
SENATE BILL 5153

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By Senators Gildon, Braun, Christian, Fortunato, Wagoner, Warnick, and J. Wilson

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1 AN ACT Relating to transferring certain individuals from the
2 department of children, youth, and families to the department of
3 corrections at age 18; amending RCW 72.01.410 and 13.40.280; adding a
4 new section to chapter 13.40 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 72.01.410 and 2019 c 322 s 2 are each amended to
7 read as follows:

8 (1) Whenever any person is convicted as an adult in the courts of
9 this state of a felony offense committed under the age of eighteen,
10 and is committed for a term of confinement, that person shall be
11 initially placed in a facility operated by the department of
12 children, youth, and families, except as provided in subsection (4)
13 of this section. The department of corrections shall determine the
14 person's earned release date.

15 (a) While in the custody of the department of children, youth,
16 and families, the person must have the same treatment, housing
17 options, transfer, and access to program resources as any other
18 person committed to that juvenile correctional facility or
19 institution pursuant to chapter 13.40 RCW. Except as provided under
20 (d) of this subsection, treatment, placement, and program decisions
21 shall be at the sole discretion of the department of children, youth,

1 and families. The person shall not be transferred to the custody of
2 the department of corrections without the approval of the department
3 of children, youth, and families until the person reaches the age of
4 twenty-five.

5 (b) If the person's sentence includes a term of community
6 custody, the department of children, youth, and families shall not
7 release the person to community custody until the department of
8 corrections has approved the person's release plan pursuant to RCW
9 9.94A.729(5)(b). If a person is held past his or her earned release
10 date pending release plan approval, the department of children,
11 youth, and families shall retain custody until a plan is approved or
12 the person completes the ordered term of confinement prior to age
13 twenty-five.

14 (c) If the department of children, youth, and families determines
15 that retaining custody of the person in a facility of the department
16 of children, youth, and families presents a significant safety risk,
17 the department of children, youth, and families may transfer the
18 person to the custody of the department of corrections.

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

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

36 (b) A person who is transferred to the custody of the department
37 of corrections and reaches eighteen years of age may remain in a
38 housing unit for persons under the age of eighteen if the secretary
39 of corrections determines that: (i) The person's needs and the
40 rehabilitation goals for the person could continue to be better met

1 by the programs and housing environment that is separate from other
2 persons in custody who are eighteen years of age and older; and (ii)
3 the programs or housing environment for persons under the age of
4 eighteen will not be substantially affected by the continued
5 placement of the person in that environment. The person may remain
6 placed in a housing unit for persons under the age of eighteen until
7 such time as the secretary of corrections determines that the
8 person's needs and goals are no longer better met in that environment
9 but in no case past the person's twenty-fifth birthday.

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

17 (3) The department of children, youth, and families must review
18 the placement of a person over age twenty-one in the custody of the
19 department of children, youth, and families under this section to
20 determine whether the person should be transferred to the custody of
21 the department of corrections. The department of children, youth, and
22 families may determine the frequency of the review required under
23 this subsection, but the review must occur at least once before the
24 person reaches age twenty-three if the person's commitment period in
25 a juvenile institution extends beyond the person's twenty-third
26 birthday.

27 (4) (a) Whenever any person is convicted as an adult in the courts
28 of this state of a serious violent offense, as defined in RCW
29 9.94A.030, committed under the age of 18, and is committed for a term
30 of confinement, that person shall be initially placed in a facility
31 operated by the department of children, youth, and families until the
32 person reaches the age of 18. When the person turns age 18, the
33 person shall be transferred to the department of corrections.

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

37 NEW SECTION. Sec. 2. A new section is added to chapter 13.40
38 RCW to read as follows:

1 (1) Whenever a juvenile is adjudicated of a serious violent
2 offense, as defined in RCW 9.94A.030, and is committed for a term of
3 confinement at the department, that person shall be transferred to
4 the department of corrections when the person turns age 18.

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

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

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

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

25 (3) Assaults made against any staff member at a juvenile
26 corrections institution that are reported to a local law enforcement
27 agency shall require a hearing held by the department of children,
28 youth, and families review board within ten judicial working days.
29 The board shall determine whether the accused juvenile offender
30 represents a continuing and serious threat to the safety of others in
31 the institution.

32 (4) Upon conviction in a court of law for custodial assault as
33 defined in RCW 9A.36.100, the department of children, youth, and
34 families review board shall conduct a second hearing, within five
35 judicial working days, to recommend to the secretary of the
36 department of children, youth, and families that the convicted
37 juvenile be transferred to an adult correctional facility if the
38 review board has determined the juvenile offender represents a

1 continuing and serious threat to the safety of others in the
2 institution.

3 The juvenile has the burden to show cause why the transfer to an
4 adult correctional facility should not occur.

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

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

15 (7) The hearing requirements of this section do not apply to
16 persons transferred to the department of corrections under RCW
17 72.01.410(4) or section 2 of this act.

18 NEW SECTION. **Sec. 4.** This act applies retroactively to persons
19 in the custody of the department of children, youth, and families on
20 the effective date of this section, regardless of the date of the
21 offense or conviction.

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