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**SECOND SUBSTITUTE SENATE BILL 5278**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Braun, Christian, Dozier, and J. Wilson)

AN ACT Relating to management of individuals who are placed in juvenile rehabilitation institutions; amending RCW 13.40.020, 13.40.460, 72.65.200, 72.05.420, 13.40.215, 72.01.410, and 13.40.280; adding a new section to chapter 13.40 RCW; adding a new section to chapter 72.01 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that the youth of Washington state are among its most valuable resources and that the principles enumerated in RCW 13.40.010 are reaffirmed. Overcrowding is preventing institutions from carrying out the rehabilitation of youthful offenders.

Furthermore, the legislature recognizes the need for the department to safely manage the populations of its institutions and protect both youth in its care and state employees.

**Sec.**  RCW 13.40.020 and 2024 c 117 s 4 are each amended to read as follows:

For the purposes of this chapter:

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

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

(3) "Community-based sanctions" may include community restitution not to exceed 150 hours of community restitution;

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

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

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

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

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

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

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

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

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

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

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

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

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

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

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

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

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

(10) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(11) "Department" means the department of children, youth, and families;

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

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

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

(15) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

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

(17) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(18) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person 18 years of age or older over whom the juvenile court has jurisdiction under RCW 13.40.300;

(19) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(20) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; or (c) 0-150 hours of community restitution;

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

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

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

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

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

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

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

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

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

(27) "Rated bed capacity" means the number of in-residence individuals at a juvenile rehabilitation institution pursuant to RCW 13.40.460(9) that should not be exceeded in order to provide treatment aligned with juvenile justice standards;

(28) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

((~~(28)~~)) (29) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

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

((~~(30)~~)) (31) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

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

((~~(31)~~)) (32) "Risk assessment tool" means the statistically valid tool used by the department 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 department to predict the likelihood of successful reentry and future criminal behavior;

((~~(32)~~)) (33) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

((~~(33)~~)) (34) "Secretary" means the secretary of the department;

((~~(34)~~)) (35) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

((~~(35)~~)) (36) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

((~~(36)~~)) (37) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

((~~(37)~~)) (38) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

((~~(38)~~)) (39) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

((~~(39)~~)) (40) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

((~~(40)~~)) (41) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

((~~(41)~~)) (42) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec.**  RCW 13.40.460 and 2017 3rd sp.s. c 6 s 616 are each amended to read as follows:

The secretary or the secretary's designee shall manage and administer the department's juvenile rehabilitation responsibilities, including but not limited to the operation of all state institutions or facilities used for juvenile rehabilitation.

The secretary or the secretary's designee shall:

(1) Prepare a biennial budget request sufficient to meet the confinement and rehabilitative needs of the juvenile rehabilitation program, as forecast by the office of financial management;

(2) Create by rule a formal system for inmate classification. This classification system shall consider:

(a) Public safety;

(b) Internal security and staff safety;

(c) Rehabilitative resources both within and outside the department;

(d) An assessment of each offender's risk of sexually aggressive behavior as provided in RCW 13.40.470; and

(e) An assessment of each offender's vulnerability to sexually aggressive behavior as provided in RCW 13.40.470;

(3) Develop agreements with local jurisdictions to develop regional facilities with a variety of custody levels;

(4) Adopt rules establishing effective disciplinary policies to maintain order within institutions;

(5) Develop a comprehensive diagnostic evaluation process to be used at intake, including but not limited to evaluation for substance addiction or abuse, literacy, learning disabilities, fetal alcohol syndrome or effect, attention deficit disorder, and mental health;

(6) Develop placement criteria:

(a) To avoid assigning youth who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as youth assessed as vulnerable to sexual victimization under RCW 13.40.470(1)(c); and

(b) To avoid placing a juvenile offender on parole status who has been assessed as a moderate to high risk for sexually aggressive behavior in a department community residential program with another child who is: (i) Dependent under chapter 13.34 RCW, or an at-risk youth or child in need of services under chapter 13.32A RCW; and (ii) not also a juvenile offender on parole status;

(7) Develop a plan to implement, by July 1, 1995:

(a) Substance abuse treatment programs for all state juvenile rehabilitation facilities and institutions;

(b) Vocational education and instruction programs at all state juvenile rehabilitation facilities and institutions; and

(c) An educational program to establish self-worth and responsibility in juvenile offenders. This educational program shall emphasize instruction in character-building principles such as: Respect for self, others, and authority; victim awareness; accountability; work ethics; good citizenship; and life skills; ((~~and~~))

(8)(a) The department shall develop uniform policies related to custodial assaults consistent with RCW 72.01.045 and 9A.36.100 that are to be followed in all juvenile rehabilitation facilities; and

(b) The department will report assaults in accordance with the policies developed in (a) of this subsection;

(9)(a) Promulgate rules related to the rated bed capacity of juvenile rehabilitation institutions under its control, and revise those rules as necessary.

(b) The rated bed capacity number established by the department for each juvenile rehabilitation institution must include the following conditions:

(i) Single occupancy rooms;

(ii) 10 percent of facility beds reserved for intensive management unit beds and for flexibility of movement;

(iii) Appropriate bathroom and shower ratio to youth;

(iv) Adequate education space to ensure that all youth can maintain a full class schedule; and

(v) Adequate indoor and outdoor recreation space to safely manage population groups;

(10) Before a transfer to the department of corrections occurs under RCW 72.01.410(2)(c), take discretionary action to reduce the in-residence population of any juvenile rehabilitation institution when the secretary concludes that the in-residence population exceeds 105 percent of rated bed capacity under this chapter or chapter 72.01 RCW, on a case-by-case basis, in the following descending order with highest priority for the secretary to:

(a) Transfer a sufficient number of persons from a community facility to placement in community transition services; and

(b) Transfer a sufficient number of persons from the juvenile rehabilitation institution to community facilities or community transition services to reduce the in-residence population; and

(11) Monitor the number of persons residing in each institution, and when that number reaches 90 percent of rated bed capacity, begin planning and identifying methods to avoid exceeding rated bed capacity at each juvenile rehabilitation institution including, but not limited to:

(a) Notifying individuals who may be released or transferred to community transition services or community facilities;

(b) Discussing with the department of corrections any early release options under section 10 of this act for individuals convicted in adult court of offenses that occurred before turning 18; and

(c) Notifying county juvenile court administrators, the legislature, and the governor of current rated bed capacity and any measures or plans to reduce rated bed capacity. The department shall submit an annual report to the legislature and the governor, in compliance with RCW 43.01.036, on the number of transfers that occurred in the prior 12 months, the reason for each transfer, the age of the person transferred, information about which department of corrections facilities people were transferred to, and the outcome of each transfer hearing under RCW 13.40.280.

**Sec.**  RCW 72.65.200 and 1981 c 137 s 35 are each amended to read as follows:

(1) The secretary may permit a prisoner to participate in any work release plan or program but only if the participation is authorized pursuant to the prisoner's sentence or pursuant to RCW 9.94A.728. This section shall become effective July 1, 1984.

(2) The secretary, with the consent of the secretary of the department of children, youth, and families, may directly transfer a person who is in the custody of the department pursuant to RCW 72.01.410 from the custody of the department of children, youth, and families and place the person in the custody of the department in a work release program if, under section 5 of this act, the secretary of the department of children, youth, and families concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9). The person shall meet eligibility criteria for direct transfer to a work release program under section 5 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 13.40 RCW to read as follows:

(1) In accordance with RCW 13.40.460(10), the secretary may take any of the actions outlined in this section when the secretary concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), on a case-by-case basis.

(2)(a) When the secretary concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), the secretary may transfer a sufficient number of persons from community facilities to community transition services under RCW 13.40.205 and 72.01.412.

(b) After taking steps outlined in (a) of this subsection to transfer individuals to community transition services, if the secretary concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), the secretary may transfer a sufficient number of persons from the secure juvenile rehabilitation institution to community facilities or community transition services to reduce the in-residence population at the secure juvenile rehabilitation institution to 100 percent of rated bed capacity.

(c) The following persons shall not be transferred from a secure juvenile rehabilitation institution to a community facility under this subsection:

(i) A person that is deemed a high risk to reoffend;

(ii) A person that would be better served by the services provided at an institution; or

(iii) A person who would be unable to comply with residential disciplinary standards established by the department.

(d) When placing a person at a community facility under this section, the requirements of RCW 72.05.420 (1)(b) do not apply, and the notice requirements in RCW 13.40.215(1) (a) and (b) may be less than 30 days.

(3)(a) Pursuant to RCW 72.65.200, and with the consent of the secretary of the department of corrections, when the secretary of the department concludes that the in-residence population of any secure juvenile rehabilitation institution exceeds 105 percent of the rated bed capacity as described in RCW 13.40.460(9), the secretary may transfer a sufficient number of persons, who are in the custody of the department pursuant to RCW 72.01.410, from the secure juvenile rehabilitation institution to a work release facility operated by the department of corrections to reduce the in-residence population at the secure juvenile rehabilitation institution to 100 percent of rated bed capacity.

(b) To be eligible for direct transfer to a work release facility operated by the department of corrections under this subsection, the person must be:

(i) Above the age of 21;

(ii) Be within 18 months of their earned release date; and

(iii) Be determined by the department of corrections that direct transfer to a work release facility would be an appropriate placement for the person.

(4) The hearing requirements of RCW 13.40.280 do not apply to persons transferred under this section.

**Sec.**  RCW 72.05.420 and 1998 c 269 s 10 are each amended to read as follows:

(1) The department shall not initially place an offender in a community facility unless:

(a) The department has conducted a risk assessment, including a determination of drug and alcohol abuse, and the results indicate the juvenile will pose not more than a minimum risk to public safety; and

(b) ((~~The~~)) Except for offenders transferring to a community facility under section 5 of this act, the offender has spent at least ((~~ten~~)) 10 percent of his or her sentence, but in no event less than ((~~thirty~~)) 30 days, in a secure institution operated by, or under contract with, the department.

The risk assessment must include consideration of all prior convictions and all available nonconviction data released upon request under RCW 10.97.050, and any serious infractions or serious violations while under the jurisdiction of the secretary or the courts.

(2) No juvenile offender may be placed in a community facility until the juvenile's student records and information have been received and the department has reviewed them in conjunction with all other information used for risk assessment, security classification, and placement of the juvenile.

(3) A juvenile offender shall not be placed in a community facility until the department's risk assessment and security classification is complete and local law enforcement has been properly notified.

**Sec.**  RCW 13.40.215 and 2021 c 206 s 5 are each amended to read as follows:

(1)(a) Except as provided in (d) of this subsection and subsection (2) of this section, at the earliest practicable date, and in no event later than ((~~thirty~~)) 30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

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

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

(b)(i) Except as provided in (d) of this subsection and subsection (2) of this section, at the earliest practicable date, and in no event later than ((~~thirty~~)) 30 days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is ((~~twenty-one~~)) 21 years of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.

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

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

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

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

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

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

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

(d) The ((~~thirty-day~~)) 30-day notice requirements contained in this subsection shall not apply to emergency medical furloughs. The notice requirements contained in this subsection may be less than 30 days for persons transferred under section 5 of this act.

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

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

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed ((~~forty-eight~~)) 48 hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

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

(3) If the victim, the victim's next of kin, or any witness is under the age of ((~~sixteen~~)) 16, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

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

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

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

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

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

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

**Sec.**  RCW 72.01.410 and 2019 c 322 s 2 are each amended to read as follows:

(1) Whenever any person is convicted as an adult in the courts of this state of a felony offense committed under the age of ((~~eighteen~~)) 18, and is committed for a term of confinement, that person shall be initially placed in a facility operated by the department of children, youth, and families, unless the facility in which the person is to be placed is at or above 105 percent of rated bed capacity as described in RCW 13.40.460(9) and the person is over the age of 21 at the time of placement with an earned release date after the age of 26. The department of corrections shall determine the person's earned release date.

(a) While in the custody of the department of children, youth, and families, the person must have the same treatment, housing options, transfer, and access to program resources as any other person committed to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under ((~~(d) of this~~)) subsection (3) of this section, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. ((~~The person shall not be transferred to the custody of the department of corrections without the approval of the department of children, youth, and families until the person reaches the age of twenty-five.~~))

(b) If the person's sentence includes a term of community custody, the department of children, youth, and families shall not release the person to community custody until the department of corrections has approved the person's release plan pursuant to RCW 9.94A.729(5)(b). If a person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the person completes the ordered term of confinement prior to age ((~~twenty-five~~)) 25.

((~~(c)~~)) (2)(a) The department of children, youth, and families may not transfer a person placed in a facility operated by the department of children, youth, and families under this section to the custody of the department of corrections until the person reaches the age of 25, unless one of the following exceptions in this subsection (2) applies.

(b) If the department of children, youth, and families ((~~determines~~)) establishes at a hearing before a review board under RCW 13.40.280 that ((~~retaining custody~~)) continued placement of the person in a facility of the department of children, youth, and families presents a significant safety risk to others in the facility, the department of children, youth, and families may transfer the person to the custody of the department of corrections.

(c)(i) After taking actions outlined in RCW 13.40.460(10) and section 5 of this act and exhausting any remaining transfer authority provided to the secretary of the department of children, youth, and families, if the population of the juvenile rehabilitation institution exceeds 105 percent of rated bed capacity as described in RCW 13.40.460(9) and the rehabilitative goals of the institution cannot be met as defined in this section, the secretary of the department of children, youth, and families may, with the consent of the secretary of the department of corrections, transfer a sufficient number of persons to the custody of the department of corrections to reduce the in-residence population of the facility to 100 percent of rated bed capacity in a manner consistent with the requirements of this subsection (2)(c).

(ii) The secretary of the department of children, youth, and families, may transfer a person who is over age 21, or if the person is under 21 but is over age 18 and has served at least three years in the custody of the department of children, youth, and families, and who consistently refuses to participate in available rehabilitative programming, or engage in planning for such programming, provided the person receives a transfer hearing under RCW 13.40.280 prior to transfer.

(iii) Transfer hearings under this subsection (2)(c) shall take into account the person's engagement in programming, treatment needs, goals, future plans, length of confinement, classification, current behavior, mental and emotional health, and any disabilities or special needs impacting the safety or suitability of transferring the person to the department of corrections, be minimally disruptive, and ensure a person has at least seven calendar days' notice to prepare for the hearing.

((~~(d)~~)) (3) The department of corrections must retain authority over custody decisions relating to a person whose earned release date is on or after the person's ((~~twenty-fifth~~)) 25th birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under RCW 72.01.412, and must approve any leave from the facility. When the person turns age ((~~twenty-five~~)) 25, ((~~he or she~~)) the person must be transferred to the department of corrections, except as described under RCW 72.01.412. The department of children, youth, and families has all routine and day-to-day operations authority for the person while the person is in its custody.

((~~(2)~~)) (4)(a) Except as provided in (b) and (c) of this subsection, a person under the age of ((~~eighteen~~)) 18 who is transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from other persons in custody who are ((~~eighteen~~)) 18 years of age or older, until the person reaches the age of ((~~eighteen~~)) 18.

(b) A person who is transferred to the custody of the department of corrections and reaches ((~~eighteen~~)) 18 years of age may remain in a housing unit for persons under the age of ((~~eighteen~~)) 18 if the secretary of corrections determines that: (i) The person's needs and the rehabilitation goals for the person could continue to be better met by the programs and housing environment that is separate from other persons in custody who are ((~~eighteen~~)) 18 years of age and older; and (ii) the programs or housing environment for persons under the age of ((~~eighteen~~)) 18 will not be substantially affected by the continued placement of the person in that environment. The person may remain placed in a housing unit for persons under the age of ((~~eighteen~~)) 18 until such time as the secretary of corrections determines that the person's needs and goals are no longer better met in that environment but in no case past the person's ((~~twenty-fifth~~)) 25th birthday.

(c) A person transferred to the custody of the department of corrections who is under the age of ((~~eighteen~~)) 18 may be housed in an intensive management unit or administrative segregation unit containing offenders ((~~eighteen~~)) 18 years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

((~~(3)~~)) (5) The department of children, youth, and families must review the placement of a person over age ((~~twenty-one~~)) 21 in the custody of the department of children, youth, and families under this section to ((~~determine whether the person should be transferred to the custody of the department of corrections~~)) provide information to the person regarding voluntary transfer to the custody of the department of corrections.

(a) The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age ((~~twenty-three~~)) 23 if the person's commitment period in a juvenile institution extends beyond the person's ((~~twenty-third~~)) 25th birthday.

(b) At the review required under this subsection, the department of children, youth, and families and the department of corrections shall provide information in writing to the person on all available placement options and availability of those options at the department of corrections, and the person's specific eligibility for those placement options based on their classification and custody level determination made by the department of corrections in writing prior to any voluntary transfer decision. The person shall be provided an opportunity to consult with counsel during the review to confirm that the person is making a knowing, voluntary, and fully informed request.

(c) A person who, after the review, requests to be transferred to the department of corrections, shall be transferred directly into the placement agreed upon by the secretary of the department of children, youth, and families and the secretary of the department of corrections. A person who has been transferred to the department of corrections under this section may request to be transferred and returned to the custody of the department of children, youth, and families one time within 12 months after transferring, provided the in-residence population of the juvenile rehabilitation institution is below 100 percent rated bed capacity at the time the department of children, youth, and families receives the request. If the in-residence population of the juvenile rehabilitation institution exceeds 100 percent rated bed capacity at the time the department of children, youth, and families receives the person's request, the request shall be placed on hold until the in-residence population returns below 100 percent rated bed capacity, at which time the department of children, youth, and families shall process the transfer request with the coordination of the department of corrections.

(d) The hearing requirements of RCW 13.40.280 do not apply to persons transferred under this subsection.

(6) For the purposes of this section, "rehabilitative goals of the institution" include, but are not limited to:

(a) Appropriate bathroom and shower ratio to youth;

(b) Adequate education space to ensure that all youth can maintain a full class schedule; and

(c) Adequate indoor and outdoor recreation space to safely manage population groups.

**Sec.**  RCW 13.40.280 and 2017 3rd sp.s. c 6 s 611 are each amended to read as follows:

(1) The secretary of the department of children, youth, and families, with the consent of the secretary of the department of corrections, has the authority to transfer a juvenile presently or hereafter committed to the department of children, youth, and families to the department of corrections for appropriate institutional placement in accordance with this section.

(2) The secretary of the department of children, youth, and families may, with the consent of the secretary of the department of corrections, transfer a juvenile offender to the department of corrections if it is established at a hearing before a review board that continued placement of the juvenile offender in an institution for juvenile offenders presents a continuing and serious threat to the safety of others in the institution. The department of children, youth, and families shall establish rules for the conduct of the hearing, including provision of counsel for the juvenile offender.

(3) ((~~Assaults made against any staff member at a juvenile corrections institution that are reported to a local law enforcement agency shall require a hearing held by the department of children, youth, and families review board within ten judicial working days.~~)) The secretary of the department shall establish rules for defining and developing an internal behavioral management infraction system and procedures to respond to a continuing and serious threat to the safety of others in the institution under this section. The rules shall provide guidance on when the following circumstances present a continuing and serious threat and warrant imposing a disciplinary infraction by the department: Any assault involving serious bodily harm and possession of any contraband that puts the safety of others or the security of the institution at risk. The department shall also establish a rule setting the amount of time for when the board must hold a hearing. The board shall determine whether the accused juvenile offender represents a continuing and serious threat to the safety of others in the institution.

(4) ((~~Upon conviction in a court of law for custodial assault as defined in RCW 9A.36.100, the~~)) The department of children, youth, and families review board shall ((~~conduct a second hearing, within five judicial working days, to~~)) recommend to the secretary of the department of children, youth, and families that the ((~~convicted~~)) juvenile be transferred to an adult correctional facility if the review board has determined the juvenile offender represents a continuing and serious threat to the safety of others in the institution.

((~~The juvenile has the burden to show cause why the transfer to an adult correctional facility should not occur.~~))

(5) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

(6) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of children, youth, and families and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary.

(7) The hearing requirements of this section do not apply to persons transferred under section 5 of this act or RCW 72.01.410(5).

NEW SECTION. **Sec.**  A new section is added to chapter 72.01 RCW to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 is eligible to be released by the department of corrections if:

(a) The person's earned release date is within six months of the person's 25th birthday;

(b) The person has not been deemed a high risk to reoffend; and

(c) The person has not committed any serious infractions as defined by the department of children, youth, and families' internal behavioral management infraction system.

(2) As part of the department of children, youth, and families monitoring of rated bed capacity under RCW 13.40.460(11), when the in-residence population of any juvenile rehabilitation institution reaches 90 percent of rated bed capacity, the department shall begin to plan and identify persons who may be released by the department of corrections under this section.

NEW SECTION. **Sec.**  This act may be known and cited as the juvenile rehabilitation overcrowding relief act or "J-RORA."

**--- END ---**