
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5290

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Darneille, Wellman, Kuderer, Randall, Palumbo, Das, Hasegawa, McCoy, Nguyen, Saldaña, and Wilson, C.)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to eliminating the use of the valid court order
2 exception to place youth in detention for noncriminal behavior;
3 amending RCW 7.21.030, 13.32A.250, 13.32A.040, 13.32A.150, 13.34.165,
4 28A.225.090, 43.185C.265, and 2.56.032; repealing RCW 43.185C.270;
5 and repealing 1998 c 296 s 35 (uncodified).

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

7 **Sec. 1.** RCW 7.21.030 and 2001 c 260 s 6 are each amended to read
8 as follows:

9 (1) The court may initiate a proceeding to impose a remedial
10 sanction on its own motion or on the motion of a person aggrieved by
11 a contempt of court in the proceeding to which the contempt is
12 related. Except as provided in RCW 7.21.050, the court, after notice
13 and hearing, may impose a remedial sanction authorized by this
14 chapter.

15 (2) If the court finds that the person has failed or refused to
16 perform an act that is yet within the person's power to perform, the
17 court may find the person in contempt of court and impose one or more
18 of the following remedial sanctions:

19 (a) Imprisonment if the contempt of court is of a type defined in
20 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so
21 long as it serves a coercive purpose.

1 (b) A forfeiture not to exceed two thousand dollars for each day
2 the contempt of court continues.

3 (c) An order designed to ensure compliance with a prior order of
4 the court.

5 (d) Any other remedial sanction other than the sanctions
6 specified in (a) through (c) of this subsection if the court
7 expressly finds that those sanctions would be ineffectual to
8 terminate a continuing contempt of court.

9 (e) (~~In cases~~) Under chapters 13.32A, 13.34, and 28A.225 RCW
10 and subject to the requirements under RCW 13.32A.250(3)(b),
11 commitment to juvenile detention for a period of time not to exceed
12 (~~seven days~~) seventy-two hours, excluding Saturdays, Sundays, and
13 holidays. The seventy-two hour period shall commence upon the next
14 nonholiday weekday following the court order and shall run to the end
15 of the last nonholiday weekday within the seventy-two hour period.
16 This sanction may be imposed in addition to, or as an alternative to,
17 any other remedial sanction authorized by this chapter. This remedy
18 is specifically determined to be a remedial sanction. All such
19 remedial sanctions may not be imposed more than two times during a
20 thirty-day period. The court may not order detention pursuant to this
21 subsection if placement is available at a crisis residential center
22 or other secure juvenile facility in the county in which the action
23 is pending.

24 (3) The court may, in addition to the remedial sanctions set
25 forth in subsection (2) of this section, order a person found in
26 contempt of court to pay a party for any losses suffered by the party
27 as a result of the contempt and any costs incurred in connection with
28 the contempt proceeding, including reasonable attorney's fees.

29 (4) If the court finds that a person under the age of eighteen
30 years has willfully disobeyed the terms of an order issued under
31 chapter 10.14 RCW, the court may find the person in contempt of court
32 and may, as a sole sanction for such contempt, commit the person to
33 juvenile detention for a period of time not to exceed seven days.

34 **Sec. 2.** RCW 13.32A.250 and 2000 c 162 s 14 are each amended to
35 read as follows:

36 (1) In all child in need of services proceedings and at-risk
37 youth proceedings, the court shall verbally notify the parents and
38 the child of the possibility of a finding of contempt for failure to
39 comply with the terms of a court order entered pursuant to this

1 chapter. Except as otherwise provided in this section, the court
2 shall treat the parents and the child equally for the purposes of
3 applying contempt of court processes and penalties under this
4 section.

5 (2) Failure by a party in an at-risk youth proceeding to comply
6 with an order entered under this chapter is a civil contempt of court
7 as provided in RCW 7.21.030(2)(e), subject to the limitations of
8 subsection (3) of this section.

9 (3) For at-risk youth proceedings only:

10 (a) If the child fails to comply with the court order, the court
11 may impose:

12 (i) Community restitution;

13 (ii) Nonresidential programs with intensive wraparound services;

14 (iii) A requirement that the child meet with a mentor for a
15 specified number of times; or

16 (iv) Other services and interventions that the court deems
17 appropriate.

18 (b) The court may impose remedial sanctions including a fine of
19 up to one hundred dollars and confinement for up to ((seven-days))
20 seventy-two hours, or both for contempt of court under this section
21 upon issuing formal written findings that it: (i) Considered, on the
22 record, the mitigating and aggravating factors used to determine the
23 appropriateness of detention for enforcement of its order; (ii)
24 affirmed that it considered all less restrictive options, that
25 detention is the only appropriate alternative, including its
26 rationale and the clear, cogent, and convincing evidence used to
27 enforce the order; (iii) afforded the same due process considerations
28 that it affords all youth in a criminal contempt proceeding; and (iv)
29 sought input from all relevant parties, including the youth. The
30 seventy-two hour period excludes Saturdays, Sundays, and holidays and
31 shall commence upon the next nonholiday weekday following the court
32 order and shall run to the end of the last nonholiday weekday within
33 the seventy-two hour period. The court may impose no more than two
34 such seventy-two hour periods in a thirty-day period.

35 ((+4)) (c) A child placed in confinement for contempt under this
36 section shall be placed in confinement only in a secure juvenile
37 detention facility operated by or pursuant to a contract with a
38 county.

39 ((+5)) (4) A motion for contempt may be made by a parent, a
40 child, juvenile court personnel, or by any public agency,

1 organization, or person having custody of the child under a court
2 order adopted pursuant to this chapter.

3 ~~((6))~~ (5) For at-risk youth proceedings only, whenever the
4 court finds probable cause to believe, based upon consideration of a
5 motion for contempt and the information set forth in a supporting
6 declaration, that a child has violated a placement order entered
7 under this chapter, the court must direct the court clerk to command
8 the presence of the child by the issuance of a summons or other
9 method approved by local court rule instead of a warrant, unless the
10 court finds probable cause to believe that the child would not appear
11 in response to the command or finds probable cause to believe that
12 the arrest is necessary to prevent serious bodily harm to the
13 juvenile or another, in which case the court may issue a warrant. A
14 warrant of arrest must be supported by an affidavit or sworn
15 testimony, which must be recorded electronically or by stenographer,
16 establishing the grounds for issuing the warrant. The warrant of
17 arrest for a child under this subsection may not be served on a child
18 inside of school during school hours in a location where other
19 students are present if the child named in the warrant is a pupil at
20 the school. The court must communicate the summons to the child
21 through mail, telephone, text message, or other method of
22 communication needed in order to ensure the child has received the
23 information. If the child fails to appear via the summons or other
24 method, the court may issue an order directing law enforcement to
25 pick up and take the child to detention. ((The order may be entered
26 ex parte without prior notice to the child or other parties.
27 Following the child's admission to detention, a detention review
28 hearing must be held in accordance with RCW 13.32A.065.))

29 (6) A contempt sanction under this section cannot be served in a
30 juvenile detention facility when the case is filed in a county with
31 an operational and secure crisis residential center with an unused
32 bed.

33 **Sec. 3.** RCW 13.32A.040 and 2000 c 123 s 3 are each amended to
34 read as follows:

35 (1) If requested by the family, the department must provide
36 families who are in conflict or who are experiencing problems with
37 at-risk youth or a child who may be in need of services ((may
38 request)) with family reconciliation services, or its successor
39 program, from the department before or once a petition is filed. The

1 department should provide these services in a timely manner once
2 requested by the family. The department may involve a local
3 multidisciplinary team in its response in determining the services to
4 be provided and in providing those services. Such services shall be
5 provided to alleviate personal or family situations which present a
6 serious and imminent threat to the health or stability of the child
7 or family and to maintain families intact wherever possible. Family
8 reconciliation services shall be designed to develop skills and
9 supports within families to resolve problems related to at-risk
10 youth, children in need of services, or family conflicts. These
11 services may include, but are not limited to, referral to services
12 for suicide prevention, psychiatric or other medical care, or
13 psychological, mental health, drug or alcohol treatment, welfare,
14 legal, educational, or other social services, as appropriate to the
15 needs of the child and the family, and training in parenting,
16 conflict management, and dispute resolution skills.

17 (2) The department must report to the appropriate committees of
18 the legislature annually, beginning by December 31, 2019, on the use
19 of family reconciliation services or its successor program, any
20 significant reductions or outcomes within the program, and any
21 recommendations for improvement.

22 **Sec. 4.** RCW 13.32A.150 and 2000 c 123 s 17 are each amended to
23 read as follows:

24 (1) Except as otherwise provided in this chapter, the juvenile
25 court shall not accept the filing of a child in need of services
26 petition by the child or the parents or the filing of an at-risk
27 youth petition by the parent, unless verification is provided that
28 the department has completed a family assessment. The family
29 assessment shall involve the multidisciplinary team if one exists.
30 The family assessment or plan of services developed by the
31 multidisciplinary team shall be aimed at family reconciliation,
32 reunification, and avoidance of the out-of-home placement of the
33 child. (~~(If the department is unable to complete an assessment within~~
34 ~~two working days following a request for assessment the child or the~~
35 ~~parents may proceed under subsection (2) of this section or the~~
36 ~~parent may proceed under RCW 13.32A.191.))~~

37 (2) A child or a child's parent may file with the juvenile court
38 a child in need of services petition to approve an out-of-home
39 placement for the child before completion of a family assessment. The

1 department shall, when requested, assist either a parent or child in
2 the filing of the petition. The petition must be filed in the county
3 where the parent resides. The petition shall allege that the child is
4 a child in need of services and shall ask only that the placement of
5 a child outside the home of his or her parent be approved. The filing
6 of a petition to approve the placement is not dependent upon the
7 court's having obtained any prior jurisdiction over the child or his
8 or her parent, and confers upon the court a special jurisdiction to
9 approve or disapprove an out-of-home placement under this chapter.

10 (3) A petition may not be filed if the child is the subject of a
11 proceeding under chapter 13.34 RCW.

12 **Sec. 5.** RCW 13.34.165 and 2000 c 122 s 21 are each amended to
13 read as follows:

14 (1) Failure by a party to comply with an order entered under this
15 chapter is civil contempt of court as provided in RCW 7.21.030(2)
16 (~~(e)~~).

17 (2) ~~((The maximum term of confinement that may be imposed as a
18 remedial sanction for contempt of court under this section is
19 confinement for up to seven days.~~

20 ~~(3) A child held for contempt under this section shall be
21 confined only in a secure juvenile detention facility operated by or
22 pursuant to a contract with a county.~~

23 ~~(4))~~ A motion for contempt may be made by a parent, juvenile
24 court personnel, or by any public agency, organization, or person
25 having custody of the child under a court order entered pursuant to
26 this chapter.

27 ~~((5))~~ (3)(a) Subject to (b) of this subsection, whenever the
28 court finds probable cause to believe, based upon consideration of a
29 motion (~~for contempt~~) and the information set forth in a supporting
30 declaration, that a child (~~has violated a placement order entered~~
31 under this chapter) is missing from care, the court may issue an
32 order directing law enforcement to pick up and (~~take~~) return the
33 child to (~~detention~~) department custody. (~~The order may be entered~~
34 ex parte without prior notice to the child or other parties.
35 Following the child's admission to detention, a detention review
36 hearing must be held in accordance with RCW 13.32A.065.)

37 (b) If the department is notified of the child's whereabouts and
38 authorizes the child's location, the court must withdraw the order

1 directing law enforcement to pick up and return the child to
2 department custody.

3 **Sec. 6.** RCW 28A.225.090 and 2017 c 291 s 5 are each amended to
4 read as follows:

5 (1) A court may order a child subject to a petition under RCW
6 28A.225.035 to do one or more of the following:

7 (a) Attend the child's current school, and set forth minimum
8 attendance requirements, which shall not consider a suspension day as
9 an unexcused absence;

10 (b) If there is space available and the program can provide
11 educational services appropriate for the child, order the child to
12 attend another public school, an alternative education program,
13 center, a skill center, dropout prevention program, or another public
14 educational program;

15 (c) Attend a private nonsectarian school or program including an
16 education center. Before ordering a child to attend an approved or
17 certified private nonsectarian school or program, the court shall:

18 (i) Consider the public and private programs available; (ii) find
19 that placement is in the best interest of the child; and (iii) find
20 that the private school or program is willing to accept the child and
21 will not charge any fees in addition to those established by contract
22 with the student's school district. If the court orders the child to
23 enroll in a private school or program, the child's school district
24 shall contract with the school or program to provide educational
25 services for the child. The school district shall not be required to
26 contract for a weekly rate that exceeds the state general
27 apportionment dollars calculated on a weekly basis generated by the
28 child and received by the district. A school district shall not be
29 required to enter into a contract that is longer than the remainder
30 of the school year. A school district shall not be required to enter
31 into or continue a contract if the child is no longer enrolled in the
32 district;

33 (d) Submit to a substance abuse assessment if the court finds on
34 the record that such assessment is appropriate to the circumstances
35 and behavior of the child and will facilitate the child's compliance
36 with the mandatory attendance law and, if any assessment, including a
37 urinalysis test ordered under this subsection indicates the use of
38 controlled substances or alcohol, order the minor to abstain from the
39 unlawful consumption of controlled substances or alcohol and adhere

1 to the recommendations of the substance abuse assessment at no
2 expense to the school; or

3 (e) Submit to a mental health evaluation or other diagnostic
4 evaluation and adhere to the recommendations of the drug assessment,
5 at no expense to the school, if the court finds on the court records
6 that such evaluation is appropriate to the circumstances and behavior
7 of the child, and will facilitate the child's compliance with the
8 mandatory attendance law.

9 (2)(a) If the child fails to comply with the court order, the
10 court may impose:

11 (i) Community restitution;

12 (ii) Nonresidential programs with intensive wraparound services;

13 (iii) A requirement that the child meet with a mentor for a
14 specified number of times; or

15 (iv) Other services and interventions that the court deems
16 appropriate.

17 (b) If the child continues to fail to comply with the court order
18 and the court makes a finding that other measures to secure
19 compliance have been tried but have been unsuccessful and no less
20 restrictive alternative is available, the court may order the child
21 to be subject to detention, as provided in RCW 7.21.030(2)(e).
22 Failure by a child to comply with an order issued under this
23 subsection shall not be subject to detention for a period greater
24 than that permitted pursuant to a civil contempt proceeding against a
25 child under chapter 13.32A RCW. Detention ordered under this
26 subsection may be for no longer than seven days. Detention ordered
27 under this subsection shall preferably be served at a secure crisis
28 residential center close to the child's home rather than in a
29 juvenile detention facility. A warrant of arrest for a child under
30 this subsection may not be served on a child inside of school during
31 school hours in a location where other students are present.

32 (c) The court may impose remedial sanctions, including a fine of
33 up to one hundred dollars and confinement for up to seventy-two
34 hours, or both, for contempt of court under this section upon issuing
35 formal written findings that it: (i) Considered, on the record, the
36 mitigating and aggravating factors used to determine the
37 appropriateness of detention for enforcement of its order; (ii)
38 affirmed that it considered all less restrictive options, that
39 detention is the only appropriate alternative, including its
40 rationale and the clear, cogent, and convincing evidence used to

1 enforce the order; (iii) afforded the same due process considerations
2 that it affords all youth in a criminal contempt proceeding; and (iv)
3 sought input from all relevant parties, including the youth. The
4 seventy-two hour period excludes Saturdays, Sundays, and holidays and
5 must commence upon the next nonholiday weekday following the court
6 order and must run to the end of the last nonholiday weekday within
7 the seventy-two hour period. The court may impose no more than two
8 such seventy-two hour periods in a thirty-day period.

9 (3) Any parent violating any of the provisions of either RCW
10 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than
11 twenty-five dollars for each day of unexcused absence from school.
12 The court shall remit fifty percent of the fine collected under this
13 section to the child's school district. It shall be a defense for a
14 parent charged with violating RCW 28A.225.010 to show that he or she
15 exercised reasonable diligence in attempting to cause a child in his
16 or her custody to attend school or that the child's school did not
17 perform its duties as required in RCW 28A.225.020. The court may
18 order the parent to provide community restitution instead of imposing
19 a fine. Any fine imposed pursuant to this section may be suspended
20 upon the condition that a parent charged with violating RCW
21 28A.225.010 shall participate with the school and the child in a
22 supervised plan for the child's attendance at school or upon
23 condition that the parent attend a conference or conferences
24 scheduled by a school for the purpose of analyzing the causes of a
25 child's absence.

26 (4) If a child continues to be truant after entering into a
27 court-approved order with the truancy board under RCW 28A.225.035,
28 the juvenile court shall find the child in contempt, and the court
29 may (~~order the child to be subject to detention, as provided in RCW~~
30 ~~7.21.030(2)(e), or may~~) impose alternatives to detention (~~such as~~
31 ~~meaningful community restitution. Failure by a child to comply with~~
32 ~~an order issued under this subsection may not subject a child to~~
33 ~~detention for a period greater than that permitted under a civil~~
34 ~~contempt proceeding against a child under chapter 13.32A RCW))
35 consistent with best practice models for reengagement with school.~~

36 (5) Subsections (1), (2), and (4) of this section shall not apply
37 to a six or seven year old child required to attend public school
38 under RCW 28A.225.015.

1 **Sec. 7.** RCW 43.185C.265 and 2015 c 69 s 14 are each amended to
2 read as follows:

3 (1) An officer taking a child into custody under RCW
4 43.185C.260(1) (a) or (b) shall inform the child of the reason for
5 such custody and shall:

6 (a) Transport the child to his or her home or to a parent at his
7 or her place of employment, if no parent is at home. The parent may
8 request that the officer take the child to the home of an adult
9 extended family member, responsible adult, crisis residential center,
10 the department of (~~social and health services~~) children, youth, and
11 families, or a licensed youth shelter. In responding to the request
12 of the parent, the officer shall take the child to a requested place
13 which, in the officer's belief, is within a reasonable distance of
14 the parent's home. The officer releasing a child into the custody of
15 a parent, an adult extended family member, responsible adult, or a
16 licensed youth shelter shall inform the person receiving the child of
17 the reason for taking the child into custody and inform all parties
18 of the nature and location of appropriate services available in the
19 community; or

20 (b) After attempting to notify the parent, take the child to a
21 designated crisis residential center's secure facility or a center's
22 semi-secure facility if a secure facility is full, not available, or
23 not located within a reasonable distance if:

24 (i) The child expresses fear or distress at the prospect of being
25 returned to his or her home which leads the officer to believe there
26 is a possibility that the child is experiencing some type of abuse or
27 neglect;

28 (ii) It is not practical to transport the child to his or her
29 home or place of the parent's employment; or

30 (iii) There is no parent available to accept custody of the
31 child; or

32 (c) After attempting to notify the parent, if a crisis
33 residential center is full, not available, or not located within a
34 reasonable distance, request the department of (~~social and health~~
35 ~~services~~) children, youth, and families to accept custody of the
36 child. If the department of (~~social and health services~~) children,
37 youth, and families determines that an appropriate placement is
38 currently available, the department of (~~social and health services~~)
39 children, youth, and families shall accept custody and place the
40 child in an out-of-home placement. Upon accepting custody of a child

1 from the officer, the department of (~~social and health services~~)
2 children, youth, and families may place the child in an out-of-home
3 placement for up to seventy-two hours, excluding Saturdays, Sundays,
4 and holidays, without filing a child in need of services petition,
5 obtaining parental consent, or obtaining an order for placement under
6 chapter 13.34 RCW. Upon transferring a child to the department of
7 (~~social and health services~~) children, youth, and families'
8 custody, the officer shall provide written documentation of the
9 reasons and the statutory basis for taking the child into custody. If
10 the department of (~~social and health services~~) children, youth, and
11 families declines to accept custody of the child, the officer may
12 release the child after attempting to take the child to the
13 following, in the order listed: The home of an adult extended family
14 member; a responsible adult; or a licensed youth shelter. The officer
15 shall immediately notify the department of (~~social and health~~
16 ~~services~~) children, youth, and families if no placement option is
17 available and the child is released.

18 (2) An officer taking a child into custody under RCW
19 43.185C.260(1)(c) (~~or (d)~~) shall inform the child of the reason for
20 custody. An officer taking a child into custody under RCW
21 43.185C.260(1)(c) may release the child to the supervising agency,
22 may return the child to the placement authorized by the supervising
23 agency, or shall take the child to a designated crisis residential
24 center's secure facility. If the secure facility is not available,
25 not located within a reasonable distance, or full, the officer shall
26 take the child to a semi-secure crisis residential center. An officer
27 taking a child into custody under RCW 43.185C.260(1)(d) may place the
28 child in a juvenile detention facility as provided in RCW 43.185C.270
29 or a secure facility, except that the child shall be taken to
30 detention whenever the officer has been notified that a juvenile
31 court has entered a detention order under this chapter or chapter
32 13.34 RCW.

33 (3) Every officer taking a child into custody shall provide the
34 child and his or her parent or parents or responsible adult with a
35 copy of the statement specified in RCW 43.185C.290(6).

36 (4) Whenever an officer transfers custody of a child to a crisis
37 residential center or the department of (~~social and health~~
38 ~~services~~) children, youth, and families, the child may reside in the
39 crisis residential center or may be placed by the department of
40 (~~social and health services~~) children, youth, and families in an

1 out-of-home placement for an aggregate total period of time not to
2 exceed seventy-two hours excluding Saturdays, Sundays, and holidays.
3 Thereafter, the child may continue in out-of-home placement only if
4 the parents have consented, a child in need of services petition has
5 been filed, or an order for placement has been entered under chapter
6 13.34 RCW.

7 (5) The department of (~~social and health services~~) children,
8 youth, and families shall ensure that all law enforcement authorities
9 are informed on a regular basis as to the location of all designated
10 secure and semi-secure facilities within centers in their
11 jurisdiction, where children taken into custody under RCW 43.185C.260
12 may be taken.

13 **Sec. 8.** RCW 2.56.032 and 2016 c 205 s 19 are each amended to
14 read as follows:

15 (1) (a) To accurately track the extent to which courts order youth
16 into a secure detention facility in Washington state for the
17 violation of a court order related to a truancy, at-risk youth, or a
18 child in need of services petition, all juvenile courts shall
19 transmit youth-level secure detention data to the administrative
20 office of the courts.

21 (b) Data may either be entered into the statewide management
22 information system for juvenile courts or securely transmitted to the
23 administrative office of the courts at least monthly. Juvenile courts
24 shall provide, at a minimum, the name and date of birth for the
25 youth, the court case number assigned to the petition, the reasons
26 for admission to the juvenile detention facility, the date of
27 admission, the date of exit, and the time the youth spent in secure
28 confinement.

29 (c) Courts are also encouraged to report individual-level data
30 reflecting whether a detention alternative, such as electronic
31 monitoring, was used, and the time spent in detention alternatives.

32 (d) The administrative office of the courts and the juvenile
33 court administrators must work to develop uniform data standards for
34 detention.

35 (2) The administrative office of the courts shall deliver an
36 annual statewide report to the legislature that details the number of
37 Washington youth who are placed into detention facilities during the
38 preceding calendar year. The first report shall be delivered by March
39 1, 2017, and shall detail the most serious reason for detention and

1 youth gender, race, and ethnicity. The report must have a specific
2 emphasis on youth who are detained for reasons relating to a truancy,
3 at-risk youth, or a child in need of services petition. The
4 administrative office of the courts shall ensure that the annual
5 statewide report delivered to the legislature in 2021 provides
6 sufficient information to measure the impacts of RCW 13.32A.250(3)(b)
7 on reducing the use of juvenile detention as a remedy for contempt of
8 a valid court order for youth referenced in this subsection.

9 NEW SECTION. **Sec. 9.** The following acts or parts of acts are
10 each repealed:

11 (1) RCW 43.185C.270 (Youth services—Officer taking child into
12 custody—Placing in detention—Detention review hearing—Hearing on
13 contempt) and 2015 c 69 s 15; and

14 (2) 1998 c 296 s 35 (uncodified).

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