

SSB 6112 - H COMM AMD

By Committee on Human Services & Early Learning

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. (1) The legislature
4 finds that prolonged isolation for juveniles may cause harm.
5 Prolonged solitary confinement has also been shown as ineffective at
6 reducing behavioral incidents and may increase anxiety and anger in
7 youth.

8 (2) Creating alternative solutions to solitary confinement for
9 juveniles will further protect the well-being of juveniles in all
10 detention facilities and institutions and enhance the rehabilitative
11 goals of Washington's juvenile justice system. This act seeks to end
12 the use of solitary confinement in juvenile facilities when used as a
13 form of punishment or retaliation. This act also seeks to limit
14 placement in isolation, except in the circumstances outlined in
15 section 3 of this act. Juvenile institutions and detention facilities
16 must implement a system of graduated interventions to avoid the use
17 of solitary confinement. Less restrictive forms of confinement should
18 be used to regulate the behavior of juveniles in institutions and
19 detention facilities.

20 (3) The legislature intends to prevent the use of solitary
21 confinement and, in the limited instances of isolation, ensure that
22 the use advances the rehabilitative goals of Washington's juvenile
23 justice system, and that it is not used as a punitive measure.

24 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
25 section apply throughout this chapter unless the context clearly
26 requires otherwise.

27 (1) "Department" means the department of children, youth, and
28 families.

29 (2) "Detention facility" means:

30 (a) Any detention facility as defined under RCW 13.40.020; and

1 (b) Any juvenile correctional facility under alternative
2 administration operated by a consortium of counties under RCW
3 13.04.035.

4 (3) "Imminent harm" means immediate and impending threat of a
5 person causing bodily injury to self or others.

6 (4) "Institution" has the same meaning as in RCW 13.40.020.

7 (5) "Isolation" means confinement that occurs (a) when a youth is
8 separated from the youth population and placed in a room for longer
9 than fifteen minutes for the purpose of discipline, behavior
10 modification, or due to an imminent threat to the safety of the youth
11 or others; and (b) in a room other than the room assigned to the
12 youth for sleeping. Juveniles are in isolation from the moment they
13 are separated from others until they have rejoined the population.
14 Juveniles who are pregnant shall not be put into isolation.
15 Maintaining appropriate gender separation does not constitute
16 isolation.

17 (6) "Juvenile" means:

18 (a) Any individual who is under the chronological age of eighteen
19 years; and

20 (b) Any individual under the chronological age of twenty-five
21 years who is confined in an institution, including an individual
22 confined in an institution under RCW 72.01.410.

23 (7) "Juvenile court administrator" means an administrator
24 appointed pursuant to RCW 13.04.035.

25 (8) "Room confinement" means a juvenile is separated from the
26 youth population and placed in a room or cell that the juvenile is
27 assigned to for sleeping, other than during normal sleeping hours or
28 interim rest hours. "Room confinement" does not include time a youth
29 requests to spend in his or her room or rest periods in between
30 facility programming. Juveniles are in room confinement from the
31 moment they are separated from others until they are permitted to
32 rejoin the population.

33 (9) "Solitary confinement" means a youth is involuntarily
34 separated from the youth population and placed in a room or cell
35 other than the room assigned to the youth for sleeping for longer
36 than fifteen minutes for punitive purposes. Different terminology
37 does not exempt practice from being "solitary confinement."

1 NEW SECTION. **Sec. 3.** PROCESS AND EXCEPTIONS. (1) The use of
2 solitary confinement for juveniles in a detention facility or
3 institution is prohibited.

4 (2) A juvenile may only be placed in isolation or room
5 confinement in a detention facility or institution as authorized in
6 this section.

7 (a)(i) Total isolation and room confinement of a juvenile shall
8 be limited in duration to no more than four hours in any twenty-four
9 hour period. Detention facilities and institutions can exceed those
10 four hours, including if the extension is necessary due to subsequent
11 or multiple incidents, if the following requirements are met:

12 (A) The reason for isolation or room confinement is documented,
13 including the basis for the extension, the date and time the juvenile
14 was first placed in isolation or room confinement, and when the
15 juvenile is eventually released from isolation or room confinement;

16 (B) An individualized plan that includes the goals and objectives
17 to be met in order to reintegrate the juvenile to the general
18 population is developed;

19 (C) The detention facility or institution superintendent or his
20 or her designee provides documented authorization every four hours
21 thereafter.

22 (ii) A medical and mental health assessment may occur after the
23 juvenile's release so as not to extend his or her time in isolation
24 or confinement.

25 (iii) If the total isolation or room confinement exceeds twenty-
26 four hours, then the secretary, or his or her designee, of the
27 department or the juvenile court administrator must provide
28 documented authorization.

29 (b) Each juvenile placed in isolation or room confinement shall
30 be visually checked at least every fifteen minutes, and staff shall
31 attend to the needs of the juvenile at that time. Staff shall attempt
32 to communicate with an awake juvenile during required checks to
33 evaluate and encourage the juvenile on the goals and objectives the
34 juvenile needs to achieve in order to be released from isolation or
35 room confinement.

36 (c) Every instance of isolation and room confinement shall be
37 documented in accordance with section 5 or 6 of this act.

38 (d) When a juvenile is placed in isolation or under room
39 confinement, the juvenile must have access to:

40 (i) Clothing;

1 (ii) Mattress and bedding;
2 (iii) Medication under staff supervision;
3 (iv) A toilet and sink at least hourly;
4 (v) A bath or shower at least daily;
5 (vi) Necessary mental health services; and
6 (vii) Reading material, paper, writing material, envelopes, and
7 treatment material, unless precluded by suicide precaution level or
8 the items would hinder staff efforts to resolve the problems that
9 caused isolation or room confinement.

10 (e) Staff must remove the juvenile from isolation and room
11 confinement when one of the following requirements is met:

12 (i) The purpose of the confinement is met;
13 (ii) The desired behavior is evident; or
14 (iii) The juvenile has been evaluated by a professional who has
15 determined the juvenile is no longer an imminent risk to self, staff,
16 or the general population. The institution or detention facility may
17 designate who counts as a professional.

18 (f) Isolation can be used when:

19 (i) Isolation is necessary to prevent imminent harm based on the
20 juvenile's behavior, and less restrictive alternatives were
21 unsuccessful;

22 (ii) The juvenile needs to be held in isolation awaiting transfer
23 of facilities;

24 (iii) The juvenile needs to be placed in isolation overnight due
25 to disruptive behavior that prevents the nighttime routine of other
26 juvenile residents; or

27 (iv) It is necessary to respond to an escape attempt.

28 (g) Room confinement can be used when it is necessary to prevent
29 behavior that causes disruption of the detention facility or
30 institution, but the behavior does not rise to the level of imminent
31 harm including, but not limited to, behavior that may constitute a
32 violation of law.

33 (3) Nothing in this section requires that juveniles be placed
34 with adults while in custody.

35 NEW SECTION. **Sec. 4.** MODEL POLICY. (1) The department shall, by
36 July 1, 2021, adopt a model policy prohibiting the use of solitary
37 confinement of juveniles in detention facilities and institutions,
38 with the goal of also limiting the use and duration of isolation and
39 room confinement. In determining the model policy, the department

1 must consult with appropriate stakeholders including, but not limited
2 to, juvenile court administrators, impacted youth, and
3 representatives of staff. At a minimum, the model policy must
4 include:

5 (a) Isolation. Isolation may only be used as a last resort when
6 less restrictive methods have not been effective. Where needed,
7 medical professionals must assess or evaluate any juvenile in
8 isolation as soon as possible after the juvenile is placed in
9 isolation, and qualified mental health professionals must evaluate
10 and develop a care plan for juveniles placed in isolation to prevent
11 self-harm as soon as possible after the juvenile is placed in
12 isolation. The model policy must include measures to prevent the use
13 of isolation, while protecting the safety and security of
14 incarcerated juveniles and their peers, the staff of the detention
15 facilities and institutions, other persons who work in the detention
16 facilities and institutions, and visitors.

17 (b) Room confinement. Room confinement is the preferred option
18 for maladaptive or negative behavior. Staff will use the least amount
19 of time to meet the purpose of the intervention. The model policy
20 must include measures to prevent the use of room confinement, while
21 protecting the safety and security of incarcerated juveniles and
22 their peers, the staff of the detention facilities and institutions,
23 other persons who work in the detention facilities and institutions,
24 and visitors.

25 (2) By December 1, 2021, the detention facility or institution
26 shall review and either (a) adopt the model policy established in
27 this section or (b) notify the department of the reasons the
28 detention facility or institution will not adopt the model policy,
29 including how the detention facility or institution's policies and
30 procedures differ from the model policy.

31 NEW SECTION. **Sec. 5.** REPORTING REQUIREMENTS FOR THE DEPARTMENT.

32 (1) The department must compile, on a monthly basis until November 1,
33 2022, the following information with respect to juveniles confined in
34 all state institutions and facilities used for juvenile
35 rehabilitation for whom isolation or room confinement was used in
36 excess of one hour:

37 (a) The number of times isolation and room confinement were used;

38 (b) The circumstances leading to the use of isolation and room
39 confinement;

1 (c) The duration of each use of isolation and whether, for each
2 instance of isolation, the use of isolation lasted more than four
3 hours within a twenty-four hour period;

4 (d) Whether or not supervisory review occurred and was documented
5 for each instance of isolation and room confinement;

6 (e) The race and age of the juvenile for each instance of
7 isolation and room confinement;

8 (f) Whether or not a medical assessment or review and a mental
9 health assessment or review were conducted and documented for each
10 instance of isolation; and

11 (g) If the affected juvenile was not afforded access to
12 medication, meals, and reading material during the term of
13 confinement for each instance of isolation and room confinement.

14 (2) Until November 1, 2022, information collected under
15 subsection (1) of this section must be compiled into a report and
16 submitted in compliance with section 7(1) of this act.

17 (3) After November 1, 2022, the department must annually compile
18 the information collected under subsection (1) of this section. The
19 information collected must be posted on the department's web site.

20 NEW SECTION. **Sec. 6.** REPORTING REQUIREMENTS FOR A COUNTY. (1) A
21 county operating a detention facility must compile, on a monthly
22 basis until November 1, 2022, the following information with respect
23 to the detention facility for whom isolation or room confinement was
24 used in excess of one hour:

25 (a) The number of times isolation and room confinement were used;

26 (b) The circumstances leading to the use of isolation and room
27 confinement;

28 (c) The duration of each use of isolation and whether, for each
29 instance of isolation, the use of isolation lasted more or less than
30 four hours within a twenty-four hour period, and, for instances
31 lasting more than four hours, the length of time the juvenile
32 remained in isolation;

33 (d) Whether or not supervisory review occurred and was documented
34 for each instance of isolation and room confinement;

35 (e) The race and age of the juvenile for each instance of
36 isolation and room confinement;

37 (f) Whether or not a medical assessment or review and a mental
38 health assessment or review were conducted and documented for each
39 instance of isolation; and

1 (g) If the affected juvenile was not afforded access to
2 medication, meals, and reading material during the term of
3 confinement for each instance of isolation and room confinement.

4 (2) Until November 1, 2022, information collected under
5 subsection (1) of this section must be compiled into a report and
6 submitted in compliance with section 7(1) of this act.

7 (3) After November 1, 2022, a county operating a detention
8 facility must annually compile the information collected under
9 subsection (1) of this section. The information collected must be
10 posted on the detention facility's web site.

11 NEW SECTION. **Sec. 7.** DATA REPORTING. (1) Information collected
12 under sections 5(2) and 6(2) of this act and RCW 13.04.116(1)(c) must
13 be reported to the department of children, youth, and families by
14 December 1, 2021, and an updated report must be submitted to the
15 department by November 1, 2022. The department must compile the
16 reported data and, in compliance with RCW 43.01.036, provide a data
17 report to the appropriate committees of the legislature by December
18 1, 2022.

19 (2) Beginning in January 2023, the department shall conduct
20 periodic reviews of policies, procedures, and use of solitary
21 confinement, isolation, and room confinement in juvenile detention
22 facilities and institutions. Every three years, the department shall
23 prepare a report to the legislature summarizing its reviews.

24 **Sec. 8.** RCW 13.04.116 and 2017 3rd sp.s. c 6 s 603 are each
25 amended to read as follows:

26 (1) A juvenile shall not be confined in a jail or holding
27 facility for adults, except:

28 (a) For a period not exceeding twenty-four hours excluding
29 weekends and holidays and only for the purpose of an initial court
30 appearance in a county where no juvenile detention facility is
31 available, a juvenile may be held in an adult facility provided that
32 the confinement is separate from the sight and sound of adult
33 inmates; (~~or~~)

34 (b) For not more than six hours and pursuant to a lawful
35 detention in the course of an investigation, a juvenile may be held
36 in an adult facility provided that the confinement is separate from
37 the sight and sound of adult inmates; or

1 (c) For a juvenile who is subject to exclusive adult criminal
2 court jurisdiction under RCW 13.04.030 or who has been transferred to
3 adult criminal court under RCW 13.40.110, the juvenile may not be
4 held in a jail or holding facility for a period exceeding twenty-four
5 hours excluding weekends and holidays, unless a court finds, after a
6 hearing and in writing, that it is in the interest of justice.

7 (i) If a court determines that it is in the interest of justice
8 to permit a juvenile who is subject to exclusive adult criminal court
9 jurisdiction under RCW 13.04.030 or who has been transferred to adult
10 criminal court under RCW 13.40.110 to be held in a jail or holding
11 facility, the juvenile may not have sight or sound contact with adult
12 inmates, unless the court also finds, after a hearing and in writing,
13 that it is in the interest of justice to permit sight or sound
14 contact with adult inmates. In making the determination regarding
15 sight or sound contact with adult inmates under this subsection, the
16 court shall consider:

17 (A) The age of the juvenile;

18 (B) The physical and mental maturity of the juvenile;

19 (C) The present mental state of the juvenile, including whether
20 the juvenile presents an imminent risk of harm to himself or herself;

21 (D) The nature and circumstances of the alleged offense;

22 (E) The juvenile's history of prior delinquent acts;

23 (F) The relative ability of the available adult and juvenile
24 detention facilities to meet the specific needs of the juvenile,
25 protect the safety of the public, and protect other detained
26 juveniles; and

27 (G) Any other relevant factors.

28 (ii) If a court determines that it is in the interest of justice
29 to permit a juvenile who is subject to exclusive adult criminal court
30 jurisdiction under RCW 13.04.030 or who has been transferred to adult
31 criminal court under RCW 13.40.110 to be held in a jail or holding
32 facility or have sight or sound contact with adult inmates under this
33 section:

34 (A) The court shall hold a hearing at least once every thirty
35 days to review whether it is still in the interest of justice to
36 permit the juvenile to be held in a jail or holding facility, as
37 defined under RCW 70.48.020, or have sight or sound contact with
38 adult inmates; and

1 (B) The juvenile shall not be held in any jail or holding
2 facility or permitted to have sight or sound contact with adult
3 inmates, for more than one hundred eighty days, unless:

4 (I) The court, in writing, determines that there is good cause to
5 allow an extension beyond one hundred eighty days; or

6 (II) The juvenile expressly waives this limitation.

7 (iii) A juvenile who is subject to exclusive adult criminal court
8 jurisdiction under RCW 13.04.030 or who has been transferred to adult
9 criminal court under RCW 13.40.110 has the right to be represented by
10 counsel, and if indigent, to have counsel appointed for him or her by
11 the court at any hearing held to determine whether to place the
12 juvenile in a jail or holding facility or to continue the juvenile's
13 placement in such a facility.

14 ~~(2) ((For purposes of this section a juvenile is an individual~~
15 ~~under the chronological age of eighteen years who has not been~~
16 ~~transferred previously to adult courts.~~

17 ~~(3))~~ The department shall monitor and enforce compliance with
18 this section. The department may use information regarding juveniles
19 confined in a jail gathered under the authority granted by this
20 subsection in the report required in section 7(1) of this act with
21 respect to juveniles in the custody of a jail or holding facility.

22 A detention facility and a governing unit for a jail or holding
23 facility must provide assistance to the department in gathering
24 information regarding juveniles confined in a jail or holding
25 facility. This information must include:

26 (a) The age, race, and gender of each juvenile;

27 (b) The circumstances requiring the juvenile to be placed in the
28 jail or holding facility; and

29 (c) The length of time the juvenile was held in the jail or
30 holding facility.

31 ~~((4))~~ (3) This section shall not be construed to expand or
32 limit the authority to lawfully detain juveniles.

33 (4) For purposes of this section, the following definitions
34 apply:

35 (a) "Detention facility" has the same meaning as provided under
36 RCW 13.40.020.

37 (b) "Governing unit" has the same meaning as provided under RCW
38 70.48.020.

39 (c) "Holding facility" has the same meaning as provided under RCW
40 70.48.020.

1 (d) "Jail" has the same meaning as provided under RCW 70.48.020.

2 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
3 conflict with federal requirements that are a prescribed condition to
4 the allocation of federal funds to the state, the conflicting part of
5 this act is inoperative solely to the extent of the conflict and with
6 respect to the agencies directly affected, and this finding does not
7 affect the operation of the remainder of this act in its application
8 to the agencies concerned. Rules adopted under this act must meet
9 federal requirements that are a necessary condition to the receipt of
10 federal funds by the state.

11 NEW SECTION. **Sec. 10.** Sections 1 through 7 and 9 of this act
12 constitute a new chapter in Title 13 RCW."

13 Correct the title.

EFFECT: (1) The definition of "detention facility" is modified to mean a county juvenile detention facility or a juvenile correctional facility under alternative administration operated by a consortium of counties (Martin Hall).

 (2) The definition of "juvenile" is modified to mean an individual under age eighteen and an individual under age twenty-five confined in a juvenile institution.

 (3) Makes technical changes.

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