
HOUSE BILL 1382

State of Washington

68th Legislature

2023 Regular Session

By Representatives Hackney and Fitzgibbon

Read first time 01/17/23. Referred to Committee on Human Services,
Youth, & Early Learning.

1 AN ACT Relating to modifying eligibility for the community
2 transition services program operated by the department of children,
3 youth, and families; amending RCW 13.40.205 and 72.01.412; and
4 providing a contingent effective date.

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

6 **Sec. 1.** RCW 13.40.205 and 2021 c 206 s 4 are each amended to
7 read as follows:

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

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

17 (a) Sixty percent of the minimum term of confinement has been
18 served; and

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

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

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

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

7 (3) No authorized leave may exceed seven consecutive days. The
8 total of all preminimum term authorized leaves granted to a juvenile
9 prior to final discharge from confinement shall not exceed thirty
10 days.

11 (4) Prior to authorizing a leave, the secretary shall require a
12 written leave plan, which shall detail the purpose of the leave and
13 how it is to be achieved, the address at which the juvenile shall
14 reside, the identity of the person responsible for supervising the
15 juvenile during the leave, and a statement by such person
16 acknowledging familiarity with the leave plan and agreeing to
17 supervise the juvenile and to notify the secretary immediately if the
18 juvenile violates any terms or conditions of the leave. The leave
19 plan shall include such terms and conditions as the secretary deems
20 appropriate and shall be signed by the juvenile.

21 (5) Upon authorizing a leave, the secretary shall issue to the
22 juvenile an authorized leave order which shall contain the name of
23 the juvenile, the fact that the juvenile is on leave from a
24 designated facility, the time period of the leave, and the identity
25 of an appropriate official of the department to contact when
26 necessary. The authorized leave order shall be carried by the
27 juvenile at all times while on leave.

28 (6) Prior to the commencement of any authorized leave, the
29 secretary shall give notice of the leave to the appropriate law
30 enforcement agency in the jurisdiction in which the juvenile will
31 reside during the leave period. The notice shall include the identity
32 of the juvenile, the time period of the leave, the residence of the
33 juvenile during the leave, and the identity of the person responsible
34 for supervising the juvenile during the leave.

35 (7) The secretary may authorize a leave, which shall not exceed
36 forty-eight hours plus travel time, to meet an emergency situation
37 such as a death or critical illness of a member of the juvenile's
38 family. The secretary may authorize a leave, which shall not exceed
39 the period of time medically necessary, to obtain medical care not
40 available in a juvenile facility maintained by the department. In

1 cases of emergency or medical leave the secretary may waive all or
2 any portions of subsections (2)(a), (3), (4), (5), and (6) of this
3 section.

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

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

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

14 (11) Notwithstanding the provisions of this section, a juvenile
15 placed in minimum security status or in community transition services
16 under subsection (13) of this section may participate in work,
17 educational, community restitution, or treatment programs in the
18 community up to twelve hours a day if approved by the secretary. Such
19 a release shall not be deemed a leave of absence. This authorization
20 may be increased to more than twelve hours a day up to sixteen hours
21 a day if approved by the secretary and operated within the
22 department's appropriations.

23 (12) Subsections (6), (7), and (8) of this section do not apply
24 to juveniles covered by RCW 13.40.215.

25 (13)(a) The department may require a person in its custody to
26 serve the remainder of the person's sentence in community transition
27 services if the department determines that such placement is in the
28 best interest of the person and the community using the risk
29 assessment tool and considering the availability of appropriate
30 placements, treatment, and programming. The department's
31 determination described under this subsection must include
32 consideration of the person's behavior while in confinement and any
33 disciplinary considerations. The department shall establish
34 appropriate conditions the person must comply with to remain in
35 community transition services. A person must have served 60 percent
36 of their minimum term of confinement and no less than 15 weeks of
37 total confinement including time spent in detention prior to
38 sentencing or the entry of a dispositional order before becoming
39 eligible for community transition services under the authority and
40 supervision of the department.

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

- 4 (i) Behavioral health treatment;
- 5 (ii) Independent living;
- 6 (iii) Employment;
- 7 (iv) Education;
- 8 (v) Connections to family and natural supports; and
- 9 (vi) Community connections.

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

14 (d) If a person placed in community transition services under
15 this section violates a condition of participation in the community
16 transition services program, or if the department determines that
17 placement in the program is no longer in the best interests of the
18 person or community, the person may be returned to an institution
19 operated by the department at the department's discretion.

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

- 22 (i) Persons with pending charges or warrants;
- 23 (ii) Persons who will be transferred to the department of
24 corrections, who are in the custody of the department of corrections,
25 or who are under the supervision of the department of corrections;
- 26 (iii) Persons who were adjudicated or convicted of the crime of
27 aggravated murder (~~in the first or second degree~~);
- 28 (iv) Persons who meet the definition of a "persistent offender"
29 as defined under RCW 9.94A.030;
- 30 (v) Level III sex offenders; and
- 31 (vi) Persons requiring out-of-state placement.

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

1 **Sec. 2.** RCW 72.01.412 and 2021 c 206 s 2 are each amended to
2 read as follows:

3 (1) A person in the custody of the department of children, youth,
4 and families under RCW 72.01.410 is eligible for community transition
5 services under the authority and supervision of the department of
6 children, youth, and families:

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

8 (i) If the person's earned release date is after the person's
9 25th birthday but on or before the person's 26th birthday; and

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

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

17 (i) The person has an earned release date that is before their
18 26th birthday; and

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

23 (2) "Term of confinement" as used in subsection (1) ~~((a)~~
24 ~~[(1)(b)])~~ (b) of this section means the term of confinement ordered,
25 reduced by the total amount of earned time eligible for the offense.

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

30 (4) The department of children, youth, and families retains the
31 authority to transfer the person to the custody of the department of
32 corrections under RCW 72.01.410.

33 (5) A person may only be placed in community transition services
34 under this section for the remaining 18 months of their term of
35 confinement.

36 (6) A person placed in community transition services under this
37 section must have access to appropriate treatment and programming as
38 determined by the department of children, youth, and families,
39 including but not limited to:

40 (a) Behavioral health treatment;

- 1 (b) Independent living;
- 2 (c) Employment;
- 3 (d) Education;
- 4 (e) Connections to family and natural supports; and
- 5 (f) Community connections.

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

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

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

16 (a) Persons with pending charges or warrants;

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

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

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

24 (e) Level III sex offenders; and

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

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

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

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

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

1 (d) The department of children, youth, and families prioritizes
2 the delivery of available programming from individuals who share
3 characteristics with the individual being served related to: Race;
4 ethnicity; sexual identity; and gender identity.

5 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act take effect
6 when 2021 c 206 ss 4 and 2 take effect.

--- END ---