
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5278

State of Washington

69th Legislature

2025 Regular Session

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

READ FIRST TIME 02/28/25.

1 AN ACT Relating to management of individuals who are placed in
2 juvenile rehabilitation institutions; amending RCW 13.40.020,
3 13.40.460, 72.65.200, 72.05.420, 13.40.215, 72.01.410, and 13.40.280;
4 adding a new section to chapter 13.40 RCW; adding a new section to
5 chapter 72.01 RCW; creating new sections; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the youth of
8 Washington state are among its most valuable resources and that the
9 principles enumerated in RCW 13.40.010 are reaffirmed. Overcrowding
10 is preventing institutions from carrying out the rehabilitation of
11 youthful offenders.

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

15 **Sec. 2.** RCW 13.40.020 and 2024 c 117 s 4 are each amended to
16 read as follows:

17 For the purposes of this chapter:

18 (1) "Assessment" means an individualized examination of a child
19 to determine the child's psychosocial needs and problems, including
20 the type and extent of any mental health, substance abuse, or co-

1 occurring mental health and substance abuse disorders, and
2 recommendations for treatment. "Assessment" includes, but is not
3 limited to, drug and alcohol evaluations, psychological and
4 psychiatric evaluations, records review, clinical interview, and
5 administration of a formal test or instrument;

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

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

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

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

- 36 (a) Community-based sanctions;
- 37 (b) Community-based rehabilitation;
- 38 (c) Monitoring and reporting requirements;
- 39 (d) Posting of a probation bond;

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (7) "Confinement" means physical custody by the department of
40 children, youth, and families in a facility operated by or pursuant

1 to a contract with the state, or physical custody in a detention
2 facility operated by or pursuant to a contract with any county. The
3 county may operate or contract with vendors to operate county
4 detention facilities. The department may operate or contract to
5 operate detention facilities for juveniles committed to the
6 department. Pretrial confinement or confinement of less than 31 days
7 imposed as part of a disposition or modification order may be served
8 consecutively or intermittently, in the discretion of the court;

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

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

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

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

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

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

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

38 (13) "Diversion unit" means any probation counselor who enters
39 into a diversion agreement with an alleged youthful offender, or any
40 other person, community accountability board, youth court under the

1 supervision of the juvenile court, or other entity with whom the
2 juvenile court administrator has contracted to arrange and supervise
3 such agreements pursuant to RCW 13.40.080, or any person, community
4 accountability board, or other entity specially funded by the
5 legislature to arrange and supervise diversion agreements in
6 accordance with the requirements of this chapter. For purposes of
7 this subsection, "community accountability board" means a board
8 comprised of members of the local community in which the juvenile
9 offender resides. The superior court shall appoint the members. The
10 boards shall consist of at least three and not more than seven
11 members. If possible, the board should include a variety of
12 representatives from the community, such as a law enforcement
13 officer, teacher or school administrator, high school student,
14 parent, and business owner, and should represent the cultural
15 diversity of the local community;

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

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

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

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

33 (18) "Juvenile offender" means any juvenile who has been found by
34 the juvenile court to have committed an offense, including a person
35 18 years of age or older over whom the juvenile court has
36 jurisdiction under RCW 13.40.300;

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

1 (20) "Local sanctions" means one or more of the following: (a)
2 0-30 days of confinement; (b) 0-12 months of community supervision;
3 or (c) 0-150 hours of community restitution;

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

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

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

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

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

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

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

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

37 (26) "Probation bond" means a bond, posted with sufficient
38 security by a surety justified and approved by the court, to secure
39 the offender's appearance at required court proceedings and
40 compliance with court-ordered community supervision or conditions of

1 release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means
2 a deposit of cash or posting of other collateral in lieu of a bond if
3 approved by the court;

4 (27) "Rated bed capacity" means the number of in-residence
5 individuals at a juvenile rehabilitation institution pursuant to RCW
6 13.40.460(9) that should not be exceeded in order to provide
7 treatment aligned with juvenile justice standards;

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

10 ((+28+)) (29) "Restitution" means financial reimbursement by the
11 offender to the victim, and shall be limited to easily ascertainable
12 damages for injury to or loss of property, actual expenses incurred
13 for medical treatment for physical injury to persons, lost wages
14 resulting from physical injury, and costs of the victim's counseling
15 reasonably related to the offense. Restitution shall not include
16 reimbursement for damages for mental anguish, pain and suffering, or
17 other intangible losses. Nothing in this chapter shall limit or
18 replace civil remedies or defenses available to the victim or
19 offender;

20 ((+29+)) (30) "Restorative justice" means practices, policies,
21 and programs informed by and sensitive to the needs of crime victims
22 that are designed to encourage offenders to accept responsibility for
23 repairing the harm caused by their offense by providing safe and
24 supportive opportunities for voluntary participation and
25 communication between the victim, the offender, their families, and
26 relevant community members;

27 ((+30+)) (31) "Restraints" means anything used to control the
28 movement of a person's body or limbs and includes:

29 (a) Physical restraint; or

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

33 ((+31+)) (32) "Risk assessment tool" means the statistically
34 valid tool used by the department to inform release or placement
35 decisions related to security level, release within the sentencing
36 range, community facility eligibility, community transition services
37 eligibility, and parole. The "risk assessment tool" is used by the
38 department to predict the likelihood of successful reentry and future
39 criminal behavior;

1 ~~((32))~~ (33) "Screening" means a process that is designed to
2 identify a child who is at risk of having mental health, substance
3 abuse, or co-occurring mental health and substance abuse disorders
4 that warrant immediate attention, intervention, or more comprehensive
5 assessment. A screening may be undertaken with or without the
6 administration of a formal instrument;

7 ~~((33))~~ (34) "Secretary" means the secretary of the department;

8 ~~((34))~~ (35) "Services" means services which provide
9 alternatives to incarceration for those juveniles who have pleaded or
10 been adjudicated guilty of an offense or have signed a diversion
11 agreement pursuant to this chapter;

12 ~~((35))~~ (36) "Sex offense" means an offense defined as a sex
13 offense in RCW 9.94A.030;

14 ~~((36))~~ (37) "Sexual motivation" means that one of the purposes
15 for which the respondent committed the offense was for the purpose of
16 the respondent's sexual gratification;

17 ~~((37))~~ (38) "Surety" means an entity licensed under state
18 insurance laws or by the state department of licensing, to write
19 corporate, property, or probation bonds within the state, and
20 justified and approved by the superior court of the county having
21 jurisdiction of the case;

22 ~~((38))~~ (39) "Transportation" means the conveying, by any means,
23 of an incarcerated pregnant youth from the institution or detention
24 facility to another location from the moment she leaves the
25 institution or detention facility to the time of arrival at the other
26 location, and includes the escorting of the pregnant incarcerated
27 youth from the institution or detention facility to a transport
28 vehicle and from the vehicle to the other location;

29 ~~((39))~~ (40) "Violation" means an act or omission, which if
30 committed by an adult, must be proven beyond a reasonable doubt, and
31 is punishable by sanctions which do not include incarceration;

32 ~~((40))~~ (41) "Violent offense" means a violent offense as
33 defined in RCW 9.94A.030;

34 ~~((41))~~ (42) "Youth court" means a diversion unit under the
35 supervision of the juvenile court.

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

38 The secretary or the secretary's designee shall manage and
39 administer the department's juvenile rehabilitation responsibilities,

1 including but not limited to the operation of all state institutions
2 or facilities used for juvenile rehabilitation.

3 The secretary or the secretary's designee shall:

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

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

9 (a) Public safety;

10 (b) Internal security and staff safety;

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

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

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

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

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

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

25 (6) Develop placement criteria:

26 (a) To avoid assigning youth who present a moderate or high risk
27 of sexually aggressive behavior to the same sleeping quarters as
28 youth assessed as vulnerable to sexual victimization under RCW
29 13.40.470(1)(c); and

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

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

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

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

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

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

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

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

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

18 (i) Single occupancy rooms;

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

21 (iii) Appropriate bathroom and shower ratio to youth;

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

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

26 (10) Before a transfer to the department of corrections occurs
27 under RCW 72.01.410(2)(c), take discretionary action to reduce the
28 in-residence population of any juvenile rehabilitation institution
29 when the secretary concludes that the in-residence population exceeds
30 105 percent of rated bed capacity under this chapter or chapter 72.01
31 RCW, on a case-by-case basis, in the following descending order with
32 highest priority for the secretary to:

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

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

38 (11) Monitor the number of persons residing in each institution,
39 and when that number reaches 90 percent of rated bed capacity, begin
40 planning and identifying methods to avoid exceeding rated bed

1 capacity at each juvenile rehabilitation institution including, but
2 not limited to:

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

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

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

18 **Sec. 4.** RCW 72.65.200 and 1981 c 137 s 35 are each amended to
19 read as follows:

20 (1) The secretary may permit a prisoner to participate in any
21 work release plan or program but only if the participation is
22 authorized pursuant to the prisoner's sentence or pursuant to RCW
23 9.94A.728. This section shall become effective July 1, 1984.

24 (2) The secretary, with the consent of the secretary of the
25 department of children, youth, and families, may directly transfer a
26 person who is in the custody of the department pursuant to RCW
27 72.01.410 from the custody of the department of children, youth, and
28 families and place the person in the custody of the department in a
29 work release program if, under section 5 of this act, the secretary
30 of the department of children, youth, and families concludes that the
31 in-residence population of any secure juvenile rehabilitation
32 institution exceeds 105 percent of the rated bed capacity as
33 described in RCW 13.40.460(9). The person shall meet eligibility
34 criteria for direct transfer to a work release program under section
35 5 of this act.

36 NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40
37 RCW to read as follows:

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

6 (2)(a) When the secretary concludes that the in-residence
7 population of any secure juvenile rehabilitation institution exceeds
8 105 percent of the rated bed capacity as described in RCW
9 13.40.460(9), the secretary may transfer a sufficient number of
10 persons from community facilities to community transition services
11 under RCW 13.40.205 and 72.01.412.

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

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

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

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

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

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

34 (3)(a) Pursuant to RCW 72.65.200, and with the consent of the
35 secretary of the department of corrections, when the secretary of the
36 department concludes that the in-residence population of any secure
37 juvenile rehabilitation institution exceeds 105 percent of the rated
38 bed capacity as described in RCW 13.40.460(9), the secretary may
39 transfer a sufficient number of persons, who are in the custody of
40 the department pursuant to RCW 72.01.410, from the secure juvenile

1 rehabilitation institution to a work release facility operated by the
2 department of corrections to reduce the in-residence population at
3 the secure juvenile rehabilitation institution to 100 percent of
4 rated bed capacity.

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

8 (i) Above the age of 21;

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

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

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

15 **Sec. 6.** RCW 72.05.420 and 1998 c 269 s 10 are each amended to
16 read as follows:

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

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

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

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

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

37 (3) A juvenile offender shall not be placed in a community
38 facility until the department's risk assessment and security

1 classification is complete and local law enforcement has been
2 properly notified.

3 **Sec. 7.** RCW 13.40.215 and 2021 c 206 s 5 are each amended to
4 read as follows:

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

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

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

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

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

36 (iii) As used in this subsection, "designated recipient" means:
37 (A) The superintendent of the school district, or his or her
38 designee, of a common school as defined in RCW 28A.150.020 or a
39 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. 8. 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.

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

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

14 (c)(i) After taking actions outlined in RCW 13.40.460(10) and
15 section 5 of this act and exhausting any remaining transfer authority
16 provided to the secretary of the department of children, youth, and
17 families, if the population of the juvenile rehabilitation
18 institution exceeds 105 percent of rated bed capacity as described in
19 RCW 13.40.460(9) and the rehabilitative goals of the institution
20 cannot be met as defined in this section, the secretary of the
21 department of children, youth, and families may, with the consent of
22 the secretary of the department of corrections, only transfer a
23 sufficient number of persons who meet the requirements provided in
24 (c)(ii) of this subsection (2) to the custody of the department of
25 corrections to reduce the in-residence population of the facility to
26 100 percent of rated bed capacity in a manner consistent with the
27 requirements of this subsection (2)(c).

28 (ii) If the circumstances listed in (c)(i) of this subsection (2)
29 exist, the secretary of the department of children, youth, and
30 families, may only transfer a person who is over age 21, or if the
31 person is under 21 but is over age 18 and has served at least three
32 years in the custody of the department of children, youth, and
33 families, and who consistently refuses to participate in available
34 rehabilitative programming, or engage in planning for such
35 programming, provided the person receives a transfer hearing under
36 RCW 13.40.280 prior to transfer.

37 (iii) Transfer hearings under this subsection (2)(c) shall take
38 into account the person's engagement in programming, treatment needs,
39 goals, future plans, length of confinement, classification, current
40 behavior, mental and emotional health, and any disabilities or

1 special needs impacting the safety or suitability of transferring the
2 person to the department of corrections, be minimally disruptive, and
3 ensure a person has at least seven calendar days' notice to prepare
4 for the hearing.

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

17 ((~~(2)~~)) (4)(a) Except as provided in (b) and (c) of this
18 subsection, a person under the age of ((~~eighteen~~)) 18 who is
19 transferred to the custody of the department of corrections must be
20 placed in a housing unit, or a portion of a housing unit, that is
21 separated from other persons in custody who are ((~~eighteen~~)) 18 years
22 of age or older, until the person reaches the age of ((~~eighteen~~)) 18.

23 (b) A person who is transferred to the custody of the department
24 of corrections and reaches ((~~eighteen~~)) 18 years of age may remain in
25 a housing unit for persons under the age of ((~~eighteen~~)) 18 if the
26 secretary of corrections determines that: (i) The person's needs and
27 the rehabilitation goals for the person could continue to be better
28 met by the programs and housing environment that is separate from
29 other persons in custody who are ((~~eighteen~~)) 18 years of age and
30 older; and (ii) the programs or housing environment for persons under
31 the age of ((~~eighteen~~)) 18 will not be substantially affected by the
32 continued placement of the person in that environment. The person may
33 remain placed in a housing unit for persons under the age of
34 ((~~eighteen~~)) 18 until such time as the secretary of corrections
35 determines that the person's needs and goals are no longer better met
36 in that environment but in no case past the person's ((~~twenty-fifth~~))
37 25th birthday.

38 (c) A person transferred to the custody of the department of
39 corrections who is under the age of ((~~eighteen~~)) 18 may be housed in
40 an intensive management unit or administrative segregation unit

1 containing offenders (~~(eighteen)~~) 18 years of age or older if it is
2 necessary for the safety or security of the offender or staff. In
3 these cases, the offender must be kept physically separate from other
4 offenders at all times.

5 (~~((+3))~~) (5) The department of children, youth, and families must
6 review the placement of a person over age (~~(twenty-one)~~) 18 in the
7 custody of the department of children, youth, and families under this
8 section to (~~(determine whether the person should be transferred to~~
9 ~~the custody of the department of corrections)~~) provide information to
10 the person regarding voluntary transfer to the custody of the
11 department of corrections.

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

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

29 (c) A person who, after the review, requests to be transferred to
30 the department of corrections shall have seven days to reconsider the
31 transfer request. Following the seven-day waiting period, if the
32 person confirms their continued request to transfer to the custody of
33 the department of corrections, the person shall be transferred
34 directly into the placement agreed upon by the secretary of the
35 department of children, youth, and families and the secretary of the
36 department of corrections. A person who has been transferred to the
37 department of corrections under this section may request to be
38 transferred and returned to the custody of the department of
39 children, youth, and families one time within 12 months after
40 transferring, provided the in-residence population of the juvenile

1 rehabilitation institution is below 100 percent rated bed capacity at
2 the time the department of children, youth, and families receives the
3 request. If the in-residence population of the juvenile
4 rehabilitation institution exceeds 100 percent rated bed capacity at
5 the time the department of children, youth, and families receives the
6 person's request, the request shall be placed on hold until the in-
7 residence population returns below 100 percent rated bed capacity, at
8 which time the department of children, youth, and families shall
9 process the transfer request with the coordination of the department
10 of corrections.

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

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

15 (a) Appropriate bathroom and shower ratio to youth;

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

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

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

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

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

37 ~~(3) ((Assaults made against any staff member at a juvenile~~
38 ~~corrections institution that are reported to a local law enforcement~~
39 ~~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. 10.** A new section is added to chapter 72.01 RCW to read as follows:

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

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

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

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

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

16 NEW SECTION. **Sec. 11.** This act may be known and cited as the
17 juvenile rehabilitation overcrowding relief act or "J-RORA."

18 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of
20 the state government and its existing public institutions, and takes
21 effect immediately.

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