

E2SHB 1186 - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

OUT OF ORDER 04/11/2021

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) The department of children, youth, and families seeks to
5 expand trauma-informed, culturally relevant, racial equity-based, and
6 developmentally appropriate therapeutic placement supports in less
7 restrictive community settings. Under current law, these supports are
8 limited to placement in community facilities—which are only available
9 for about 25 percent of juvenile rehabilitation's population—and
10 electronic home monitoring for persons serving adult sentences in the
11 custody of the department of children, youth, and families' juvenile
12 rehabilitation who have an earned release date between the ages of 25
13 and 26.

14 (2) To help reduce the bottleneck of youth and young adults
15 placed in the department's juvenile rehabilitation institutions and
16 enhance community-based, less restrictive options, this act creates a
17 community transition services program, which utilizes electronic home
18 monitoring as a tool embedded in a progressively supportive
19 community-based approach with therapeutic supports for young people
20 reentering the community. This approach considers developmentally
21 appropriate programs for successful reentry by increasing access to
22 community transition services, including housing assistance,
23 behavioral health treatment, independent living, employment,
24 education, and family and community connections.

25 **Sec. 2.** RCW 72.01.412 and 2019 c 322 s 6 are each amended to
26 read as follows:

27 (1) A person in the custody of the department of children, youth,
28 and families under RCW 72.01.410 (~~who has an earned release date~~
29 ~~that is after the person's twenty-fifth birthday but on or before the~~
30 ~~person's twenty-sixth birthday may, after turning twenty-five, serve~~
31 ~~the remainder of the person's term of confinement in partial~~

1 ~~confinement on electronic home monitoring))~~ is eligible for community
2 transition services under the authority and supervision of the
3 department of children, youth, and families (~~(, provided that the))~~ :

4 (a) After the person's 25th birthday:

5 (i) If the person's earned release date is after the person's
6 25th birthday but on or before the person's 26th birthday; and

7 (ii) The department of children, youth, and families determines
8 that placement in community transition services is in the best
9 interests of the person and the community; or

10 (b) After 60 percent of their term of confinement has been
11 served, and no less than 15 weeks of total confinement served
12 including time spent in detention prior to sentencing or the entry of
13 a dispositional order if:

14 (i) The person has an earned release date that is before their
15 26th birthday; and

16 (ii) The department of children, youth, and families determines
17 that such placement and retention by the department of children,
18 youth, and families is in the best interests of the person and the
19 community.

20 (2) "Term of confinement" as used in subsection (1)(a) of this
21 section means the term of confinement ordered, reduced by the total
22 amount of earned time eligible for the offense.

23 (3) The department's determination under subsection (1)(a)(ii)
24 and (b)(ii) of this section must include consideration of the
25 person's behavior while in confinement and any disciplinary
26 considerations.

27 (4) The department of children, youth, and families retains the
28 authority to transfer the person to the custody of the department of
29 corrections under RCW 72.01.410.

30 ~~((2))~~ (5) A person placed (~~on electronic home monitoring))~~ in
31 community transition services under this section must ~~((otherwise~~
32 ~~continue to be subject to similar treatment, options, access to~~
33 ~~programs and resources, conditions, and restrictions applicable to~~
34 ~~other similarly situated persons under the jurisdiction of the~~
35 ~~department of children, youth, and families))~~ have access to
36 appropriate treatment and programming as determined by the department
37 of children, youth, and families, including but not limited to:

38 (a) Behavioral health treatment;

39 (b) Independent living;

40 (c) Employment;

1 (d) Education;

2 (e) Connections to family and natural supports; and

3 (f) Community connections.

4 (6) If the person has a sentence that includes a term of
5 community custody, this term of community custody must begin after
6 the current term of confinement has ended.

7 ~~((3))~~ (7) If a person placed on ((electronic home monitoring))
8 community transition services under this section commits a violation
9 requiring the return of the person to total confinement after the
10 person's 25th birthday, the person must be transferred to the custody
11 and supervision of the department of corrections for the remainder of
12 the sentence.

13 (8) The following persons are not eligible for community
14 transition services under this section:

15 (a) Persons with pending charges or warrants;

16 (b) Persons who will be transferred to the department of
17 corrections, who are in the custody of the department of corrections,
18 or who are under the supervision of the department of corrections;

19 (c) Persons who were adjudicated or convicted of the crime of
20 murder in the first or second degree;

21 (d) Persons who meet the definition of a "persistent offender" as
22 defined under RCW 9.94A.030;

23 (e) Level III sex offenders; and

24 (f) Persons requiring out-of-state placement.

25 (9) As used in this section, "community transition services"
26 means a therapeutic and supportive community-based custody option in
27 which:

28 (a) A person serves a portion of his or her term of confinement
29 residing in the community, outside of the department of children,
30 youth, and families institutions and community facilities;

31 (b) The department of children, youth, and families supervises
32 the person in part through the use of technology that is capable of
33 determining or identifying the monitored person's presence or absence
34 at a particular location;

35 (c) The department of children, youth, and families provides
36 access to developmentally appropriate, trauma-informed, racial
37 equity-based, and culturally relevant programs to promote successful
38 reentry; and

39 (d) The department of children, youth, and families prioritizes
40 the delivery of available programming from individuals who share

1 characteristics with the individual being served related to: Race;
2 ethnicity; sexual identity; and gender identity.

3 **Sec. 3.** RCW 13.40.020 and 2019 c 444 s 9 are each amended to
4 read as follows:

5 For the purposes of this chapter:

6 (1) "Assessment" means an individualized examination of a child
7 to determine the child's psychosocial needs and problems, including
8 the type and extent of any mental health, substance abuse, or co-
9 occurring mental health and substance abuse disorders, and
10 recommendations for treatment. "Assessment" includes, but is not
11 limited to, drug and alcohol evaluations, psychological and
12 psychiatric evaluations, records review, clinical interview, and
13 administration of a formal test or instrument;

14 (2) "Community-based rehabilitation" means one or more of the
15 following: Employment; attendance of information classes; literacy
16 classes; counseling, outpatient substance abuse treatment programs,
17 outpatient mental health programs, anger management classes,
18 education or outpatient treatment programs to prevent animal cruelty,
19 or other services including, when appropriate, restorative justice
20 programs; or attendance at school or other educational programs
21 appropriate for the juvenile as determined by the school district.
22 Placement in community-based rehabilitation programs is subject to
23 available funds;

24 (3) "Community-based sanctions" may include one or more of the
25 following:

26 (a) A fine, not to exceed five hundred dollars;

27 (b) Community restitution not to exceed one hundred fifty hours
28 of community restitution;

29 (4) "Community restitution" means compulsory service, without
30 compensation, performed for the benefit of the community by the
31 offender as punishment for committing an offense. Community
32 restitution may be performed through public or private organizations
33 or through work crews;

34 (5) "Community supervision" means an order of disposition by the
35 court of an adjudicated youth not committed to the department or an
36 order granting a deferred disposition. A community supervision order
37 for a single offense may be for a period of up to two years for a sex
38 offense as defined by RCW 9.94A.030 and up to one year for other
39 offenses. As a mandatory condition of any term of community

1 supervision, the court shall order the juvenile to refrain from
2 committing new offenses. As a mandatory condition of community
3 supervision, the court shall order the juvenile to comply with the
4 mandatory school attendance provisions of chapter 28A.225 RCW and to
5 inform the school of the existence of this requirement. Community
6 supervision is an individualized program comprised of one or more of
7 the following:

8 (a) Community-based sanctions;

9 (b) Community-based rehabilitation;

10 (c) Monitoring and reporting requirements;

11 (d) Posting of a probation bond;

12 (e) Residential treatment, where substance abuse, mental health,
13 and/or co-occurring disorders have been identified in an assessment
14 by a qualified mental health professional, psychologist,
15 psychiatrist, co-occurring disorder specialist, or substance use
16 disorder professional and a funded bed is available. If a child
17 agrees to voluntary placement in a state-funded long-term evaluation
18 and treatment facility, the case must follow the existing placement
19 procedure including consideration of less restrictive treatment
20 options and medical necessity.

21 (i) A court may order residential treatment after consideration
22 and findings regarding whether:

23 (A) The referral is necessary to rehabilitate the child;

24 (B) The referral is necessary to protect the public or the child;

25 (C) The referral is in the child's best interest;

26 (D) The child has been given the opportunity to engage in less
27 restrictive treatment and has been unable or unwilling to comply; and

28 (E) Inpatient treatment is the least restrictive action
29 consistent with the child's needs and circumstances.

30 (ii) In any case where a court orders a child to inpatient
31 treatment under this section, the court must hold a review hearing no
32 later than sixty days after the youth begins inpatient treatment, and
33 every thirty days thereafter, as long as the youth is in inpatient
34 treatment;

35 (6) "Community transition services" means a therapeutic and
36 supportive community-based custody option in which:

37 (a) A person serves a portion of their term of confinement
38 residing in the community, outside of department institutions and
39 community facilities;

1 (b) The department supervises the person in part through the use
2 of technology that is capable of determining or identifying the
3 monitored person's presence or absence at a particular location;

4 (c) The department provides access to developmentally
5 appropriate, trauma-informed, racial equity-based, and culturally
6 relevant programs to promote successful reentry; and

7 (d) The department prioritizes the delivery of available
8 programming from individuals who share characteristics with the
9 individual being served related to: Race, ethnicity, sexual identity,
10 and gender identity;

11 (7) "Confinement" means physical custody by the department of
12 children, youth, and families in a facility operated by or pursuant
13 to a contract with the state, or physical custody in a detention
14 facility operated by or pursuant to a contract with any county. The
15 county may operate or contract with vendors to operate county
16 detention facilities. The department may operate or contract to
17 operate detention facilities for juveniles committed to the
18 department. Pretrial confinement or confinement of less than thirty-
19 one days imposed as part of a disposition or modification order may
20 be served consecutively or intermittently, in the discretion of the
21 court;

22 ~~((7))~~ (8) "Court," when used without further qualification,
23 means the juvenile court judge(s) or commissioner(s);

24 ~~((8))~~ (9) "Criminal history" includes all criminal complaints
25 against the respondent for which, prior to the commission of a
26 current offense:

27 (a) The allegations were found correct by a court. If a
28 respondent is convicted of two or more charges arising out of the
29 same course of conduct, only the highest charge from among these
30 shall count as an offense for the purposes of this chapter; or

31 (b) The criminal complaint was diverted by a prosecutor pursuant
32 to the provisions of this chapter on agreement of the respondent and
33 after an advisement to the respondent that the criminal complaint
34 would be considered as part of the respondent's criminal history. A
35 successfully completed deferred adjudication that was entered before
36 July 1, 1998, or a deferred disposition shall not be considered part
37 of the respondent's criminal history;

38 ~~((9))~~ (10) "Department" means the department of children,
39 youth, and families;

1 ~~((10))~~ (11) "Detention facility" means a county facility, paid
2 for by the county, for the physical confinement of a juvenile alleged
3 to have committed an offense or an adjudicated offender subject to a
4 disposition or modification order. "Detention facility" includes
5 county group homes, inpatient substance abuse programs, juvenile
6 basic training camps, and electronic monitoring;

7 ~~((11))~~ (12) "Diversion unit" means any probation counselor who
8 enters into a diversion agreement with an alleged youthful offender,
9 or any other person, community accountability board, youth court
10 under the supervision of the juvenile court, or other entity with
11 whom the juvenile court administrator has contracted to arrange and
12 supervise such agreements pursuant to RCW 13.40.080, or any person,
13 community accountability board, or other entity specially funded by
14 the legislature to arrange and supervise diversion agreements in
15 accordance with the requirements of this chapter. For purposes of
16 this subsection, "community accountability board" means a board
17 comprised of members of the local community in which the juvenile
18 offender resides. The superior court shall appoint the members. The
19 boards shall consist of at least three and not more than seven
20 members. If possible, the board should include a variety of
21 representatives from the community, such as a law enforcement
22 officer, teacher or school administrator, high school student,
23 parent, and business owner, and should represent the cultural
24 diversity of the local community;

25 ~~((12))~~ (13) "Foster care" means temporary physical care in a
26 foster family home or group care facility as defined in RCW 74.15.020
27 and licensed by the department, or other legally authorized care;

28 ~~((13))~~ (14) "Institution" means a juvenile facility established
29 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

30 ~~((14))~~ (15) "Intensive supervision program" means a parole
31 program that requires intensive supervision and monitoring, offers an
32 array of individualized treatment and transitional services, and
33 emphasizes community involvement and support in order to reduce the
34 likelihood a juvenile offender will commit further offenses;

35 ~~((15))~~ (16) "Juvenile," "youth," and "child" mean any
36 individual who is under the chronological age of eighteen years and
37 who has not been previously transferred to adult court pursuant to
38 RCW 13.40.110, unless the individual was convicted of a lesser charge
39 or acquitted of the charge for which he or she was previously

1 transferred pursuant to RCW 13.40.110 or who is not otherwise under
2 adult court jurisdiction;

3 ~~((16))~~ (17) "Juvenile offender" means any juvenile who has been
4 found by the juvenile court to have committed an offense, including a
5 person eighteen years of age or older over whom jurisdiction has been
6 extended under RCW 13.40.300;

7 ~~((17))~~ (18) "Labor" means the period of time before a birth
8 during which contractions are of sufficient frequency, intensity, and
9 duration to bring about effacement and progressive dilation of the
10 cervix;

11 ~~((18))~~ (19) "Local sanctions" means one or more of the
12 following: (a) 0-30 days of confinement; (b) 0-12 months of community
13 supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500
14 fine;

15 ~~((19))~~ (20) "Manifest injustice" means a disposition that would
16 either impose an excessive penalty on the juvenile or would impose a
17 serious, and clear danger to society in light of the purposes of this
18 chapter;

19 ~~((20))~~ (21) "Monitoring and reporting requirements" means one
20 or more of the following: Curfews; requirements to remain at home,
21 school, work, or court-ordered treatment programs during specified
22 hours; restrictions from leaving or entering specified geographical
23 areas; requirements to report to the probation officer as directed
24 and to remain under the probation officer's supervision; and other
25 conditions or limitations as the court may require which may not
26 include confinement;

27 ~~((21))~~ (22) "Offense" means an act designated a violation or a
28 crime if committed by an adult under the law of this state, under any
29 ordinance of any city or county of this state, under any federal law,
30 or under the law of another state if the act occurred in that state;

31 ~~((22))~~ (23) "Physical restraint" means the use of any bodily
32 force or physical intervention to control a juvenile offender or
33 limit a juvenile offender's freedom of movement in a way that does
34 not involve a mechanical restraint. Physical restraint does not
35 include momentary periods of minimal physical restriction by direct
36 person-to-person contact, without the aid of mechanical restraint,
37 accomplished with limited force and designed to:

38 (a) Prevent a juvenile offender from completing an act that would
39 result in potential bodily harm to self or others or damage property;

1 (b) Remove a disruptive juvenile offender who is unwilling to
2 leave the area voluntarily; or

3 (c) Guide a juvenile offender from one location to another;

4 (~~(23)~~) (24) "Postpartum recovery" means (a) the entire period a
5 woman or youth is in the hospital, birthing center, or clinic after
6 giving birth and (b) an additional time period, if any, a treating
7 physician determines is necessary for healing after the youth leaves
8 the hospital, birthing center, or clinic;

9 (~~(24)~~) (25) "Probation bond" means a bond, posted with
10 sufficient security by a surety justified and approved by the court,
11 to secure the offender's appearance at required court proceedings and
12 compliance with court-ordered community supervision or conditions of
13 release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means
14 a deposit of cash or posting of other collateral in lieu of a bond if
15 approved by the court;

16 (~~(25)~~) (26) "Respondent" means a juvenile who is alleged or
17 proven to have committed an offense;

18 (~~(26)~~) (27) "Restitution" means financial reimbursement by the
19 offender to the victim, and shall be limited to easily ascertainable
20 damages for injury to or loss of property, actual expenses incurred
21 for medical treatment for physical injury to persons, lost wages
22 resulting from physical injury, and costs of the victim's counseling
23 reasonably related to the offense. Restitution shall not include
24 reimbursement for damages for mental anguish, pain and suffering, or
25 other intangible losses. Nothing in this chapter shall limit or
26 replace civil remedies or defenses available to the victim or
27 offender;

28 (~~(27)~~) (28) "Restorative justice" means practices, policies,
29 and programs informed by and sensitive to the needs of crime victims
30 that are designed to encourage offenders to accept responsibility for
31 repairing the harm caused by their offense by providing safe and
32 supportive opportunities for voluntary participation and
33 communication between the victim, the offender, their families, and
34 relevant community members;

35 (~~(28)~~) (29) "Restraints" means anything used to control the
36 movement of a person's body or limbs and includes:

37 (a) Physical restraint; or

38 (b) Mechanical device including but not limited to: Metal
39 handcuffs, plastic ties, ankle restraints, leather cuffs, other
40 hospital-type restraints, tasers, or batons;

1 ~~((29))~~ (30) "Risk assessment tool" means the statistically
2 valid tool used by the department to inform release or placement
3 decisions related to security level, release within the sentencing
4 range, community facility eligibility, community transition services
5 eligibility, and parole. The "risk assessment tool" is used by the
6 department to predict the likelihood of successful reentry and future
7 criminal behavior;

8 (31) "Screening" means a process that is designed to identify a
9 child who is at risk of having mental health, substance abuse, or co-
10 occurring mental health and substance abuse disorders that warrant
11 immediate attention, intervention, or more comprehensive assessment.
12 A screening may be undertaken with or without the administration of a
13 formal instrument;

14 ~~((30))~~ (32) "Secretary" means the secretary of the department;

15 ~~((31))~~ (33) "Services" means services which provide
16 alternatives to incarceration for those juveniles who have pleaded or
17 been adjudicated guilty of an offense or have signed a diversion
18 agreement pursuant to this chapter;

19 ~~((32))~~ (34) "Sex offense" means an offense defined as a sex
20 offense in RCW 9.94A.030;

21 ~~((33))~~ (35) "Sexual motivation" means that one of the purposes
22 for which the respondent committed the offense was for the purpose of
23 his or her sexual gratification;

24 ~~((34))~~ (36) "Surety" means an entity licensed under state
25 insurance laws or by the state department of licensing, to write
26 corporate, property, or probation bonds within the state, and
27 justified and approved by the superior court of the county having
28 jurisdiction of the case;

29 ~~((35))~~ (37) "Transportation" means the conveying, by any means,
30 of an incarcerated pregnant youth from the institution or detention
31 facility to another location from the moment she leaves the
32 institution or detention facility to the time of arrival at the other
33 location, and includes the escorting of the pregnant incarcerated
34 youth from the institution or detention facility to a transport
35 vehicle and from the vehicle to the other location;

36 ~~((36))~~ (38) "Violation" means an act or omission, which if
37 committed by an adult, must be proven beyond a reasonable doubt, and
38 is punishable by sanctions which do not include incarceration;

39 ~~((37))~~ (39) "Violent offense" means a violent offense as
40 defined in RCW 9.94A.030;

1 (~~(38)~~) (40) "Youth court" means a diversion unit under the
2 supervision of the juvenile court.

3 **Sec. 4.** RCW 13.40.205 and 2019 c 468 s 1 are each amended to
4 read as follows:

5 (1) A juvenile sentenced to a term of confinement to be served
6 under the supervision of the department shall not be released from
7 the physical custody of the department prior to the release date
8 established under RCW 13.40.210 except as otherwise provided in this
9 section.

10 (2) A juvenile serving a term of confinement under the
11 supervision of the department may be released on authorized leave
12 from the physical custody of the department only if consistent with
13 public safety and if:

14 (a) Sixty percent of the minimum term of confinement has been
15 served; and

16 (b) The purpose of the leave is to enable the juvenile:

17 (i) To visit the juvenile's family for the purpose of
18 strengthening or preserving family relationships;

19 (ii) To make plans for parole or release which require the
20 juvenile's personal appearance in the community and which will
21 facilitate the juvenile's reintegration into the community; or

22 (iii) To make plans for a residential placement out of the
23 juvenile's home which requires the juvenile's personal appearance in
24 the community.

25 (3) No authorized leave may exceed seven consecutive days. The
26 total of all preminimum term authorized leaves granted to a juvenile
27 prior to final discharge from confinement shall not exceed thirty
28 days.

29 (4) Prior to authorizing a leave, the secretary shall require a
30 written leave plan, which shall detail the purpose of the leave and
31 how it is to be achieved, the address at which the juvenile shall
32 reside, the identity of the person responsible for supervising the
33 juvenile during the leave, and a statement by such person
34 acknowledging familiarity with the leave plan and agreeing to
35 supervise the juvenile and to notify the secretary immediately if the
36 juvenile violates any terms or conditions of the leave. The leave
37 plan shall include such terms and conditions as the secretary deems
38 appropriate and shall be signed by the juvenile.

1 (5) Upon authorizing a leave, the secretary shall issue to the
2 juvenile an authorized leave order which shall contain the name of
3 the juvenile, the fact that the juvenile is on leave from a
4 designated facility, the time period of the leave, and the identity
5 of an appropriate official of the department to contact when
6 necessary. The authorized leave order shall be carried by the
7 juvenile at all times while on leave.

8 (6) Prior to the commencement of any authorized leave, the
9 secretary shall give notice of the leave to the appropriate law
10 enforcement agency in the jurisdiction in which the juvenile will
11 reside during the leave period. The notice shall include the identity
12 of the juvenile, the time period of the leave, the residence of the
13 juvenile during the leave, and the identity of the person responsible
14 for supervising the juvenile during the leave.

15 (7) The secretary may authorize a leave, which shall not exceed
16 forty-eight hours plus travel time, to meet an emergency situation
17 such as a death or critical illness of a member of the juvenile's
18 family. The secretary may authorize a leave, which shall not exceed
19 the period of time medically necessary, to obtain medical care not
20 available in a juvenile facility maintained by the department. In
21 cases of emergency or medical leave the secretary may waive all or
22 any portions of subsections (2)(a), (3), (4), (5), and (6) of this
23 section.

24 (8) If requested by the juvenile's victim or the victim's
25 immediate family, the secretary shall give notice of any leave or
26 community transition services under subsection (13) of this section
27 to the victim or the victim's immediate family.

28 (9) A juvenile who violates any condition of an authorized leave
29 plan or community transition services under subsection (13) of this
30 section may be taken into custody and returned to the department in
31 the same manner as an adult in identical circumstances.

32 (10) Community transition services is an electronic monitoring
33 program as that term is used in RCW 9A.76.130.

34 (11) Notwithstanding the provisions of this section, a juvenile
35 placed in minimum security status or in community transition services
36 under subsection (13) of this section may participate in work,
37 educational, community restitution, or treatment programs in the
38 community up to twelve hours a day if approved by the secretary. Such
39 a release shall not be deemed a leave of absence. This authorization
40 may be increased to more than twelve hours a day up to sixteen hours

1 a day if approved by the secretary and operated within the
2 department's appropriations.

3 ~~((11))~~ (12) Subsections (6), (7), and (8) of this section do
4 not apply to juveniles covered by RCW 13.40.215.

5 (13)(a) The department may require a person in its custody to
6 serve the remainder of the person's sentence in community transition
7 services if the department determines that such placement is in the
8 best interest of the person and the community using the risk
9 assessment tool and considering the availability of appropriate
10 placements, treatment, and programming. The department's
11 determination described under this subsection must include
12 consideration of the person's behavior while in confinement and any
13 disciplinary considerations. The department shall establish
14 appropriate conditions the person must comply with to remain in
15 community transition services. A person must have served 60 percent
16 of their minimum term of confinement and no less than 15 weeks of
17 total confinement including time spent in detention prior to
18 sentencing or the entry of a dispositional order before becoming
19 eligible for community transition services under the authority and
20 supervision of the department.

21 (b) A person placed in community transition services under this
22 section must have access to appropriate treatment and programming as
23 determined by the department, including but not limited to:

24 (i) Behavioral health treatment;

25 (ii) Independent living;

26 (iii) Employment;

27 (iv) Education;

28 (v) Connections to family and natural supports; and

29 (vi) Community connections.

30 (c) Community transition services under this section is in lieu
31 of confinement in an institution or community facility operated by
32 the department, and will not fulfill any period of parole required
33 under RCW 13.40.210.

34 (d) If a person placed in community transition services under
35 this section violates a condition of participation in the community
36 transition services program, or if the department determines that
37 placement in the program is no longer in the best interests of the
38 person or community, the person may be returned to an institution
39 operated by the department at the department's discretion.

1 (e) The following persons are not eligible for community
2 transition services under this section:

3 (i) Persons with pending charges or warrants;

4 (ii) Persons who will be transferred to the department of
5 corrections, who are in the custody of the department of corrections,
6 or who are under the supervision of the department of corrections;

7 (iii) Persons who were adjudicated or convicted of the crime of
8 murder in the first or second degree;

9 (iv) Persons who meet the definition of a "persistent offender"
10 as defined under RCW 9.94A.030;

11 (v) Level III sex offenders; and

12 (vi) Persons requiring out-of-state placement.

13 (14) The department shall design, or contract for the design, and
14 implement a risk assessment tool. The tool must be designed to limit
15 bias related to race, ethnicity, gender, and age. The risk assessment
16 tool must be certified at least every three years based on current
17 academic standards for assessment validation, and can be certified by
18 the office of innovation, alignment, and accountability or an outside
19 researcher.

20 **Sec. 5.** RCW 13.40.215 and 2020 c 167 s 7 are each amended to
21 read as follows:

22 (1)(a) Except as provided in subsection (2) of this section, at
23 the earliest practicable date, and in no event later than thirty days
24 before discharge, parole, or any other authorized leave or release,
25 or before transfer to a community residential facility or community
26 transition services program, the secretary shall send written notice
27 of the discharge, parole, authorized leave or release, or transfer of
28 a juvenile found to have committed a violent offense, a sex offense,
29 or stalking, to the following:

30 (i) The chief of police of the city, if any, in which the
31 juvenile will reside; and

32 (ii) The sheriff of the county in which the juvenile will reside.

33 (b)(i) Except as provided in subsection (2) of this section, at
34 the earliest practicable date, and in no event later than thirty days
35 before discharge, parole, or any other authorized leave or release,
36 or before transfer to a community residential facility or community
37 transition services program, the secretary shall send written notice
38 of the discharge, parole, authorized leave or release, or transfer of
39 an individual who is found to have committed a violent offense or a

1 sex offense, is twenty-one years of age or younger, and has not
2 received a high school diploma or its equivalent, to the designated
3 recipient of the school where the juvenile either: (A) Was enrolled
4 prior to incarceration or detention; or (B) has expressed an
5 intention to enroll following his or her release. This notice must
6 also include the restrictions described in subsection (5) of this
7 section.

8 (ii) The community residential facility shall provide written
9 notice of the offender's criminal history to the designated recipient
10 of any school that the offender attends while residing at the
11 community residential facility and to any employer that employs the
12 offender while residing at the community residential facility.

13 (iii) As used in this subsection, "designated recipient" means:
14 (A) The superintendent of the school district, or his or her
15 designee, of a common school as defined in RCW 28A.150.020 or a
16 school that is the subject of a state-tribal education compact under
17 chapter 28A.715 RCW; (B) the administrator of a charter public school
18 governed by chapter 28A.710 RCW; or (C) the administrator of a
19 private school approved under chapter 28A.195 RCW.

20 (c) The same notice as required by (a) of this subsection shall
21 be sent to the following, if such notice has been requested in
22 writing about a specific juvenile:

23 (i) The victim of the offense for which the juvenile was found to
24 have committed or the victim's next of kin if the crime was a
25 homicide;

26 (ii) Any witnesses who testified against the juvenile in any
27 court proceedings involving the offense; and

28 (iii) Any person specified in writing by the prosecuting
29 attorney.

30 Information regarding victims, next of kin, or witnesses requesting
31 the notice, information regarding any other person specified in
32 writing by the prosecuting attorney to receive the notice, and the
33 notice are confidential and shall not be available to the juvenile.
34 The notice to the chief of police or the sheriff shall include the
35 identity of the juvenile, the residence where the juvenile will
36 reside, the identity of the person, if any, responsible for
37 supervising the juvenile, and the time period of any authorized
38 leave.

39 (d) The thirty-day notice requirements contained in this
40 subsection shall not apply to emergency medical furloughs.

1 (e) The existence of the notice requirements in this subsection
2 will not require any extension of the release date in the event the
3 release plan changes after notification.

4 (2) (a) If a juvenile found to have committed a violent offense, a
5 sex offense, or stalking escapes from a facility of the department,
6 the secretary shall immediately notify, by the most reasonable and
7 expedient means available, the chief of police of the city and the
8 sheriff of the county in which the juvenile resided immediately
9 before the juvenile's arrest. If previously requested, the secretary
10 shall also notify the witnesses and the victim of the offense which
11 the juvenile was found to have committed or the victim's next of kin
12 if the crime was a homicide. If the juvenile is recaptured, the
13 secretary shall send notice to the persons designated in this
14 subsection as soon as possible but in no event later than two working
15 days after the department learns of such recapture.

16 (b) The secretary may authorize a leave, for a juvenile found to
17 have committed a violent offense, a sex offense, or stalking, which
18 shall not exceed forty-eight hours plus travel time, to meet an
19 emergency situation such as a death or critical illness of a member
20 of the juvenile's family. The secretary may authorize a leave, which
21 shall not exceed the time medically necessary, to obtain medical care
22 not available in a juvenile facility maintained by the department.
23 Prior to the commencement of an emergency or medical leave, the
24 secretary shall give notice of the leave to the appropriate law
25 enforcement agency in the jurisdiction in which the juvenile will be
26 during the leave period. The notice shall include the identity of the
27 juvenile, the time period of the leave, the residence of the juvenile
28 during the leave, and the identity of the person responsible for
29 supervising the juvenile during the leave. If previously requested,
30 the department shall also notify the witnesses and victim of the
31 offense which the juvenile was found to have committed or the
32 victim's next of kin if the offense was a homicide.

33 In case of an emergency or medical leave the secretary may waive
34 all or any portion of the requirements for leaves pursuant to RCW
35 13.40.205 (2) (a), (3), (4), and (5).

36 (3) If the victim, the victim's next of kin, or any witness is
37 under the age of sixteen, the notice required by this section shall
38 be sent to the parents or legal guardian of the child.

39 (4) The secretary shall send the notices required by this chapter
40 to the last address provided to the department by the requesting

1 party. The requesting party shall furnish the department with a
2 current address.

3 (5) Upon discharge, parole, transfer to a community residential
4 facility, or other authorized leave or release, a convicted juvenile
5 sex offender shall not attend a public or approved private
6 elementary, middle, or high school that is attended by a victim or a
7 sibling of a victim of the sex offender. The parents or legal
8 guardians of the convicted juvenile sex offender shall be responsible
9 for transportation or other costs associated with or required by the
10 sex offender's change in school that otherwise would be paid by a
11 school district.

12 (6) For purposes of this section the following terms have the
13 following meanings:

14 (a) "Violent offense" means a violent offense under RCW
15 9.94A.030;

16 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

17 (c) "Stalking" means the crime of stalking as defined in RCW
18 9A.46.110;

19 (d) "Next of kin" means a person's spouse, parents, siblings, and
20 children.

21 **Sec. 6.** RCW 13.40.220 and 2017 3rd sp.s. c 6 s 610 are each
22 amended to read as follows:

23 (1) Whenever legal custody of a child is vested in someone other
24 than his or her parents, under this chapter, and not vested in the
25 department, after due notice to the parents or other persons legally
26 obligated to care for and support the child, and after a hearing, the
27 court may order and decree that the parent or other legally obligated
28 person shall pay in such a manner as the court may direct a
29 reasonable sum representing in whole or in part the costs of support,
30 treatment, and confinement of the child after the decree is entered.

31 (2) If the parent or other legally obligated person willfully
32 fails or refuses to pay such sum, the court may proceed against such
33 person for contempt.

34 (3) Whenever legal custody of a child is vested in the department
35 under this chapter, the parents or other persons legally obligated to
36 care for and support the child shall be liable for the costs of
37 support, treatment, and confinement of the child, in accordance with
38 the department's reimbursement of cost schedule. The department shall
39 adopt a reimbursement of cost schedule based on the costs of

1 providing such services, and shall determine an obligation based on
2 the responsible parents' or other legally obligated person's ability
3 to pay. The department is authorized to adopt additional rules as
4 appropriate to enforce this section.

5 (4) To enforce subsection (3) of this section, the department
6 shall serve on the parents or other person legally obligated to care
7 for and support the child a notice and finding of financial
8 responsibility requiring the parents or other legally obligated
9 person to appear and show cause in an adjudicative proceeding why the
10 finding of responsibility and/or the amount thereof is incorrect and
11 should not be ordered. This notice and finding shall relate to the
12 costs of support, treatment, and confinement of the child in
13 accordance with the department's reimbursement of cost schedule
14 adopted under this section, including periodic payments to be made in
15 the future. The hearing shall be held pursuant to chapter 34.05 RCW,
16 the administrative procedure act, and the rules of the department.

17 (5) The notice and finding of financial responsibility shall be
18 served in the same manner prescribed for the service of a summons in
19 a civil action or may be served on the parent or legally obligated
20 person by certified mail, return receipt requested. The receipt shall
21 be prima facie evidence of service.

22 (6) If the parents or other legally obligated person objects to
23 the notice and finding of financial responsibility, then an
24 application for an adjudicative hearing may be filed within twenty
25 days of the date of service of the notice. If an application for an
26 adjudicative proceeding is filed, the presiding or reviewing officer
27 shall determine the past liability and responsibility, if any, of the
28 parents or other legally obligated person and shall also determine
29 the amount of periodic payments to be made in the future. If the
30 parents or other legally responsible person fails to file an
31 application within twenty days, the notice and finding of financial
32 responsibility shall become a final administrative order.

33 (7) Debts determined pursuant to this section are subject to
34 collection action without further necessity of action by a presiding
35 or reviewing officer. The department may collect the debt in
36 accordance with RCW 43.20B.635, 43.20B.640, 74.20A.060, and
37 74.20A.070. The department shall exempt from payment parents
38 receiving adoption support under RCW 74.13A.005 through 74.13A.080,
39 parents eligible to receive adoption support under RCW 74.13A.085,
40 and a parent or other legally obligated person when the parent or

1 other legally obligated person, or such person's child, spouse, or
2 spouse's child, was the victim of the offense for which the child was
3 committed.

4 (8) An administrative order entered pursuant to this section
5 shall supersede any court order entered prior to June 13, 1994.

6 (9) The department shall be subrogated to the right of the child
7 and his or her parents or other legally responsible person to receive
8 support payments for the benefit of the child from any parent or
9 legally obligated person pursuant to a support order established by a
10 superior court or pursuant to RCW 74.20A.055. The department's right
11 of subrogation under this section is limited to the liability
12 established in accordance with its cost schedule for support,
13 treatment, and confinement, except as addressed in subsection (10) of
14 this section.

15 (10) Nothing in this section precludes the department from
16 recouping such additional support payments from the child's parents
17 or other legally obligated person as required to qualify for receipt
18 of federal funds. The department may adopt such rules dealing with
19 liability for recoupment of support, treatment, or confinement costs
20 as may become necessary to entitle the state to participate in
21 federal funds unless such rules would be expressly prohibited by law.
22 If any law dealing with liability for recoupment of support,
23 treatment, or confinement costs is ruled to be in conflict with
24 federal requirements which are a prescribed condition of the
25 allocation of federal funds, such conflicting law is declared to be
26 inoperative solely to the extent of the conflict.

27 (11) This section does not apply to juveniles or young adults in
28 a community transition services program.

29 NEW SECTION. **Sec. 7.** The department of children, youth, and
30 families shall adopt rules, policies, and procedures as may be needed
31 to implement a community transition services program required by this
32 act, to include the following:

33 (1) Identification and regular monitoring of metrics of quality
34 implementation for the community transition program, and regularly
35 publishing outcome analyses for program participants; and

36 (2) Allowing for the use of new electronic home monitoring
37 equipment and technologies as they become available that eliminate or
38 minimize trauma, social stigma, and racial injustice, and imposing

1 penalties for the knowing or intentional tampering, damaging, or
2 destruction of equipment that renders it not fully functional.

3 NEW SECTION. **Sec. 8.** Subject to the availability of amounts
4 appropriated for this specific purpose, the department of children,
5 youth, and families may issue rental vouchers for a period not to
6 exceed six months for those transferring to community transition
7 services under this act if an approved address cannot be obtained
8 without the assistance of a voucher.

9 **Sec. 9.** RCW 13.04.800 and 2019 c 322 s 5 are each amended to
10 read as follows:

- 11 (1) The Washington state institute for public policy must:
- 12 (a) Assess the impact of chapter 162, Laws of 2018, ~~((and))~~
13 sections 2 through 6, chapter 322, Laws of 2019, and sections 2 and
14 3, chapter . . . , Laws of 2021 (sections 2 and 3 of this act) on
15 community safety, racial disproportionality, recidivism, state
16 expenditures, and youth rehabilitation, to the extent possible; and
- 17 (b) Conduct a cost-benefit analysis, including health impacts and
18 recidivism effects, of extending RCW 72.01.410 to include all
19 offenses committed under the age of twenty-one.
- 20 (2) The institute shall submit, in compliance with RCW 43.01.036,
21 a preliminary report on the requirements listed in subsection (1) of
22 this section to the governor and the appropriate committees of the
23 legislature by December 1, 2023, and a final report to the governor
24 and the appropriate committees of the legislature by December 1,
25 2031.

26 NEW SECTION. **Sec. 10.** (1) The secretary of the department of
27 children, youth, and families, or the secretary's designee, shall
28 convene a stakeholder group to develop recommendations regarding
29 improving outcomes for individuals exiting juvenile rehabilitation
30 with a focus on:

- 31 (a) Increasing community involvement before and after the
32 individual's exit from a juvenile rehabilitation facility;
- 33 (b) A landscape analysis of community-based, reentry-related
34 services available to individuals exiting a juvenile rehabilitation
35 facility by geographic region and service type;

1 (c) Community-based, reentry-related service gaps that should be
2 addressed to ensure a successful community transition services
3 program across the state.

4 (2) The secretary of the department of children, youth, and
5 families, or the secretary's designee shall include, at a minimum,
6 the following stakeholders in the requirements included in this
7 section:

8 (a) Two individuals who were or are currently confined in a
9 juvenile rehabilitation facility;

10 (b) A family member of an individual who was or is currently
11 confined in a juvenile rehabilitation facility;

12 (c) A representative of the Washington partnership council on
13 juvenile justice;

14 (d) A representative of the Washington association of prosecuting
15 attorneys;

16 (e) A representative of the Washington association of sheriffs
17 and police chiefs;

18 (f) A representative of a statewide organization representing
19 criminal defense attorneys;

20 (g) A representative of a statewide organization representing
21 public defenders;

22 (h) A representative of a statewide organization providing legal
23 services to youth;

24 (i) A representative from the office of the superintendent of
25 public instruction;

26 (j) A representative from the state board for community and
27 technical colleges;

28 (k) A representative from the health care authority;

29 (l) A representative from the Washington student achievement
30 council;

31 (m) A representative from the Washington association of juvenile
32 court administrators; and

33 (n) Two representatives from service providers that assist
34 individuals when exiting from a juvenile rehabilitation facility by
35 providing mentoring or other community involvement opportunities to
36 that individual.

37 (3) The department of children, youth, and families shall provide
38 administrative and staff support to the stakeholder group.

39 (4) Nonlegislative members of the stakeholder group who
40 demonstrate financial hardship must be reimbursed for travel expenses

1 as provided in RCW 43.03.050 and 43.03.060, as well as other expenses
2 as needed for each day a nonlegislative stakeholder group member
3 attends a stakeholder group meeting to provide consultative
4 assistance.

5 (5) (a) By November 1, 2021, and in compliance with RCW 43.01.036,
6 an initial report shall be submitted to the appropriate committees of
7 the legislature and the governor related to improving outcomes for
8 individuals exiting juvenile rehabilitation facilities.

9 (b) By June 1, 2022, the department of children, youth, and
10 families shall submit a report to the appropriate committees of the
11 legislature and the governor that describes recommendations related
12 to improving outcomes for individuals exiting a juvenile
13 rehabilitation facility as provided in this section.

14 (6) This section expires January 1, 2023.

15 NEW SECTION. **Sec. 11.** (1) Sections 1 through 6, 8, and 9 of
16 this act take effect six months after the department of children,
17 youth, and families designs and implements a risk assessment tool as
18 defined in RCW 13.40.020 used to determine eligibility for "community
19 transition services" as provided under RCW 13.40.205(13) and provides
20 notice as required under subsection (2) of this section.

21 (2) The department of children, youth, and families must provide
22 notice of the implementation of a risk assessment tool described
23 under subsection (1) of this section to affected parties, the chief
24 clerk of the house of representatives, the secretary of the senate,
25 the office of the code reviser, and others as deemed appropriate by
26 the department of children, youth, and families.

27 NEW SECTION. **Sec. 12.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 2021, in the omnibus appropriations act, this
30 act is null and void."

E2SHB 1186 - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

OUT OF ORDER 04/11/2021

31 On page 1, line 1 of the title, after "rehabilitation;" strike
32 the remainder of the title and insert "amending RCW 72.01.412,

1 13.40.020, 13.40.205, 13.40.215, 13.40.220, and 13.04.800; creating
2 new sections; providing a contingent effective date; and providing an
3 expiration date."

EFFECT: Retains the current electronic home monitoring requirement for a person in DCYF's custody to be eligible for community transition services after the person's 25th birthday and if the person's earned release date is after the person's 25th birthday, but on or before the person's 26th birthday if DCYF determines the placement is in the best interest of the person and the community. Defines "term of confinement." Ensures the definition of "community transition services" is consistent throughout the RCW. Amends the stakeholder group to be convened and supported by DCYF with the following additional changes: Conducts a landscape analysis of community-based, reentry-related services available to persons exiting a juvenile rehabilitation facility, adds representatives from the Washington Partnership Council on Juvenile Justice, Washington Association of Juvenile Court Administrators, and the Health Care Authority to the stakeholder group, and changes the final report submission date to June 1, 2022.

--- END ---