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SENATE BILL 5613

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State of Washington

65th Legislature

2017 Regular Session

By Senators Darneille, Kuderer, and Saldaña

Read first time 01/31/17. Referred to Committee on Human Services,  
Mental Health & Housing.

1 AN ACT Relating to confinement in juvenile rehabilitation  
2 facilities for juveniles convicted in adult court; amending RCW  
3 72.01.410; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes state and  
6 national efforts to reform policies that incarcerate youth in the  
7 adult criminal justice system.

8 The legislature acknowledges that transferring youth to the adult  
9 criminal justice system is not effective in reducing future criminal  
10 behavior. Youth incarcerated in the adult criminal justice system are  
11 more likely to recidivate than their counterparts housed in juvenile  
12 facilities.

13 The legislature intends to enhance community safety by  
14 emphasizing rehabilitation of juveniles convicted under the adult  
15 criminal justice system. Juveniles adjudicated as adults shall be  
16 served and housed within the facilities of the juvenile  
17 rehabilitation administration up until their twenty-fifth birthday  
18 but shall be released earlier if their sentence ends prior to that  
19 birthday. This emphasis on rehabilitation up to age twenty-five  
20 reflects similar programming in other states, which has significantly

1 reduced recidivism of juveniles confined in adult correctional  
2 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  
26 custody of the department of corrections with the approval of the  
27 department of social and health services or when the ~~((child))~~  
28 individual reaches the age of ~~((twenty-one))~~ twenty-five.

29 ~~((ii))~~ ~~((b))~~ If the ~~((child's))~~ individual's sentence includes a  
30 term of community custody, the department of social and health  
31 services ~~((shall not))~~ is required to consult the department of  
32 corrections prior to the individual's release ~~((the child))~~ to  
33 community custody ~~((until the department of corrections has approved~~  
34 ~~the child's release plan))~~ pursuant to RCW 9.94A.729(5)(b). If ~~((a~~  
35 ~~child))~~ an individual is held past his or her earned release date  
36 pending release plan approval, the department of social and health  
37 services shall retain custody until a plan is approved or the  
38 ~~((child))~~ individual completes the ordered term of confinement prior  
39 to age ~~((twenty-one))~~ twenty-five.

1        ~~((iii))~~ (c) If the department of social and health services  
2 determines that retaining custody of the ~~((child))~~ individual  
3 presents a significant safety risk to the individual himself or  
4 herself or to other individuals in the juvenile facility, the  
5 ~~((child))~~ individual may be ~~((returned))~~ transferred to the custody  
6 of the department of corrections.

7        ~~((b))~~ (d) If the ~~((child's))~~ individual's earned release date  
8 is on or after the ~~((child's twenty-first))~~ individual's twenty-fifth  
9 birthday, the ~~((department of corrections shall, with the consent of~~  
10 ~~the))~~ secretary of social and health services ~~((, transfer))~~ shall  
11 retain the ~~((child to))~~ individual in a facility or institution  
12 operated by the department of social and health services with the  
13 consent of the department of corrections. ~~((Despite the transfer, the~~  
14 ~~department of corrections retains authority over custody decisions~~  
15 ~~and must approve any leave from the facility.))~~ When the ~~((child))~~  
16 individual turns age ~~((twenty-one))~~ twenty-five, he or she must be  
17 transferred ~~((back))~~ to the department of corrections unless there  
18 are six months or less remaining on the individual's term of  
19 confinement, in which case the individual may remain at a department  
20 of social and health services facility to serve the remaining term of  
21 confinement. The department of social and health services has all  
22 routine and day-to-day operations authority for the ~~((child))~~  
23 individual while in its custody.

24        (2)(a) Except as provided in (b) and (c) of this subsection, an  
25 offender under the age of eighteen who is ~~((convicted in adult~~  
26 ~~criminal court and who is committed to a term of confinement at))~~  
27 transferred to the custody of the department of corrections must be  
28 placed in a housing unit, or a portion of a housing unit, that is  
29 separated from offenders eighteen years of age or older, until the  
30 offender reaches the age of eighteen.

31        (b) An offender who is transferred to the custody of the  
32 department of corrections and reaches eighteen years of age may  
33 remain in a housing unit for offenders under the age of eighteen if  
34 the secretary of corrections determines that: (i) The offender's  
35 needs and the ~~((correctional))~~ rehabilitation goals for the offender  
36 could continue to be better met by the programs and housing  
37 environment that is separate from offenders eighteen years of age and  
38 older; and (ii) the programs or housing environment for offenders  
39 under the age of eighteen will not be substantially affected by the  
40 continued placement of the offender in that environment. The offender

1 may remain placed in a housing unit for offenders under the age of  
2 eighteen until such time as the secretary of corrections determines  
3 that the offender's needs and ((~~correctional~~)) rehabilitation goals  
4 are no longer better met in that environment but in no case past the  
5 offender's ((~~twenty-first~~)) twenty-fifth birthday.

6 (c) An offender transferred to the custody of the department of  
7 corrections who is under the age of eighteen may be housed in an  
8 intensive management unit or administrative segregation unit  
9 containing offenders eighteen years of age or older if it is  
10 necessary for the safety or security of the offender or staff. In  
11 these cases, the offender must be kept physically separate from other  
12 offenders at all times.

13 NEW SECTION. Sec. 3. The Washington state institute for public  
14 policy shall assess the impact of this act on community safety and  
15 youth rehabilitation and submit a report to the governor and the  
16 appropriate committees of the legislature by December 1, 2019.

17 NEW SECTION. Sec. 4. This act applies prospectively only and  
18 not retroactively. This act applies only to individuals who are under  
19 age eighteen at the time of conviction, who are convicted as an adult  
20 in the courts of this state of a crime amounting to a felony, and who  
21 are committed for a term of confinement on or after the effective  
22 date of this section.

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