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HOUSE BILL 2907

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Goodman, Frame, Kagi, and Doglio

Read first time 01/23/18. Referred to Committee on Early Learning & Human Services.

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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