
SUBSTITUTE SENATE BILL 6112

State of Washington

66th Legislature

2020 Regular Session

By Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Wilson, C., Darneille, Nguyen, Cleveland, Das, Frockt, Hasegawa, Hunt, Kuderer, Lovelett, Mullet, Pedersen, Randall, Salomon, Wellman, Carlyle, and Saldaña; by request of Attorney General)

READ FIRST TIME 01/30/20.

1 AN ACT Relating to youth solitary confinement; amending RCW
2 13.04.116; and adding a new chapter to Title 13 RCW.

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

4 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. (1) The legislature
5 finds that prolonged isolation for juveniles may cause harm.
6 Prolonged solitary confinement has also been shown as ineffective at
7 reducing behavioral incidents and may increase anxiety and anger in
8 youth.

9 (2) Creating alternative solutions to solitary confinement for
10 juveniles will further protect the well-being of juveniles in all
11 detention facilities and institutions and enhance the rehabilitative
12 goals of Washington's juvenile justice system. This act seeks to end
13 the use of solitary confinement in juvenile facilities when used as a
14 form of punishment or retaliation. This act also seeks to limit
15 placement in isolation, except in the circumstances outlined in
16 section 3 of this act. Juvenile institutions and detention facilities
17 must implement a system of graduated interventions to avoid the use
18 of solitary confinement. Less restrictive forms of confinement should
19 be used to regulate the behavior of juveniles in institutions and
20 detention facilities.

1 (3) The legislature intends to prevent the use of solitary
2 confinement and, in the limited instances of isolation, ensure that
3 the use advances the rehabilitative goals of Washington's juvenile
4 justice system, and that it is not used as a punitive measure.

5 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Department" means the department of children, youth, and
9 families.

10 (2) "Detention facility" has the same meaning as in RCW
11 13.40.020.

12 (3) "Imminent harm" means immediate and impending threat of a
13 person causing bodily injury to self or others.

14 (4) "Institution" has the same meaning as in RCW 13.40.020.

15 (5) "Isolation" means confinement that occurs (a) when a youth is
16 separated from the youth population and placed in a room for longer
17 than fifteen minutes for the purpose of discipline, behavior
18 modification, or protecting the safety of the youth or others due to
19 an imminent threat; and (b) in a room other than the room assigned to
20 the youth for sleeping. Juveniles are in isolation from the moment
21 they are separated from others until they have rejoined the
22 population. Juveniles who are pregnant shall not be put into
23 isolation. Maintaining appropriate gender separation does not
24 constitute isolation.

25 (6) "Juvenile" has the same meaning as in RCW 13.40.020. For
26 purposes of this act, "juvenile" also includes individuals confined
27 in juvenile rehabilitation institutions of the department of
28 children, youth, and families pursuant to RCW 72.01.410.

29 (7) "Juvenile court administrator" means an administrator
30 appointed pursuant to RCW 13.04.035.

31 (8) "Room confinement" means a juvenile is separated from the
32 youth population and placed in a room or cell that the juvenile is
33 assigned to for sleeping, other than during normal sleeping hours or
34 interim rest hours. "Room confinement" does not include time a youth
35 requests to spend in his or her room or rest periods in between
36 facility programming. Juveniles are in room confinement from the
37 moment they are separated from others until they are permitted to
38 rejoin the population.

1 (9) "Solitary confinement" means a youth is involuntarily
2 separated from the youth population and placed in a room or cell
3 other than the room assigned to the youth for sleeping for longer
4 than fifteen minutes for punitive purposes. Different terminology
5 does not exempt practice from being "solitary confinement."

6 NEW SECTION. **Sec. 3.** PROCESS AND EXCEPTIONS. (1) The use of
7 solitary confinement for juveniles in an institution or in a
8 detention facility is prohibited.

9 (2) A juvenile may only be placed in isolation or room
10 confinement in an institution or in a detention facility as
11 authorized in this section.

12 (a)(i) Total isolation and room confinement of a juvenile shall
13 be limited in duration to no more than four hours in any twenty-four
14 hour period. Detention facilities and institutions can exceed those
15 four hours, including if the extension is necessary due to subsequent
16 or multiple incidents, if the following requirements are met:

17 (A) The reason for isolation or room confinement is documented,
18 including the basis for the extension, the date and time the juvenile
19 was first placed in isolation or room confinement, and when the
20 juvenile is eventually released from isolation or room confinement;

21 (B) An individualized plan that includes the goals and objectives
22 to be met in order to reintegrate the juvenile to the general
23 population is developed;

24 (C) The detention facility or institution superintendent or his
25 or her designee provides documented authorization every four hours
26 thereafter.

27 (ii) A medical and mental health assessment may occur after the
28 juvenile's release so as not to extend his or her time in isolation
29 or confinement.

30 (iii) If the total isolation or room confinement exceeds twenty-
31 four hours, then the secretary, or his or her designee, of the
32 department or the juvenile court administrator must provide
33 documented authorization.

34 (b) Each juvenile placed in isolation or room confinement shall
35 be visually checked at least every fifteen minutes, and staff shall
36 attend to the needs of the juvenile at that time. Staff shall attempt
37 to communicate with an awake juvenile during required checks to
38 evaluate and encourage the juvenile on the goals and objectives the

1 juvenile needs to achieve in order to be released from isolation or
2 room confinement.

3 (c) Every instance of isolation and room confinement shall be
4 documented in accordance with section 5 or 6 of this act.

5 (d) When a juvenile is placed in isolation or under room
6 confinement, the juvenile must have access to:

7 (i) Clothing;

8 (ii) Mattress and bedding;

9 (iii) Medication under staff supervision;

10 (iv) A toilet and sink at least hourly;

11 (v) A bath or shower at least daily;

12 (vi) Necessary mental health services; and

13 (vii) Reading material, paper, writing material, envelopes, and
14 treatment material, unless precluded by suicide precaution level or
15 the items would hinder staff efforts to resolve the problems that
16 caused isolation or room confinement.

17 (e) Staff must remove the juvenile from isolation and room
18 confinement when one of the following requirements is met:

19 (i) The purpose of the confinement is met;

20 (ii) The desired behavior is evident; or

21 (iii) The juvenile has been evaluated by a professional who has
22 determined the juvenile is no longer an imminent risk to self, staff,
23 or the general population. The institution or detention facility may
24 designate who counts as a professional.

25 (f) Isolation can be used when:

26 (i) Isolation is necessary to prevent imminent harm based on the
27 juvenile's behavior, and less restrictive alternatives were
28 unsuccessful;

29 (ii) The juvenile needs to be held in isolation awaiting transfer
30 of facilities;

31 (iii) The juvenile needs to be placed in isolation overnight due
32 to disruptive behavior that prevents the nighttime routine of other
33 juvenile residents; or

34 (iv) It is necessary to respond to an escape attempt.

35 (g) Room confinement can be used when it is necessary to prevent
36 behavior that causes disruption of the detention facility or
37 institution, but the behavior does not rise to the level of imminent
38 harm including, but not limited to, behavior that may constitute a
39 violation of law.

1 (3) Nothing in this section requires that juveniles be placed
2 with adults while in custody.

3 NEW SECTION. **Sec. 4.** MODEL POLICY. (1) The department shall, by
4 July 1, 2021, adopt a model policy prohibiting the use of solitary
5 confinement of juveniles in detention facilities and institutions,
6 with the goal of also limiting the use and duration of isolation and
7 room confinement. In determining the model policy, the department
8 must consult with appropriate stakeholders including, but not limited
9 to, juvenile court administrators, impacted youth, and
10 representatives of staff. At a minimum, the model policy must
11 include:

12 (a) Isolation. Isolation may only be used as a last resort when
13 less restrictive methods have not been effective. Where needed,
14 medical professionals must assess or evaluate any juvenile in
15 isolation as soon as possible after the juvenile is placed in
16 isolation, and qualified mental health professionals must evaluate
17 and develop a care plan for juveniles placed in isolation to prevent
18 self-harm as soon as possible after the juvenile is placed in
19 isolation. The model policy must include measures to prevent the use
20 of isolation, while protecting the safety and security of
21 incarcerated juveniles and their peers, the staff of the detention
22 facilities and institutions, other persons who work in the detention
23 facilities and institutions, and visitors.

24 (b) Room confinement. Room confinement is the preferred option
25 for maladaptive or negative behavior. Staff will use the least amount
26 of time to meet the purpose of the intervention. The model policy
27 must include measures to prevent the use of room confinement, while
28 protecting the safety and security of incarcerated juveniles and
29 their peers, the staff of the detention facilities and institutions,
30 other persons who work in the detention facilities and institutions,
31 and visitors.

32 (2) By December 1, 2021, the detention facility or institution
33 shall review and either (a) adopt the model policy established in
34 this section or (b) notify the department of the reasons the
35 detention facility or institution will not adopt the model policy,
36 including how the detention facility or institution's policies and
37 procedures differ from the model policy.

1 NEW SECTION. **Sec. 5.** REPORTING REQUIREMENTS FOR THE DEPARTMENT.

2 (1) The department must compile, on a monthly basis until November 1,
3 2022, the following information with respect to juveniles confined in
4 all state institutions and facilities used for juvenile
5 rehabilitation for whom isolation or room confinement was used in
6 excess of one hour:

7 (a) The number of times isolation and room confinement were used;

8 (b) The circumstances leading to the use of isolation and room
9 confinement;

10 (c) The duration of each use of isolation and whether, for each
11 instance of isolation, the use of isolation lasted more than four
12 hours within a twenty-four hour period;

13 (d) Whether or not supervisory review occurred and was documented
14 for each instance of isolation and room confinement;

15 (e) The race and age of the juvenile for each instance of
16 isolation and room confinement;

17 (f) Whether or not a medical assessment or review and a mental
18 health assessment or review were conducted and documented for each
19 instance of isolation; and

20 (g) If the affected juvenile was not afforded access to
21 medication, meals, and reading material during the term of
22 confinement for each instance of isolation and room confinement.

23 (2) Until November 1, 2022, information collected under
24 subsection (1) of this section must be compiled into a report and
25 submitted in compliance with section 8(1) of this act.

26 (3) After November 1, 2022, the department must annually compile
27 the information collected under subsection (1) of this section. The
28 information collected must be posted on the department's web site.

29 NEW SECTION. **Sec. 6.** REPORTING REQUIREMENTS FOR A COUNTY. (1) A

30 county operating a detention facility must compile, on a monthly
31 basis until November 1, 2022, the following information with respect
32 to the detention facility for whom isolation or room confinement was
33 used in excess of one hour:

34 (a) The number of times isolation and room confinement were used;

35 (b) The circumstances leading to the use of isolation and room
36 confinement;

37 (c) The duration of each use of isolation and whether, for each
38 instance of isolation, the use of isolation lasted more or less than
39 four hours within a twenty-four hour period, and, for instances

1 lasting more than four hours, the length of time the juvenile
2 remained in isolation;

3 (d) Whether or not supervisory review occurred and was documented
4 for each instance of isolation and room confinement;

5 (e) The race and age of the juvenile for each instance of
6 isolation and room confinement;

7 (f) Whether or not a medical assessment or review and a mental
8 health assessment or review were conducted and documented for each
9 instance of isolation; and

10 (g) If the affected juvenile was not afforded access to
11 medication, meals, and reading material during the term of
12 confinement for each instance of isolation and room confinement.

13 (2) Until November 1, 2022, information collected under
14 subsection (1) of this section must be compiled into a report and
15 submitted in compliance with section 8(1) of this act.

16 (3) After November 1, 2022, a county operating a detention
17 facility must annually compile the information collected under
18 subsection (1) of this section. The information collected must be
19 posted on the detention facility's web site.

20 **Sec. 7.** RCW 13.04.116 and 2017 3rd sp.s. c 6 s 603 are each
21 amended to read as follows:

22 (1) A juvenile shall not be confined in a jail or holding
23 facility (~~for adults~~), as those terms are defined in RCW 70.48.020,
24 except:

25 (a) For a period not exceeding twenty-four hours excluding
26 weekends and holidays and only for the purpose of an initial court
27 appearance in a county where no juvenile detention facility is
28 available, a juvenile may be held in an adult facility provided that
29 the confinement is separate from the sight and sound of adult
30 inmates; (~~or~~)

31 (b) For not more than six hours and pursuant to a lawful
32 detention in the course of an investigation, a juvenile may be held
33 in an adult facility provided that the confinement is separate from
34 the sight and sound of adult inmates; or

35 (c) An individual under eighteen years of age who has been
36 transferred previously to adult court may not be held in a jail or
37 holding facility, as those terms are defined in RCW 70.48.020, for a
38 period exceeding twenty-four hours excluding weekends and holidays,

1 unless a court finds, after a hearing and in writing, that it is in
2 the interest of justice.

3 (i) If a court determines that it is in the interest of justice
4 to permit an individual under eighteen years of age who has been
5 transferred previously to adult court to be held in any jail or
6 holding facility, as those terms are defined in RCW 70.48.020, the
7 individual shall not have sight or sound contact with adult inmates,
8 unless the court also finds, after a hearing and in writing, that it
9 is in the interest of justice to permit sight or sound contact with
10 adult inmates.

11 (ii) In determining whether it is in the interest of justice to
12 permit an individual under eighteen years of age who has been
13 transferred previously to adult court to be held in any jail or
14 holding facility, as those terms are defined in RCW 70.48.020, or
15 have sight or sound contact with adult inmates, a court shall
16 consider:

17 (A) The age of the individual;

18 (B) The physical and mental maturity of the individual;

19 (C) The present mental state of the individual, including whether
20 the individual presents an imminent risk of harm to himself or
21 herself;

22 (D) The nature and circumstances of the alleged offense;

23 (E) The individual's history of prior delinquent acts;

24 (F) The relative ability of the available adult and juvenile
25 detention facilities to not only meet the specific needs of the
26 individual, but also to protect the safety of the public, as well as
27 other detained youth; and

28 (G) Any other relevant factor.

29 (iii) If a court determines that it is in the interest of justice
30 to permit an individual under eighteen years of age who has been
31 transferred previously to adult court to be held in any jail or
32 holding facility, as those terms are defined in RCW 70.48.020, or
33 have sight or sound contact with adult inmates:

34 (A) The court shall hold a hearing not less frequently than once
35 every thirty days to review whether it is still in the interest of
36 justice to permit the individual to be so held or have such sight or
37 sound contact; and

38 (B) The individual shall not be held in any jail or holding
39 facility, as those terms are defined in RCW 70.48.020, or permitted
40 to have sight or sound contact with adult inmates, for more than one

1 hundred eighty days, unless the court, in writing, determines there
2 is good cause for an extension or the individual expressly waives
3 this limitation.

4 (iv) An individual under eighteen years of age who has been
5 transferred previously to adult court has the right to be represented
6 by counsel, and if indigent, to have counsel appointed for him or her
7 by the court at any hearing held to determine whether to place the
8 individual in a jail or holding facility, as those terms are defined
9 in RCW 70.48.020, or to continue the individual's placement in such
10 facility.

11 ~~(2) ((For purposes of this section a juvenile is an individual~~
12 ~~under the chronological age of eighteen years who has not been~~
13 ~~transferred previously to adult courts.~~

14 ~~(3))~~ The department shall monitor and enforce compliance with
15 this section. The department may use information gathered pursuant to
16 its responsibilities pursuant to this subsection for purposes of the
17 report required in section 8(1) of this act with respect to
18 individuals under eighteen years of age who have been transferred
19 previously to adult court in the custody of a jail or holding
20 facility, as those terms are defined in RCW 70.48.020. The department
21 must include information regarding each individual who is the subject
22 of any order issued pursuant to subsection (1)(c) of this section in
23 each report required by section 8 of this act. A detention facility,
24 as defined in RCW 13.40.020, and the governing unit for the jail or
25 holding facility, as those terms are defined in RCW 70.48.020, must
26 provide necessary assistance to the department in gathering the
27 information. This information must include:

28 (a) The race, age, and gender of each individual;

29 (b) The circumstances requiring the individual to be placed and
30 held in the jail or holding facility, as those terms are defined in
31 RCW 70.48.020; and

32 (c) The length of time the individual was held in the jail or
33 holding facility, as those terms are defined in RCW 70.48.020.

34 ~~((4))~~ (3) This section shall not be construed to expand or
35 limit the authority to lawfully detain juveniles.

36 NEW SECTION. Sec. 8. DATA REPORTING. (1) Information collected
37 under sections 5(2) and 6(2) of this act must be reported to the
38 department of children, youth, and families by December 1, 2021, and
39 an updated report must be submitted to the department by November 1,

1 2022. The department must compile the reported data and, in
2 compliance with RCW 43.01.036, provide a data report to the
3 appropriate committees of the legislature by December 1, 2022.

4 (2) Beginning in January 2023, the department shall conduct
5 periodic reviews of policies, procedures, and use of solitary
6 confinement, isolation, and room confinement for each detention
7 facility. Every three years, the department shall prepare a report to
8 the legislature summarizing its reviews.

9 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
10 conflict with federal requirements that are a prescribed condition to
11 the allocation of federal funds to the state, the conflicting part of
12 this act is inoperative solely to the extent of the conflict and with
13 respect to the agencies directly affected, and this finding does not
14 affect the operation of the remainder of this act in its application
15 to the agencies concerned. Rules adopted under this act must meet
16 federal requirements that are a necessary condition to the receipt of
17 federal funds by the state.

18 NEW SECTION. **Sec. 10.** Sections 1 through 6, 8, and 9 of this
19 act constitute a new chapter in Title 13 RCW.

--- END ---