
HOUSE BILL 2298

State of Washington

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2012 Regular Session

By Representatives Kagi, Goodman, Darneille, Orwall, Fitzgibbon, Appleton, Stanford, Dickerson, Jinkins, Ryu, Moscoso, Roberts, and Santos

Read first time 01/11/12. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to the use of restraints on juveniles; amending RCW
2 13.32A.030; reenacting and amending RCW 13.32A.065; adding new sections
3 to chapter 13.40 RCW; adding new sections to chapter 72.05 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** Many counties in Washington state use the
7 most restrictive restraints on juveniles who appear in court,
8 regardless of whether the juvenile has been charged with a criminal
9 offense or is before the court for a status offense. In most cases,
10 the most restrictive level of restraints is not necessary and very
11 damaging to the juvenile.

12 The policy of the state of Washington is to use the least
13 restrictive form of restraint for juveniles during their transportation
14 to and appearance in court. Further, such restraints shall only be
15 used when necessary based upon concerns regarding safety to the
16 juvenile and the public, potential risk of flight, or other attendant
17 circumstances.

1 **Sec. 2.** RCW 13.32A.030 and 2010 c 289 s 1 are each amended to read
2 as follows:

3 As used in this chapter the following terms have the meanings
4 indicated unless the context clearly requires otherwise:

5 (1) "Abuse or neglect" means the injury, sexual abuse, sexual
6 exploitation, negligent treatment, or maltreatment of a child by any
7 person under circumstances which indicate that the child's health,
8 welfare, and safety is harmed, excluding conduct permitted under RCW
9 9A.16.100. An abused child is a child who has been subjected to child
10 abuse or neglect as defined in this section.

11 (2) "Administrator" means the individual who has the daily
12 administrative responsibility of a crisis residential center, or his or
13 her designee.

14 (3) "At-risk youth" means a juvenile:

15 (a) Who is absent from home for at least seventy-two consecutive
16 hours without consent of his or her parent;

17 (b) Who is beyond the control of his or her parent such that the
18 child's behavior endangers the health, safety, or welfare of the child
19 or any other person; or

20 (c) Who has a substance abuse problem for which there are no
21 pending criminal charges related to the substance abuse.

22 (4) "Child," "juvenile," and "youth" mean any unemancipated
23 individual who is under the chronological age of eighteen years.

24 (5) "Child in need of services" means a juvenile:

25 (a) Who is beyond the control of his or her parent such that the
26 child's behavior endangers the health, safety, or welfare of the child
27 or other person;

28 (b) Who has been reported to law enforcement as absent without
29 consent for at least twenty-four consecutive hours on two or more
30 separate occasions from the home of either parent, a crisis residential
31 center, an out-of-home placement, or a court-ordered placement; and

32 (i) Has exhibited a serious substance abuse problem; or

33 (ii) Has exhibited behaviors that create a serious risk of harm to
34 the health, safety, or welfare of the child or any other person;

35 (c)(i) Who is in need of: (A) Necessary services, including food,
36 shelter, health care, clothing, or education; or (B) services designed
37 to maintain or reunite the family;

- 1 (ii) Who lacks access to, or has declined to utilize, these
2 services; and
- 3 (iii) Whose parents have evidenced continuing but unsuccessful
4 efforts to maintain the family structure or are unable or unwilling to
5 continue efforts to maintain the family structure; or
- 6 (d) Who is a "sexually exploited child".
- 7 (6) "Child in need of services petition" means a petition filed in
8 juvenile court by a parent, child, or the department seeking
9 adjudication of placement of the child.
- 10 (7) "Crisis residential center" means a secure or semi-secure
11 facility established pursuant to chapter 74.13 RCW.
- 12 (8) "Custodian" means the person or entity who has the legal right
13 to the custody of the child.
- 14 (9) "Department" means the department of social and health
15 services.
- 16 (10) "Extended family member" means an adult who is a grandparent,
17 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin
18 with whom the child has a relationship and is comfortable, and who is
19 willing and available to care for the child.
- 20 (11) "Guardian" means that person or agency that (a) has been
21 appointed as the guardian of a child in a legal proceeding other than
22 a proceeding under chapter 13.34 RCW, and (b) has the right to legal
23 custody of the child pursuant to such appointment. The term "guardian"
24 does not include a "dependency guardian" appointed pursuant to a
25 proceeding under chapter 13.34 RCW.
- 26 (12) "Multidisciplinary team" means a group formed to provide
27 assistance and support to a child who is an at-risk youth or a child in
28 need of services and his or her parent. The team shall include the
29 parent, a department case worker, a local government representative
30 when authorized by the local government, and when appropriate, members
31 from the mental health and substance abuse disciplines. The team may
32 also include, but is not limited to, the following persons: Educators,
33 law enforcement personnel, probation officers, employers, church
34 persons, tribal members, therapists, medical personnel, social service
35 providers, placement providers, and extended family members. The team
36 members shall be volunteers who do not receive compensation while
37 acting in a capacity as a team member, unless the member's employer
38 chooses to provide compensation or the member is a state employee.

1 (13) "Out-of-home placement" means a placement in a foster family
2 home or group care facility licensed pursuant to chapter 74.15 RCW or
3 placement in a home, other than that of the child's parent, guardian,
4 or legal custodian, not required to be licensed pursuant to chapter
5 74.15 RCW.

6 (14) "Parent" means the parent or parents who have the legal right
7 to custody of the child. "Parent" includes custodian or guardian.

8 (15) "Restraints" means anything used to control the movement of a
9 person's body or limbs and includes:

10 (a) Physical restraint; or

11 (b) Mechanical device including, but not limited to: Metal
12 handcuffs, plastic ties, ankle restraints, leather cuffs, tasers, or
13 batons.

14 (16) "Secure facility" means a crisis residential center, or
15 portion thereof, that has locking doors, locking windows, or a secured
16 perimeter, designed and operated to prevent a child from leaving
17 without permission of the facility staff.

18 ~~((+16+))~~ (17) "Semi-secure facility" means any facility, including
19 but not limited to crisis residential centers or specialized foster
20 family homes, operated in a manner to reasonably assure that youth
21 placed there will not run away. Pursuant to rules established by the
22 department, the facility administrator shall establish reasonable hours
23 for residents to come and go from the facility such that no residents
24 are free to come and go at all hours of the day and night. To prevent
25 residents from taking unreasonable actions, the facility administrator,
26 where appropriate, may condition a resident's leaving the facility upon
27 the resident being accompanied by the administrator or the
28 administrator's designee and the resident may be required to notify the
29 administrator or the administrator's designee of any intent to leave,
30 his or her intended destination, and the probable time of his or her
31 return to the center.

32 ~~((+17+))~~ (18) "Sexually exploited child" means any person under the
33 age of eighteen who is a victim of the crime of commercial sex abuse of
34 a minor under RCW 9.68A.100, promoting commercial sexual abuse of a
35 minor under RCW 9.68A.101, or promoting travel for commercial sexual
36 abuse of a minor under RCW 9.68A.102.

37 ~~((+18+))~~ (19) "Staff secure facility" means a structured group care

1 facility licensed under rules adopted by the department with a ratio of
2 at least one adult staff member to every two children.

3 ~~((+19))~~ (20) "Temporary out-of-home placement" means an out-of-
4 home placement of not more than fourteen days ordered by the court at
5 a fact-finding hearing on a child in need of services petition.

6 **Sec. 3.** RCW 13.32A.065 and 2000 c 162 s 12 and 2000 c 123 s 8 are
7 each reenacted and amended to read as follows:

8 (1) If a child is placed in detention under RCW 13.32A.050(1)(d),
9 the court shall hold a detention review hearing within twenty-four
10 hours, excluding Saturdays, Sundays, and holidays. The court shall
11 release the child after twenty-four hours, excluding Saturdays,
12 Sundays, and holidays, unless:

13 (a) A motion and order to show why the child should not be held in
14 contempt has been filed and served on the child at or before the
15 detention hearing; and

16 (b) The court believes that the child would not appear at a hearing
17 on contempt.

18 (2) If the court orders the child to remain in detention, the court
19 shall set the matter for a hearing on contempt within seventy-two
20 hours, excluding Saturdays, Sundays, and holidays.

21 (3) If the court orders the child to be placed in or to remain in
22 detention pursuant to this section, the use of restraints on the child
23 is not permitted during his or her appearance at the hearing set by the
24 court or during transportation to or from such hearing unless a
25 determination has been made pursuant to subsection (4) of this section.

26 (4) The use of restraints on a child who has been detained, either
27 during an appearance in court or during transportation to and from
28 court, is permitted only if an employee at the institution or detention
29 facility makes an individualized determination that restraints are
30 necessary to prevent the child from escaping or from injuring himself
31 or herself, detention or court personnel, or others.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.40 RCW
33 to read as follows:

34 (1) Except as provided in subsection (3) of this section, no
35 restraints of any kind may be used on any youth held in an institution

1 or detention facility covered by this chapter during his or her
2 appearance at court proceedings or while being transported to or from
3 court proceedings.

4 (2) Anytime restraints are used pursuant to subsection (3) of this
5 section, the restraints must be the least restrictive available and the
6 most reasonable under the circumstances.

7 (3)(a) The use of restraints on a youth is permitted while he or
8 she is within a courtroom for the purpose of attending a court
9 proceeding only if the youth is currently charged with a criminal
10 offense and the court makes an individualized determination that such
11 restraints are necessary to prevent the youth from escaping or from
12 injuring himself or herself, detention or court personnel, or others.

13 (b) The use of restraints is permitted while the youth is
14 transported to or from court proceedings when the youth is charged with
15 a criminal offense and an employee at the institution or detention
16 facility makes an individualized determination that restraints are
17 necessary to prevent the youth from escaping or from injuring himself
18 or herself, detention or court personnel, or others.

19 (4) If restraint of a youth is permitted under subsection (3) of
20 this section, the employee of the court, institution, or detention
21 facility who determines the type of restraints to be used must fully
22 document in writing the kind of restraints used and the reasons those
23 restraints were considered the least restrictive available and the most
24 reasonable under the circumstances.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW
26 to read as follows:

27 The director of the juvenile detention facility covered by this
28 chapter shall provide an informational packet about the requirements of
29 this act to all staff who are involved in transporting youth and to
30 other staff as appropriate. The informational packet shall be
31 developed as provided in section 4 of this act.

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

34 (1) Except as provided in subsection (3) of this section, no
35 restraints of any kind may be used on any youth held in an institution

1 or a community facility covered by this chapter during his or her
2 appearance at court proceedings or transportation to or from court
3 proceedings.

4 (2) Anytime restraints are used pursuant to subsection (3) of this
5 section, the restraints must be the least restrictive available and the
6 most reasonable under the circumstances.

7 (3)(a) The use of restraints on a youth is permitted while he or
8 she is within a courtroom for the purpose of attending a court
9 proceeding only if the youth is currently charged with a criminal
10 offense and the court makes an individualized determination that such
11 restraints are necessary to prevent the youth from escaping or from
12 injuring himself or herself, detention or court personnel, or others.

13 (b) The use of restraints is permitted while the youth is
14 transported to or from court proceedings when the youth is charged with
15 a criminal offense and an employee at the institution or detention
16 facility makes an individualized determination that restraints are
17 necessary to prevent the youth from escaping or from injuring himself
18 or herself, detention or court personnel, or others.

19 (4) If restraint of a youth is permitted under subsection (3) of
20 this section, the employee of the court, institution, or detention
21 facility who determines the type of restraints to be used must fully
22 document in writing the kind of restraints used and the reasons those
23 restraints were considered the least restrictive available and the most
24 reasonable under the circumstances.

25 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.05 RCW
26 to read as follows:

27 The secretary shall provide an informational packet about the
28 requirements of this act to all staff who are involved in transporting
29 youth and to other staff as appropriate. The informational packet
30 shall be developed as provided in section 6 of this act.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.40 RCW
32 to read as follows:

33 The Washington association of sheriffs and police chiefs, the
34 juvenile rehabilitation administration, the criminal justice training
35 commission, and the administrative office of the courts shall jointly

1 develop the informational packet on the requirements of this act. The
2 packet shall be ready for distribution no later than September 1, 2012.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 No civil liability may be imposed by any court on the county or its
6 employees under this section except upon proof of gross negligence.

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