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**SENATE BILL 5278**

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

**By** Senators Braun, Christian, Dozier, and J. Wilson

AN ACT Relating to emergency measures for managing juvenile populations at state juvenile correctional institutions; amending RCW 72.01.410 and 13.40.280; adding new sections to chapter 13.40 RCW; and adding a new section to chapter 72.01 RCW.

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

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

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, violence, and increases in juvenile crime are 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. The state of Washington remains firmly committed to the principles of rehabilitation and punishing offenders for the harms they commit against victims and the public.

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

The department shall promulgate rules establishing the safe operational capacity of all juvenile correctional institutions and community facilities under its control. The department shall revise those rules as necessary.

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

(1)(a) When the secretary concludes that the in-residence population of any secure juvenile correctional institution exceeds 105 percent of the rated bed capacity, the secretary may transfer a sufficient number of offenders from the secure institution to community facilities to reduce the in-residence population at the secure institution to 100 percent of rated bed capacity.

(b) The following offenders shall not be transferred:

(i) An offender adjudicated of a violent offense or a sex offense, as defined in RCW 9.94A.030;

(ii) An offender that is a risk to public safety;

(iii) An offender that is a serious threat to the safety of others in the institution, as determined by a hearing conducted under RCW 13.40.280;

(iv) An offender that would be better served by the services provided at an institution; or

(v) An offender with a history of infractions at an institution and who would be unable to comply with residential disciplinary standards established by the department.

(c) When placing an offender at a community facility under this section, the secretary shall comply with RCW 72.05.420, except the requirements of RCW 72.05.420(1)(b) may be waived.

(2)(a) When the secretary concludes that the in-residence population of any secure juvenile correctional institution exceeds 105 percent of the rated bed capacity and the rehabilitative goals of the institution cannot be met, the secretary shall, with consent of the secretary of the department of corrections, transfer a sufficient number of offenders from the secure institution to the department of corrections to reduce the in-residence population of the secure institution to 100 percent of rated bed capacity.

(b) The following offenders shall be transferred:

(i) Any offender over the age of 18; and

(ii) Any offender who has a term of confinement or earned release date that extends beyond the offender's 25th birthday.

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

(1) Any person, who is at least 18 years old of age and is placed in a juvenile correctional facility pursuant to RCW 72.01.410, may request that the person be transferred to the department of corrections. The secretary of the department of children, youth, and families, with consent of the secretary of the department of corrections, may transfer any person that makes such a request under this section.

(2) When approving or denying a request to transfer under this section, the secretary of the department of children, youth, and families shall consider the following factors:

(a) The nature of the request;

(b) The safety of the person making the request;

(c) The safety of the institution and the public;

(d) The safety of any victims;

(e) The severity of any offense committed;

(f) Whether the person's transfer to the department of corrections will affect the rehabilitative goals of the person; and

(g) Any other information necessary.

(2) This section does not create any legal rights.

(3) The secretary of the department of children, youth, and families and the secretary of the department of corrections shall develop a form for a person to make a transfer request.

**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. 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, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. ((~~The~~)) Except as provided in subsection (4) of this section, 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~~)) 25.

(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) If the department of children, youth, and families determines that retaining custody of the person in a facility of the department of children, youth, and families presents a significant safety risk, the department of children, youth, and families may transfer the person to the custody of the department of corrections. Pursuant to subsection (4) of this section, any assault or serious bodily harm to staff or inappropriate sexual relations between a staff person and a person in the custody of the department of children, youth, and families shall be deemed to be a significant safety risk.

(d) 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)(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) 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. 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~~)) 23rd birthday.

(4)(a) A person shall be transferred to the custody of the department of corrections from the department of children, youth, and families before the person reaches the age of 25 if:

(i) The secretary of the department of children, youth, and families has reasonable cause to believe that sexual intercourse or sexual contact between an employee and the person in the custody of the department of children, youth, and families has occurred, per RCW 13.40.570, unless the person was a victim; or

(ii) The person assaults a department employee or staff member who was performing official duties at the time of the assault under RCW 9A.36.100.

(b) The hearing requirements in RCW 13.40.280 do not apply to a person transferred to the department of corrections under this subsection (4).

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

(1) A juvenile in the custody of the department may be transferred to the custody of the department of corrections under this section if the department determines that retaining custody of the juvenile in a facility of the department presents a significant safety risk. Any assault or serious bodily harm to staff or inappropriate sexual relations between a staff person and a juvenile in the custody of the department shall be deemed to be a significant safety risk.

(2) A juvenile shall be transferred to the custody of the department of corrections from the department if:

(a) The secretary has reasonable cause to believe that sexual intercourse or sexual contact between an employee and juvenile in the custody of the department has occurred, per RCW 13.40.570, unless the juvenile was a victim; or

(b) The juvenile assaults a department employee or staff member who was performing official duties at the time of the assault under RCW 9A.36.100.

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

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

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

(4) The hearing requirements in RCW 13.40.280 do not apply to a juvenile transferred to the department of corrections under this section.

**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 following offenses shall require a hearing held by the department of children, youth, and families review board within 10 judicial working days:

(a) Prison riot; or

(b) Possession of any narcotic drug or controlled substance, alcohol, cannabis, or other intoxicant, or a cell phone, or other form of electronic telecommunications device. 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~~)): (i) Custodial assault as defined in RCW 9A.36.100; (ii) prison riot as defined in RCW 9.94.010; or (iii) possession of any narcotic drug or controlled substance, alcohol, cannabis, or other intoxicant, or cell phone, or other form of electronic telecommunications device as defined in RCW 9.94.041, if the person was not transferred to the department of corrections after the first hearing under subsection (2) of this section, 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 to the department of corrections under section 6 of this act or RCW 72.01.410(4).

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