

SENATE BILL REPORT

SB 5613

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 14, 2017

Title: An act relating to confinement in juvenile rehabilitation facilities for juveniles convicted in adult court.

Brief Description: Addressing confinement in juvenile rehabilitation facilities for juveniles convicted in adult court.

Sponsors: Senators Darneille, Kuderer and Saldaña.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/07/17, 2/14/17 [DPS, DNP].

Brief Summary of Substitute Bill

- Changes the custody for a juvenile convicted as an adult from the Department of Corrections (DOC) to the Department of Social and Health Services (DSHS) for placement in a juvenile rehabilitation facility.
- Prohibits transfer of an offender to a DOC facility unless DSHS determines it is necessary and approves transfer, or until the juvenile reaches 25 years of age.
- Directs transfer of an offender in a DSHS juvenile rehabilitation facility to a DOC facility upon reaching 25 years of age, unless the remaining sentence is six months or less.
- Commissions a legislative report by the Washington State Institute for Public Policy (WSIPP) on the bill's effectiveness to improve public safety and offender outcomes, and includes a cost/benefit analysis of the change in juvenile rehabilitation custody by December 1, 2026.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: That Substitute Senate Bill No. 5613 be substituted therefor, and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

Minority Report: Do not pass.
Signed by Senator Padden.

Staff: Melissa Burke-Cain (786-7755)

Background: Neurocognitive researchers conclude that adolescents and young adults show wide individual variation in maturity and cognition. In the juvenile justice setting, adolescents and young adults up to 25 years of age are more likely to engage in criminal behavior because of an inability to understand the long term risks and consequences of their behavior. Many states implement custody settings that extend rehabilitation services until 21 years of age in recognition of adolescent neurocognitive development research findings. Studies suggest that additional rehabilitation for young adults reduces recidivism. Currently, Washington law permits a juvenile convicted as an adult to remain in custody in a juvenile rehabilitation facility until 21 years of age, but then directs transfer to DOC custody. At least three states allow juvenile rehabilitation confinement of a juvenile offender convicted as an adult until 25 years of age. These states are Oregon, California, and Wisconsin.

Summary of Bill (First Substitute): This Act applies prospectively to offenders who are under 18 years of age at the time of conviction, who are convicted as an adult in the state court of a felony-level crime, and who are committed to confinement on or after the effective date of this Act. Juveniles who are tried and convicted in adult courts for felony-level crimes and who are sentenced to a period of confinement, must be confined in a DSHS juvenile rehabilitation facility.

If DSHS determines that retaining the individual in its custody is a significant safety risk to the offender or to others, the offender may be transferred to a DOC facility. If an offender transfers to a DOC facility, and reaches 18 years of age, they may be housed with offenders under 18 years of age if:

- offender rehabilitation goals are best met in that setting; and
- the housing environment is not adversely affected.

An offender who is transferred to the DOC's custody while under 18 years of age may be housed in a intensive management or segregation unit with offenders who are 18 years of age or older if necessary for the offender's safety or the safety of others. If transferred to the secured DOC unit, the offender must be physically separated from others at all times. The WSIPP must assess the impact of the juvenile rehabilitation age change on public safety and offender rehabilitation and report its findings by December 1, 2019.

The WSIPP must assess the effectiveness of the juvenile rehabilitation age change on public safety and offender rehabilitation, conduct a cost/benefit analysis, and report its findings by December 1, 2026.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (First Substitute):

- Expands the scope of the WSIPP study to include the effectiveness of the change to juvenile rehabilitation custody for offenders up to 25 years of age.
- Requires the study to include a cost/benefit analysis.
- Changes the date of the WSIPP's report to December 1, 2026.

Appropriation: None.

Fiscal Note: Requested on February 3, 2017.

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

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Washington's juvenile rehabilitation intervention model for juveniles who are sentenced as adults is recognized across the country. The interventions target specific behaviors to address. The bill is a community safety bill in addition to a rehabilitative model for offenders. The Oregon Youth Authority (OYA) has had jurisdiction over offenders up to age 25 for at least 15 years. The OYA's experience shows significant reductions in recidivism for youths retained in its rehabilitation jurisdictions compared to youths tried as adults and referred to adult corrections. A youth tried as an adult and incarcerated in an adult corrections setting is 34 percent more likely to be involved in violent crime after release. The adult corrections system underprovides mental health and substance abuse treatment and fails to provide an environment where the youth offender learns self-regulation. Most youth tried as adults have substance abuse and mental health problems. The intervention in a juvenile rehabilitation setting for the 18-25 year old offender at a critical development point can be as effective in early interventions for birth to three years of age. Adult facilities have much less available than the juvenile rehabilitation setting for vocational training and other educational needs of youthful offenders. OYA also finds that older offenders, in the 18-25 year old range, are a stabilizing effect on the juvenile living units, and the older offenders serve as mentors to the younger offenders. OYA finds a lower frequency of behaviors of concern when older youth remain in the rehabilitative setting. OYA's system finds that developmentally appropriate treatments and interventions for the offenders aged 16-21 years works well for older offenders who are aged 21-25.

The bill will apply prospectively only, and will be the same sentence now imposed, but served in a different setting. No one is getting off easier if the bill is passed, but we expect safer communities because these youth offenders commit less crime after release. This proposal is consistent with our current understanding of brain science. However, it would be a major structural change in the way Washington addresses youth offenders who are tried and convicted as adults. The population aged 18-25 years old is a promising population to begin with. In King County, 2 of 3 youths tried as adults commit armed robbery, with a typical sentence of 8 years confinement. Under this bill, all of the offender's time could be served in a juvenile rehabilitation facility. It is worth looking at Oregon's successes.

OTHER: The services provided to the current juvenile rehabilitation population of 13 and 14 year-old offenders are very different from the services needed by offenders who are over age 21. This might be an unfunded mandate given current capacity of the juvenile facilities. The

juvenile rehabilitation facilities need all the space they can get to place the individual in the best place for them. If the Naselle youth camp is closed, as is currently being discussed, the space and capacity issues will be worse. Washington has a world class integrated treatment model for its young offenders, but there is no assurance that this model will work for the older offenders as this bill proposes. The juvenile rehabilitation facilities are seeing an increased level of violence and assaults not seen since the 1990s. The current population up to age 21 is not an unknown group with unknown needs. However, the 21-25 age group would be unknown to our current system. It is already hard for the system to triage the current population to the right facility. A new group will make it more so. It is hard to recruit and retain staff. They are leaving for other places once they have experience. More experienced staff means more effective interventions. Putting a new populations, ages 21-25 years old, may not necessarily be the best thing to do.

Persons Testifying: PRO: Dan Satterberg, WAPA, King County Prosecuting Attorney; Eric Trupin, University of Washington; Mary Lou Dickerson, Public Behavioral Health and Justice Policy, University of Washington.

OTHER: Matt Zuvich, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying: No one.