7 a negotiable instrument;

8 (h) A requirement that rest breaks during work hours be taken only
9 in those areas at the location which are designated for such breaks;

10 (i) A prohibition on visits from persons not approved in advance by
11 the person in charge of the community facility;

12 (j) A requirement that any unexcused absence, tardiness, or
13 departure by the juvenile be reported immediately upon discovery to the
14 person in charge of the community facility;

15 (k) A requirement that any notice from the juvenile that he or she
16 will not report to the work or volunteer site be verified as legitimate
17 by contacting the person in charge of the community facility; and

18 (l) An agreement that the community facility will conduct and
19 document random visits to determine compliance by the juvenile with the
20 terms of this section.

21 (3) The secretary shall require that any juvenile placed in a
22 community facility and who is enrolled in a public or private school be
23 subject to monitoring for compliance with requirements for attendance
24 at his or her school. The monitoring requirements shall be included in
25 a written agreement between the school district or appropriate
26 administrative officer, the secretary or chief operating officer of the
27 contracting agency, and the juvenile. The requirements shall include,
28 at a minimum, the following:

29 (a) Acknowledgment of the juvenile's offender status;

30 (b) The name, address, and telephone number of the community
31 facility at which the juvenile resides;

32 (c) The twenty-four-hour telephone number required under section 8
33 of this act;

34 (d) The name and work telephone number of at least two persons at
35 the school to contact if issues arise concerning the juvenile's
36 compliance with the terms of his or her attendance at school;

37 (e) A prohibition on the juvenile's departure from the school
38 without prior approval of the appropriate person at the school;

1 (f) A prohibition on personal telephone calls except to the
2 community facility;

3 (g) A requirement that the juvenile remain on school grounds except
4 for authorized and supervised school activities;

5 (h) A prohibition on visits from persons not approved in advance by
6 the person in charge of the community facility;

7 (i) A requirement that any unexcused absence or departure by the
8 juvenile be reported immediately upon discovery to the person in charge
9 of the community facility;

10 (j) A requirement that any notice from the juvenile that he or she
11 will not attend school be verified as legitimate by contacting the
12 person in charge of the community facility; and

13 (k) An agreement that the community facility will conduct and
14 document random visits to determine compliance by the juvenile with the
15 terms of this section.

16 (4) The secretary shall require that when any juvenile placed in a
17 community facility is employed, assigned as a volunteer, or enrolled in
18 a public or private school:

19 (a) Program staff members shall make and document periodic and
20 random accountability checks while the juvenile is at the school or
21 work facility;

22 (b) A program counselor assigned to the juvenile shall contact the
23 juvenile's employer, teacher, or school counselor regularly to discuss
24 school or job performance-related issues.

25 (5) The department shall maintain a copy of all agreements executed
26 under this section. The department shall also provide each affected
27 juvenile with a copy of every agreement to which he or she is a party.
28 The service provider shall maintain a copy of every agreement it
29 executes under this section.

30 NEW SECTION. **Sec. 15.** A new section is added to chapter 72.05 RCW
31 to read as follows:

32 (1) The department shall establish by rule a policy for the common
33 use of residential group homes for juvenile offenders under the
34 jurisdiction of the juvenile rehabilitation administration and the
35 children's administration.

36 (2) A juvenile confined under the jurisdiction of the juvenile
37 rehabilitation administration who is convicted of a class A felony is
38 not eligible for placement in a community facility operated by

1 children's administration that houses juveniles who are not under the
2 jurisdiction of juvenile rehabilitation administration unless:

3 (a) The juvenile is housed in a separate living unit solely for
4 juvenile offenders;

5 (b) The community facility is a specialized treatment program and
6 the youth is not assessed as sexually aggressive under RCW 13.40.470;
7 or

8 (c) The community facility is a specialized treatment program that
9 houses one or more sexually aggressive youth and the juvenile is not
10 assessed as sexually vulnerable under RCW 13.40.470.

11 NEW SECTION. **Sec. 16.** A new section is added to chapter 72.05 RCW
12 to read as follows:

13 (1) A person shall not be eligible for an employed or volunteer
14 position within the juvenile rehabilitation administration or any
15 agency with which it contracts in which the person may have regular
16 access to juveniles under the jurisdiction of the department of social
17 and health services or the department of corrections if the person has
18 been convicted of one or more of the following:

19 (a) Any felony sex offense;

20 (b) Any violent offense, as defined in RCW 9.94A.030.

21 (2) Subsection (1) of this section applies only to persons hired by
22 the department or any of its contracting agencies after the effective
23 date of this act.

24 (3) Any person employed by the juvenile rehabilitation
25 administration, or by any contracting agency, who may have regular
26 access to juveniles under the jurisdiction of the department or the
27 department of corrections and who is convicted of an offense set forth
28 in this section after the effective date of this act, shall report the
29 conviction to his or her supervisor. The report must be made within
30 seven days of conviction. Failure to report within seven days of
31 conviction constitutes misconduct under Title 50 RCW.

32 (4) For purposes of this section "may have regular access to
33 juveniles" means access for more than a nominal amount of time.

34 (5) The department shall adopt rules to implement this section.

35 NEW SECTION. **Sec. 17.** (1) The Washington state institute for
36 public policy shall conduct a special study of the contracts,
37 operations, and monitoring of community residential facilities that

1 house juvenile offenders who are under the jurisdiction of the
2 department's juvenile rehabilitation administration.

3 (2) The institute must consult with nearby residents, local
4 sheriffs and police chiefs, courts, probation departments, schools, and
5 employers in the community in which the community residential facility
6 is located.

7 (3) The institute shall investigate and report on at least the
8 following issues:

9 (a) Community residential security, staffing, and operation:

10 (i) Are the facilities physically secured with door locks, alarms,
11 video monitors, and other security features so that staff are
12 immediately aware of any unauthorized exits or unauthorized visitors?
13 Which homes are not?

14 (ii) What legal barriers exist, if any, that prevent equipping
15 community residential facilities with locks, alarms, video monitors,
16 and other equipment that would make the facilities more physically
17 secure?

18 (iii) How much would it cost to equip community residential
19 facilities with security equipment?

20 (iv) For each facility describe:

21 (A) The staffing level by shift;

22 (B) The times, if any, in which offenders are either locked inside
23 secure rooms or locked inside the facility;

24 (C) What constitutes an escape;

25 (D) How much time must elapse before an unauthorized absence
26 becomes an escape;

27 (E) The escape reporting procedure;

28 (F) Who may visit the offender and at what hours;

29 (G) What is the screening process used to authorize visitors;

30 (H) What controls exist to monitor and regulate persons who visit
31 the facilities; and

32 (I) Whether offenders share bedrooms.

33 (v) Describe the monitoring level by the juvenile rehabilitation
34 administration and specifically address the following:

35 (A) How often does the juvenile rehabilitation staff visit the
36 community residential facilities?

37 (B) How many of these visits are random, unannounced, or conducted
38 at night and on weekends and holidays?

1 (C) What does the juvenile rehabilitation staff person investigate
2 when conducting these visits?

3 (D) How often does the juvenile rehabilitation staff contact
4 neighbors, schools, employers, and law enforcement to determine whether
5 juvenile offenders in the community residential facilities are
6 disruptive or that staff is responsive to community concerns?

7 (b) Offender intake and assessment procedures:

8 (i) Identify procedural and financial barriers to sharing
9 information about juvenile offenders in community residential
10 facilities between the juvenile rehabilitation administration, schools,
11 courts, law enforcement, other department of social and health
12 services' programs including the division of children and family
13 services and the division of alcohol and substance abuse, and the
14 public.

15 (ii) What authority does the state have to remove the barriers?

16 (iii) Identify what entity is responsible for collecting risk
17 assessment data. Describe the process and if it varies in different
18 counties.

19 (iv) What types and sources of data are being collected
20 inconsistently?

21 (v) What types and sources of data are being used inconsistently in
22 performing risk assessments?

23 (vi) What safeguards exist to ensure that assessments are being
24 made with complete information?

25 (c) Violations or infractions committed by juvenile offenders in
26 community residential facilities:

27 (i) How many violations, by type and seriousness level, have
28 occurred or have been reported about juvenile offenders residing in
29 community residential facilities during fiscal year 1997?

30 (ii) What appeals process, if any, exists that governs an
31 offender's appeal from a finding that the offender committed an
32 infraction?

33 (d) Community notification and participation in the facility siting
34 and offender placement process:

35 (i) What process, if any, does the juvenile rehabilitation
36 administration use to notify local law enforcement, residents, schools,
37 and businesses that a community residential facility that will house
38 juvenile offenders will be located in a particular place?

1 (ii) What process, if any, does the juvenile rehabilitation
2 administration or the community residential facilities use to notify
3 the individuals and entities identified in (d)(i) of this subsection
4 regarding the placement of specific offenders into a community
5 residential facility?

6 (iii) To what extent, if any, does the juvenile rehabilitation
7 administration or the community residential facility seek public
8 comment on or participation in siting community residential facilities
9 or placing particular offenders in those facilities?

10 (iv) Compare the department of corrections' practices in obtaining
11 community comment and participation in siting facilities and placement
12 of offenders;

13 (v) Identify models in other jurisdictions that provide for greater
14 community comment and participation in siting facilities and placement
15 of offenders;

16 (vi) Identify any legal, procedural, practical barriers to
17 increasing community comment and participation in siting facilities and
18 placement of offenders.

19 (e) Juvenile detention standards:

20 (i) What standards are in place and proposed for all existing and
21 planned detention facilities in this state?

22 (ii) What is the current compliance of detention standards with
23 recommended American correctional association standards and those
24 delineated in RCW 13.06.050?

25 (iii) What concerns, problems, or issues regarding current
26 standards have a direct impact on the safety and health of offenders,
27 staff, and the community?

28 (iv) Identify and make recommendations with regard to the
29 improvements needed including a timeline for the implementation of such
30 improvements;

31 (v) Recommend a schedule for periodic review of juvenile detention
32 standards;

33 (vi) Analyze the costs to implement the recommendations in
34 accordance with the recommended timeline.

35 (f) Recidivism rates of juveniles receiving parole services who are
36 not sex offenders or receiving services under RCW 13.40.212, compared
37 with juveniles who do not receive parole services.

38 (4) The institute shall recommend changes to existing laws,
39 procedures, and practices governing community residential facilities to

1 increase public safety, community residential facility security,
2 protection of juvenile offenders housed in community residential
3 facilities, and community comment and participation in siting
4 facilities and placement of offenders. The institute shall also
5 identify costs associated with implementing recommended changes.

6 (5) An initial status report of the progress of the study shall be
7 presented to the senate human services and corrections committee and
8 the house criminal justice and corrections committee no later than
9 September 1, 1998. The institute shall present a final report to those
10 committees no later than December 1, 1998.

11 NEW SECTION. **Sec. 18.** The code reviser shall alphabetize the
12 definitions in RCW 13.50.010 and 74.15.020 and correct any references.

13 NEW SECTION. **Sec. 19.** This act takes effect September 1, 1998.

14 NEW SECTION. **Sec. 20.** If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 1998, in the omnibus appropriations act, this act
17 is null and void.

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