

HOUSE BILL REPORT

E2SHB 1186

As Passed House:

March 3, 2021

Title: An act relating to juvenile rehabilitation.

Brief Description: Concerning juvenile rehabilitation.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Goodman, Senn, Sullivan, Leavitt, Gregerson, Fitzgibbon, Ortiz-Self, Duerr, Tharinger, Macri, Davis, Pollet, Callan, Harris-Talley and Hackney; by request of Department of Children, Youth, and Families).

Brief History:

Committee Activity:

Children, Youth & Families: 1/18/21, 1/28/21 [DPS];
Appropriations: 2/9/21, 2/11/21 [DP2S(w/o sub CYF)].

Floor Activity:

Passed House: 3/3/21, 61-36.

Brief Summary of Engrossed Second Substitute Bill

- Creates a community transition services program administered by the Department of Children, Youth, and Families (DCYF) where an individual who has served at least 60 percent of a term of confinement and at least 15 weeks of total confinement may serve a remaining portion of that term of confinement in the community while the DCYF monitors the individual's location and provides services.

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Senn, Chair; Harris-Talley, Vice Chair; Rule, Vice Chair; Chase, Assistant Ranking Minority Member; Callan, Goodman, Ortiz-Self and

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

Wicks.

Minority Report: Do not pass. Signed by 5 members: Representatives Dent, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Eslick, Klippert and Young.

Staff: Luke Wickham (786-7146).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Children, Youth & Families. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 6 members: Representatives Caldier, Chandler, Dye, Hoff, Rude and Steele.

Minority Report: Without recommendation. Signed by 8 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Harris, Jacobsen and Schmick.

Staff: Yvonne Walker (786-7841).

Background:

Juvenile Offender Sentencing.

Juvenile court dispositions are subject to statutory sentencing guidelines. Juvenile offenses are categorized using letters E through A++ to indicate the seriousness level of the offense with E being the least serious and A++ being the most serious offense category. A statutory grid establishes the standard sentencing range for a particular offense based on the offense category and an individual's prior adjudications. Each prior felony adjudication counts as one point, and each prior violation, misdemeanor, or gross misdemeanor counts as one-fourth point. Fractional points are rounded down.

The sentencing category called "local sanctions" is the least serious category for juvenile sentencing purposes. Local sanctions include a range of up to 30 days in confinement, up to 12 months of community service, up to 150 hours of community service, and up to a \$500 fine. When a juvenile court sentences a juvenile offender to local sanctions, the court must impose a determinate sentence within the standard range. Up to 30 days of confinement imposed by a juvenile court is served in a county juvenile detention facility. Any confinement imposed that is greater than 30 days is served through commitment at a

Department of Children, Youth, and Families (DCYF) juvenile rehabilitation facility.

If the court concludes that disposition within the standard range would effectuate a manifest injustice, the court must impose a disposition outside the standard range. A court's finding of manifest injustice must be supported by clear and convincing evidence.

Generally, juvenile offenders cannot be committed by the juvenile court beyond the offender's twenty-first birthday. Juvenile offenders adjudicated of an A++ offense, or found to be armed with a firearm and sentenced to an additional 12 months, may be committed by the juvenile court for placement in a juvenile rehabilitation institution up to the individual's twenty-fifth birthday.

Juvenile Versus Adult Court Jurisdiction.

Generally, juvenile court has jurisdiction over all alleged criminal offenses alleged to have been committed before an individual's eighteenth birthday. However, there are four circumstances where adult court has jurisdiction over offenses that occurred before an accused person's eighteenth birthday including:

- discretionary decline, where juvenile court declines jurisdiction for persons: (1) age 15 or older charged with a serious violent offense; (2) age 14 and younger charged with Murder in the first or second degree, or (3) any age charged with custodial assault;
- required decline hearing, where the juvenile court declines jurisdiction following a required decline hearing when the person is charged with escape while serving a minimum juvenile sentence to age 21;
- exclusive adult court jurisdiction, where the individual is age 16 or 17 on the date of the offense and the offense is: (1) a serious violent offense; (2) a violent offense with certain criminal history; or (3) Rape of a Child in the first degree; and
- offenses charged after an individual turns age 18.

Persons With an Adult Court Sentence for Offenses Committed While Under Age 18.

Persons convicted in adult court of felony offenses committed while under age 18 are initially placed in a DCYF juvenile rehabilitation institution and are only transferred to a Department of Corrections (DOC) facility with the approval of the DCYF. For these individuals, the DOC determines the person's earned release date. Unless an individual in this category is transferred to the DOC facility earlier, the DCYF may retain custody until the individual completes a term of confinement or turns age 25.

At age 25, the individual must either:

- be transferred to the DOC facility to complete the remaining term of confinement; or
- for individuals with earned release dates after the person's twenty-fifth birthday but before the person's twenty-sixth birthday, serve the remainder of the term of confinement in partial confinement on electronic home monitoring if the DCYF determines that this placement is in the best interest of the person and the community.

Juvenile Rehabilitation Institutions.

The DCYF operates three juvenile institutions for juveniles convicted of crimes and sentenced to more than 30 days of confinement. Echo Glen Children's Center in Snoqualmie serves younger male offenders and female offenders. Green Hill School in Chehalis serves older male offenders. Naselle Youth Camp in Naselle provides services to male offenders and offers a forestry work program.

Juvenile Rehabilitation Community Facilities.

Community facilities allow youth to begin transitioning back to the community. These facilities provide treatment, education, and vocational services. To be eligible for community facility placement, a youth must be placed on minimum security status. Minimum security status is based on risk and behavior assessments and requires that the individual served 10 percent of his or her aggregate minimum disposition or 30 days, whichever is greater, and all placement assessment requirements have been met. Individuals who attempt to escape or escape, individuals who are eligible for civil commitment, and individuals who meet other criteria are not eligible for minimum security status.

There are eight community facilities across the state including:

- Canyon View (Wenatchee);
- Oakridge (Lakewood);
- Parke Creek (Ellensburg);
- Ridgeview (Yakima);
- Sunrise (Ephrata);
- Touchstone (Olympia);
- Twin Rivers (Richland); and
- Woodinville (Kirkland).

Summary of Engrossed Second Substitute Bill:

Community transition services are established within the Department of Children, Youth, and Families (DCYF). Community transition services means therapeutic and supportive community-based custody where:

- a person serves a portion of their term of confinement residing in the community outside of the DCYF institutions or community facilities;
- the DCYF supervises the person through technology capable of determining the person's presence at a particular location;
- the DCYF provides access to programs to promote successful reentry; and
- the DCYF prioritizes the delivery of available programming with the individual being served related to race, ethnicity, sexual identity, and gender identity.

A person is eligible for community transition services if the person:

- has served 60 percent of their minimum term of confinement and no less than 15 weeks of total confinement;

- has an earned release date before their twenty-sixth birthday; and
- has been reviewed by the DCYF and determined that such placement is in the best interest of the person and the community using a risk assessment tool, and considered the availability of placement, treatment, and programming. This determination must include consideration of the person's behavior while in confinement and any disciplinary considerations.

A "risk assessment tool" is defined as a statistically valid tool used by the DCYF to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The risk assessment tool is used by the DCYF to predict the likelihood of successful reentry and future criminal behavior.

The following persons are not eligible for community transition services:

- persons with pending charges or warrants;
- level III sex offenders;
- persons who will be transferred to the Department of Corrections (DOC), who are in the custody of the DOC, or who are under the supervision of the DOC;
- persons who were adjudicated or convicted of the crime of murder in the first or second degree;
- persons who meet the definition of "persistent offender;" and
- persons requiring out-of-state placement.

Persons receiving community transition services must access to appropriate treatment and programming as determined by the DCYF, including:

- behavioral health treatment;
- independent living;
- employment;
- education;
- connections to family and natural resources; and
- community connections.

If a person receiving community transition services commits a violation requiring the person to return to total confinement after the person's twenty-fifth birthday, the person must be transferred to the custody and supervision of the DOC for the remainder of the sentence.

If requested by the victim of the person, the DCYF must give notice to the victim of that community transition services are being provided.

A person who violates any condition of community transition services may be taken into custody and returned to the DCYF. A person who knowingly violates the terms of community transition services is guilty of Escape in the third degree, a misdemeanor. A person receiving community transition services may participate in work, educational,

community restitution, or treatment programs in the community up to 12 hours a day if approved by the DCYF.

The DCYF may require a person to serve the remainder of a person's sentence in community transition services if the DCYF determines that such placement is in the best interest of the person and the community.

The DCYF must provide the same notice as required for an individual's release or transfer to a community residential facility when an individual is transferred to community transition services.

The DCYF may issue rental vouchers, subject to amounts appropriated for that purpose, for a period not to exceed six months for those transferring to community transition services if an approved address cannot be obtained without the use of a voucher.

The Washington Partnership Council on Juvenile Justice must convene stakeholders to develop recommendations regarding improving outcomes for individuals exiting a juvenile detention facility or institution and provide a report to the Legislature and Governor that includes these recommendations by September 1, 2022, with an initial set of recommendations due by November 1, 2021.

The Washington State Institute for Public Policy must assess the community transition services program to determine its impact on community safety, racial disproportionality, recidivism, state expenditures, and youth rehabilitation, to the extent possible. A preliminary report on this impact must be provided to the Governor and the Legislature by December 1, 2023, and a final report provided by December 1, 2031.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect six months after the date the Department of Children, Youth, and Families designs and implements a risk assessment tool used to determine eligibility for community transition services. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Children, Youth & Families):

(In support) This is a Department of Children, Youth, and Families (DCYF) request bill. This bill deals with individuals up to the age of 25 who are being served by a DCYF institution. Research has shown that individuals have more successful treatment in the community. This bill would allow youth to serve the end of their sentence at home. This would also require the DCYF to monitor these youth using electronic home monitoring.

It is appropriate for these youth to be served in a more natural environment.

This bill allows individuals to successfully transition into independence by connecting to education, work, and community during this transition. Seventy-five percent of young people spend all of their time in a juvenile institution because the availability of community facilities is limited. Fifty percent of people transition out of a juvenile institution without any ongoing support.

The creation of the community transition program would help provide the support needed to successfully transition individuals back into the community.

(Opposed) There is support for rehabilitative efforts for all individuals transitioning back to the community from an institution because the successful reentry helps them and the community. This is helpful for the individual and for the community. This needs to be balanced with community protections as well.

This bill appears to be based off of the graduated reentry program within the Department of Corrections. Some of the provision of this bill do not measure up to the protections provided in the graduated reentry program. The graduated reentry program requires that a person must spend at least 12 months in total confinement. The graduated reentry program requires that an individual only serve the final six months of a sentence in the graduated reentry program, whereas this bill allows an individual to spend the final 40 percent of a term of confinement in the community. This bill does not take into consideration a person's successful completion of programs while committed in an institution.

The adjudications and conviction that can result in a sentence in a juvenile facility include very serious offenses.

(Other) There is support for graduated reentry programs for juveniles and rental vouchers. However, there is a concern about allowing individuals who were convicted in adult court to be eligible for release from an institution after serving only 60 percent of his or her sentence. This group includes individuals who committed serious violent offenses.

Staff Summary of Public Testimony (Appropriations):

(In support) Incarcerated settings limit a young person's ability to build connections and supportive relationships with their families and the communities where they plan to live. Therefore, it is prudent and responsible to invest in our young people. Therapeutic and less restrictive options for youth and young adults transitioning back into their community will reduce recidivism. In addition, by placing youth on electronic home monitoring, this allows such youth to become independent, gain employment, and to be able to take care of their respective families. This bill will help young offenders to start their reentry journey into the community to become successful young adults. It will also help youth that age out of the Juvenile Rehabilitation Administration system from possibly going on to prison. This bill

not only promotes equity among youth and increases our system of restorative justice among youth, it also lays a strong foundation for an incarcerated youth's future outside of the system.

(Opposed) There are concerns with the current version of the bill and it is suggested that three major amendments be made: (1) the agency's risk assessment tool should be amended to include consideration of an offender's behavior, participation in programming, and disciplinary actions taken while in confinement; (2) juveniles convicted as adults who will transfer to the Department of Corrections should be excluded from this community transition services program; and (3) a step-down process should be added to the bill rather than allowing a youth to be completely discharged from confinement.

(Other) There is strong support for the reentry program as it is important for juveniles transitioning out of a juvenile rehabilitative facility. There are concerns about the 60 percent eligibility standard and instead it is suggested the reentry program should only be available for youth up to a cap of 12 months.

Persons Testifying (Children, Youth & Families): (In support) Representative Goodman, prime sponsor; and Allison Krutsinger, Department of Children, Youth, and Families.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Other) Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Testifying (Appropriations): (In support) Leo Lizarraga; James Pollards; Allison Krutsinger, Department of Children, Youth, and Families; Mondrell Robertson and Aaron Toleafoa, Green Hill School Youth Council; Jacquelyn Jimenez Romero, Kristen Harris-Talley Youth Team; and Anne Lee, TeamChild.

(Opposed) James McMahan, Washington Association Sheriffs and Police Chiefs.

(Other) Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying (Children, Youth & Families): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.