

SENATE BILL REPORT

E2SHB 1186

As of March 30, 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: Passed House: 3/3/21, 61-36.

Committee Activity: Human Services, Reentry & Rehabilitation: 3/18/21, 3/23/21 [DPA-WM, DNP].

Ways & Means: 3/30/21.

Brief Summary of Amended Bill

- Establishes a community transition services program administered by Department of Children, Youth, and Families (DCYF), where an individual may serve a portion of the term of confinement in the community under DCYF supervision, if certain requirements are met.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means. Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Gildon, Ranking Member; Saldaña and Wilson, C.

Minority Report: Do not pass. Signed by Senators Dozier and McCune.

Staff: Julie Tran (786-7283)

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.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Kayla Hammer (786-7305)

Background: Juvenile Rehabilitation Institutions. On July 1, 2019, the Juvenile Rehabilitation division (JR) transferred from the Department of Social and Health Services to the Department of Children, Youth and Families (DCYF). JR operates:

- three juvenile institutions for juveniles, who are convicted of crimes and serving more than thirty days of confinement; and
- eight community residential facilities, which 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 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.

Juvenile Justice Act. The Juvenile Justice Act provides a sentencing grid which uses a comparison between a seriousness level—called current offense category—and the number of prior adjudications to produce a determinate sanction ranging from local sanctions to a maximum range of confinement, from 180 weeks to until age 21 for most offenses and 129 weeks to 260 weeks for offenses subject to the A++ sentencing range. Local sanctions means 0 to 30 days in custody, one year or less on probation, 150 hours of community restitution, or a fine up to \$500.

Juvenile and Adult Court Jurisdiction. Generally, juvenile court has jurisdiction over all alleged criminal offenses alleged to have been committed before an individual's eighteenth birthday. There are circumstances where adult court has jurisdiction over offenses that occurred before an accused person's 18th birthday including: discretionary decline, required

decline hearing, autodecline, and when the offenses are charged after an individual turns 18 years old.

Discretionary decline is when the juvenile court declines jurisdiction for persons:

- age 15 or older charged with a serious violent offense;
- age 14 and younger charged with Murder 1 or 2; or
- any age charged with custodial assault.

Required decline hearing is when 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.

Autodecline applies to individuals who are 16 or 17 on the date of the offense, who are charged with the following offenses and must be remanded to adult court:

- a serious violent offense;
- rape of a child 1; or
- a violent offense, and the person has at least one prior serious violent offense, two prior violent offenses, or three prior offenses, which are either class A or class B felonies.

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 JR up to the individual's 25th birthday.

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 JR and are only transferred to a Department of Corrections (DOC) facility with DCYF's approval.

For these individuals, DOC determines the person's earned release date. Unless an individual in this category is transferred to DOC facility earlier, DCYF may retain custody until the individual completes a term of confinement or turns 25 years old. 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 25th birthday but before the person's 26th birthday, serve the remainder of the term of confinement in partial confinement on electronic home monitoring, if DCYF determines this placement is in the best interest of the person and the community.

Summary of Amended Bill: Community Transition Services Program. Within DCYF, community transition services program (CTS) is established, which is a therapeutic and supportive community-based custody option where:

- a person serves a portion of their term of confinement residing in the community,

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

Persons receiving CTS must access to appropriate treatment and programming as determined by DCYF, including:

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

Eligibility for Community Transition Services. A person is eligible for CTS if DCYF determines such placement is in the best interest of the person and the community and if the person:

- is at the age of 25 and has an earned release date that is after the person's 25th birthday but on or before the person's 26th birthday; or
- has served 60 percent of their minimum term of confinement and no less than 15 weeks of total confinement and has an earned release date before their 26th birthday.

DCYF may use a risk assessment tool, and consider the availability of placement, treatment, and programming in determining if such placement in CTS is in the best interest of the person and the community. This determination must include consideration of the person's behavior while in confinement and any disciplinary considerations.

Term of confinement means the term of confinement ordered, reduced by the total amount of earned time eligible for the offense.

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

The following persons are not eligible for CTS:

- persons with pending charges or warrants;
- level III sex offenders;
- persons who will be transferred to DOC, who are in the custody of DOC, or who are under DOC's supervision;
- persons who were adjudicated or convicted of Murder 1 or 2;
- persons who meet the definition of persistent offender; and

- persons requiring out-of-state placement.

Violation of Community Transition Services' Conditions. A person who violates any condition of CTS may be taken into custody and returned to DCYF. A person who knowingly violates the terms of CTS is guilty of escape in the third degree, a misdemeanor. A person receiving CTS may participate in work, educational, community restitution, or treatment programs in the community up to 12 hours a day if approved by DCYF.

If a person receiving CTS commits a violation requiring the person to return to total confinement after the person's 25th birthday, the person must be transferred to DOC's custody and supervision for the remainder of the sentence

Notifications. 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 CTS.

If requested by the victim of the person, DCYF must give notice to the victim that CTS is being provided.

DCYF must provide notice of the implementation of the risk assessment tool to:

- affected parties;
- the chief clerk of the House of Representatives;
- secretary of the Senate;
- the Office of the Code Reviser; and
- others as deemed appropriate by DCYF.

Rulemaking Authority and Reports. DCYF has the authority to implement CTS.

Subject to availability of appropriated funds, DCYF may issue rental vouchers for a period not exceeding six months to those transferring to CTS if an approved address cannot be obtained without the assistance of a voucher.

DCYF must:

- convene stakeholders to develop recommendations regarding improving outcomes for individuals exiting a juvenile detention facility or institution;
- provide a report to the Legislature and Governor that includes these recommendations by June 1, 2022; and
- submit an initial set of recommendations 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;
- provide a preliminary report to the Governor and the Legislature by December 1, 2023; and

- submit a final report by December 1, 2031.

EFFECT OF HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE AMENDMENT(S):

- 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 and 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.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: DCYF has a risk assessment tool but it needs to be updated. There needs to be a process to make decisions and remove bias. Only 25 percent of those in DCYF JR have access to step down options, which means that 75 percent of young people spend their entire time in institutional settings. It is not the best place to practice skill building especially when we are thinking about helping young people transition back into the community. This bill gives opportunity to youth, allows them to show they are responsible, and helps them become a productive member of society. This bill does not shorten anyone's sentence or lessen their time. Community transition services program provides a step down process that would help youth avoid prison while laying a strong foundation that will help them get a successful head start to transitioning back into

the community.

OTHER: In existing law, electronic home monitoring has a cap as it applies to only those 25 to 26 year olds. In the current bill, there is no cap and a long-term supervision has been shown as not necessarily helpful. There should be a cap on that number, such as 12 months, as it would be a balance taking into account the victims as well. Also, there is a request to include the Washington State Juvenile Court Administrators to the stakeholder group created under this bill.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Allison Krutsinger, Department of Children, Youth, and Families; Guillermo Padilla, Green Hill School; Christen Ativalu-Ford, Green Hill School; Billy Underwood.

OTHER: Russell Brown, Washington Association of Prosecuting Attorneys; Jack Murphy, Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on the Bill as Amended by Human Services, Reentry & Rehabilitation (Ways & Means): PRO: Having access to classes and programs on a regular basis can be very beneficial and would have a true return on investment due to reduced recidivism. Placing people in the community to allow for a transition would be a great opportunity for individuals to safely enter communities and to avoid interactions with people that they should not, it is particularly beneficial to people of color. Having a step-down process after leaving the institution gives young people a head-start on entering back into the community. This investment will save money in the long run by saving on the cost of having youth locked up due to reduced recidivism.

OTHER: Support the overall policy goal of the bill but have some concerns that there is not a cap on the time that can be served in community transition. Certain sentences can be quite long and spending too long in transition can be ultimately harmful.

Persons Testifying (Ways & Means): PRO: Aaron Toleafoa, Green Hill School; Christen Ativalu-Ford, Green Hill School.

OTHER: Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.