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**SUBSTITUTE HOUSE BILL 2907**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Early Learning & Human Services (originally sponsored by Representatives Goodman, Frame, Kagi, and Doglio)

READ FIRST TIME 02/02/18.

1       AN ACT Relating to confinement in juvenile rehabilitation  
2 facilities; amending RCW 72.01.410, 72.01.410, 13.40.300, and  
3 13.40.300; creating new sections; providing an effective date; and  
4 providing an expiration date.

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

6       NEW SECTION.    **Sec. 1.**    The legislature recognizes state and  
7 national efforts to reform policies that incarcerate youth in the  
8 adult criminal justice system. The legislature acknowledges that  
9 transferring youth to the adult criminal justice system is not  
10 effective in reducing future criminal behavior. Youth incarcerated in  
11 the adult criminal justice system are more likely to recidivate than  
12 their counterparts housed in juvenile facilities.

13       The legislature intends to enhance community safety by  
14 emphasizing rehabilitation of juveniles convicted even of the most  
15 serious violent offenses under the adult criminal justice system.  
16 Juveniles adjudicated as adults should be served and housed within  
17 the facilities of the juvenile rehabilitation administration up until  
18 age twenty-five and one-half but released earlier if their sentence  
19 ends prior to that. This emphasis on rehabilitation up to age twenty-  
20 five and one-half reflects similar programming in other states, which

1 has significantly reduced recidivism of juveniles confined in adult  
2 correctional facilities.

3 **Sec. 2.** RCW 72.01.410 and 2015 c 156 s 2 are each amended to  
4 read as follows:

5 (1) Whenever any child under the age of eighteen is convicted as  
6 an adult in the courts of this state of a crime amounting to a  
7 felony, and is committed for a term of confinement, that child shall  
8 be ~~((initially))~~ placed in a facility operated by the department of  
9 ~~((corrections))~~ social and health services to determine the child's  
10 earned release date.

11 ~~((a))~~ ~~((If the earned release date is prior to the child's twenty-~~  
12 ~~first birthday, the department of corrections shall transfer the~~  
13 ~~child to the custody of the department of social and health services,~~  
14 ~~or to such other institution as is now, or may hereafter be~~  
15 ~~authorized by law to receive such child, until such time as the child~~  
16 ~~completes the ordered term of confinement or arrives at the age of~~  
17 ~~twenty one years.~~

18 ~~((i))~~ While in the custody of the department of social and health  
19 services, the ~~((child))~~ individual must have the same treatment,  
20 housing options, transfer, and access to program resources as any  
21 other ~~((child))~~ individual committed ~~((directly))~~ to that juvenile  
22 correctional facility or institution pursuant to chapter 13.40 RCW.  
23 Treatment, placement, and program decisions shall be at the sole  
24 discretion of the department of social and health services. The  
25 ~~((youth))~~ individual shall only be transferred ~~((back))~~ to the  
26 custody of the department of corrections with the approval of the  
27 department of social and health services or when the ~~((child))~~  
28 individual reaches the maximum age of ~~((twenty one))~~ juvenile  
29 offender commitment by a juvenile court for the same offense provided  
30 under RCW 13.40.300.

31 ~~((ii))~~ (b) If the ~~((child's))~~ individual's sentence includes a  
32 term of community custody, the department of social and health  
33 services ~~((shall not))~~ is required to consult the department of  
34 corrections prior to the individual's release ~~((the child))~~ to  
35 community custody ~~((until the department of corrections has approved~~  
36 ~~the child's release plan))~~ pursuant to RCW 9.94A.729(5)(b). If ~~((a~~  
37 ~~child))~~ an individual is held past his or her earned release date  
38 pending release plan approval, the department of social and health  
39 services shall retain custody until a plan is approved or the

1 ((child)) individual completes the ordered term of confinement prior  
2 to the maximum age ((twenty-one)) of juvenile offender commitment by  
3 a juvenile court for the same offense provided under RCW 13.40.300.

4 ((+iii)) (c) If the department of social and health services  
5 determines that retaining custody of the ((child)) individual  
6 presents a significant safety risk, the ((child)) individual may be  
7 ((returned)) transferred to the custody of the department of  
8 corrections.

9 ((+b)) (d) If the ((child's)) individual's earned release date  
10 is on or after the ((child's twenty-first birthday)) maximum age of  
11 juvenile offender commitment by a juvenile court for the same offense  
12 provided under RCW 13.40.300, the ((department of corrections shall,  
13 with the consent of the)) secretary of the department of social and  
14 health services((, transfer)) shall retain the ((child to))  
15 individual in a facility or institution operated by the department of  
16 social and health services with the consent of the department of  
17 corrections. ((Despite the transfer, the department of corrections  
18 retains authority over custody decisions and must approve any leave  
19 from the facility.)) When the ((child turns age twenty-one))  
20 individual reaches the maximum age of juvenile offender commitment by  
21 a juvenile court for the same offense provided under RCW 13.40.300,  
22 he or she must be transferred ((back)) to the department of  
23 corrections. The department of social and health services has all  
24 routine and day-to-day operations authority for the ((child))  
25 individual while he or she is in its custody.

26 (2)(a) Except as provided in (b) and (c) of this subsection, an  
27 offender under the age of eighteen who is ((convicted in adult

28 criminal court and who is committed to a term of confinement at)  
29 transferred to the custody of the department of corrections must be  
30 placed in a housing unit, or a portion of a housing unit, that is  
31 separated from offenders eighteen years of age or older, until the  
32 offender reaches the age of eighteen.

33 (b) An offender who is transferred to the custody of the  
34 department of corrections and reaches eighteen years of age may  
35 remain in a housing unit for offenders under the age of eighteen if  
36 the secretary of corrections determines that: (i) The offender's  
37 needs and the ((correctional)) rehabilitation goals for the offender  
38 could continue to be better met by the programs and housing  
39 environment that is separate from offenders eighteen years of age and  
40 older; and (ii) the programs or housing environment for offenders

1 under the age of eighteen will not be substantially affected by the  
2 continued placement of the offender in that environment. The offender  
3 may remain placed in a housing unit for offenders under the age of  
4 eighteen until such time as the secretary of corrections determines  
5 that the offender's needs and ~~((correctional))~~ goals are no longer  
6 better met in that environment but in no case past the ~~((offender's~~  
7 ~~twenty-first birthday))~~ maximum age of juvenile offender commitment  
8 by a juvenile court for the same offense provided under RCW  
9 13.40.300.

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

17 **Sec. 3.** RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each  
18 amended to read as follows:

19 (1) Whenever any child under the age of eighteen is convicted as  
20 an adult in the courts of this state of a crime amounting to a  
21 felony, and is committed for a term of confinement, that child shall  
22 be ~~((initially))~~ placed in a facility operated by the department of  
23 ~~((corrections))~~ children, youth, and families to determine the  
24 child's earned release date.

25 ~~((a))~~ ~~((If the earned release date is prior to the child's twenty-~~  
26 ~~first birthday, the department of corrections shall transfer the~~  
27 ~~child to the custody of the department of children, youth, and~~  
28 ~~families, or to such other institution as is now, or may hereafter be~~  
29 ~~authorized by law to receive such child, until such time as the child~~  
30 ~~completes the ordered term of confinement or arrives at the age of~~  
31 ~~twenty-one years.~~

32 ~~((i))~~ While in the custody of the department of children, youth,  
33 and families, the ~~((child))~~ individual must have the same treatment,  
34 housing options, transfer, and access to program resources as any  
35 other ~~((child))~~ individual committed ~~((directly))~~ to that juvenile  
36 correctional facility or institution pursuant to chapter 13.40 RCW.  
37 Treatment, placement, and program decisions shall be at the sole  
38 discretion of the department of children, youth, and families. The  
39 ~~((youth))~~ individual shall only be transferred ~~((back))~~ to the

1 custody of the department of corrections with the approval of the  
2 department of children, youth, and families or when the ~~((child))~~  
3 individual reaches the maximum age of ~~((twenty-one))~~ juvenile  
4 offender commitment by a juvenile court for the same offense provided  
5 under RCW 13.40.300.

6 ~~((+ii))~~ (b) If the ~~((child's))~~ individual's sentence includes a  
7 term of community custody, the department of children, youth, and  
8 families ~~((shall not))~~ is required to consult the department of  
9 corrections prior to the individual's release ~~((the child))~~ to  
10 community custody ~~((until the department of corrections has approved~~  
11 ~~the child's release plan))~~ pursuant to RCW 9.94A.729(5)(b). If ~~((a~~  
12 ~~child))~~ an individual is held past his or her earned release date  
13 pending release plan approval, the department of children, youth, and  
14 families shall retain custody until a plan is approved or the  
15 ~~((child))~~ individual completes the ordered term of confinement prior  
16 to the maximum age of ~~((twenty-one))~~ of juvenile offender commitment by  
17 a juvenile court for the same offense provided under RCW 13.40.300.

18 ~~((+iii))~~ (c) If the department of children, youth, and families  
19 determines that retaining custody of the ~~((child))~~ individual  
20 presents a significant safety risk, the ~~((child))~~ individual may be  
21 ~~((returned))~~ transferred to the custody of the department of  
22 corrections.

23 ~~((+b))~~ (d) If the ~~((child's))~~ individual's earned release date  
24 is on or after the ~~((child's twenty-first birthday))~~ maximum age of  
25 juvenile offender commitment by a juvenile court for the same offense  
26 provided under RCW 13.40.300, the ~~((department of corrections shall,~~  
27 ~~with the consent of the))~~ secretary of the department of children,  
28 youth, and families ~~((, transfer))~~ shall retain the ~~((child to))~~  
29 individual in a facility or institution operated by the department of  
30 children, youth, and families with the consent of the department of  
31 corrections. ~~((Despite the transfer, the department of corrections~~  
32 ~~retains authority over custody decisions and must approve any leave~~  
33 ~~from the facility.))~~ When the ~~((child turns age twenty-one))~~  
34 individual reaches the maximum age of juvenile offender commitment by  
35 a juvenile court for the same offense provided under RCW 13.40.300,  
36 he or she must be transferred ~~((back))~~ to the department of  
37 corrections. The department of children, youth, and families has all  
38 routine and day-to-day operations authority for the ~~((child))~~  
39 individual while he or she is in its custody.

1 (2)(a) Except as provided in (b) and (c) of this subsection, an  
2 offender under the age of eighteen who is ~~((convicted in adult  
3 criminal court and who is committed to a term of confinement at))~~  
4 transferred to the custody of the department of corrections must be  
5 placed in a housing unit, or a portion of a housing unit, that is  
6 separated from offenders eighteen years of age or older, until the  
7 offender reaches the age of eighteen.

8 (b) An offender who is transferred to the custody of the  
9 department of corrections and reaches eighteen years of age may  
10 remain in a housing unit for offenders under the age of eighteen if  
11 the secretary of corrections determines that: (i) The offender's  
12 needs and the ~~((correctional))~~ rehabilitation goals for the offender  
13 could continue to be better met by the programs and housing  
14 environment that is separate from offenders eighteen years of age and  
15 older; and (ii) the programs or housing environment for offenders  
16 under the age of eighteen will not be substantially affected by the  
17 continued placement of the offender in that environment. The offender  
18 may remain placed in a housing unit for offenders under the age of  
19 eighteen until such time as the secretary of corrections determines  
20 that the offender's needs and ~~((correctional))~~ goals are no longer  
21 better met in that environment but in no case past the ~~((offender's  
22 twenty-first birthday))~~ maximum age of juvenile offender commitment  
23 by a juvenile court for the same offense provided under RCW  
24 13.40.300.

25 (c) An offender transferred to the custody of the department of  
26 corrections who is under the age of eighteen may be housed in an  
27 intensive management unit or administrative segregation unit  
28 containing offenders eighteen years of age or older if it is  
29 necessary for the safety or security of the offender or staff. In  
30 these cases, the offender must be kept physically separate from other  
31 offenders at all times.

32 **Sec. 4.** RCW 13.40.300 and 2005 c 238 s 2 are each amended to  
33 read as follows:

34 (1) ~~((In no case may))~~ Except as provided in subsection (2) of  
35 this section, a juvenile offender may not be committed by the  
36 juvenile court to the department of social and health services for  
37 placement in a juvenile correctional institution beyond the juvenile  
38 offender's twenty-first birthday.

1       (2) A juvenile offender adjudicated of a serious violent offense  
2 as defined under RCW 9.94A.030 may be committed by the juvenile court  
3 to the department of social and health services for placement in a  
4 correctional institution up to the time the juvenile offender is age  
5 twenty-five and one-half years old, but not beyond.

6       (3) A juvenile may be under the jurisdiction of the juvenile  
7 court or the authority of the department of social and health  
8 services beyond the juvenile's eighteenth birthday only if prior to  
9 the juvenile's eighteenth birthday:

10       (a) Proceedings are pending seeking the adjudication of a  
11 juvenile offense and the court by written order setting forth its  
12 reasons extends jurisdiction of juvenile court over the juvenile  
13 beyond his or her eighteenth birthday;

14       (b) The juvenile has been found guilty after a fact finding or  
15 after a plea of guilty and an automatic extension is necessary to  
16 allow for the imposition of disposition;

17       (c) Disposition has been held and an automatic extension is  
18 necessary to allow for the execution and enforcement of the court's  
19 order of disposition. If an order of disposition imposes commitment  
20 to the department, then jurisdiction is automatically extended to  
21 include a period of up to twelve months of parole, in no case  
22 extending beyond the offender's twenty-first birthday except under  
23 subsection (2) of this section in which case commitment may not  
24 extend beyond age twenty-five and one-half years; or

25       (d) While proceedings are pending in a case in which jurisdiction  
26 has been transferred to the adult criminal court pursuant to RCW  
27 13.04.030, the juvenile turns eighteen years of age and is  
28 subsequently found not guilty of the charge for which he or she was  
29 transferred, or is convicted in the adult criminal court of a lesser  
30 included offense, and an automatic extension is necessary to impose  
31 the disposition as required by RCW 13.04.030(1)(e)(v)(E).

32       ~~((+2))~~ (4) If the juvenile court previously has extended  
33 jurisdiction beyond the juvenile offender's eighteenth birthday and  
34 that period of extension has not expired, the court may further  
35 extend jurisdiction by written order setting forth its reasons.

36       ~~((+3) In no event may))~~ (5) Except as provided in this section  
37 and for purposes of enforcing an order of restitution or penalty  
38 assessment, the juvenile court ~~((have authority to))~~ may not extend  
39 jurisdiction over any juvenile offender beyond the juvenile

1 offender's twenty-first birthday (~~except for the purpose of~~  
2 ~~enforcing an order of restitution or penalty assessment~~)).

3 ((~~4~~)) (6) Notwithstanding any extension of jurisdiction over a  
4 person pursuant to this section, the juvenile court has no  
5 jurisdiction over any offenses alleged to have been committed by a  
6 person eighteen years of age or older.

7 **Sec. 5.** RCW 13.40.300 and 2017 3rd sp.s. c 6 s 613 are each  
8 amended to read as follows:

9 (1) (~~In no case may~~) Except as provided in subsection (2) of  
10 this section, a juvenile offender may not be committed by the  
11 juvenile court to the department of children, youth, and families for  
12 placement in a juvenile correctional institution beyond the juvenile  
13 offender's twenty-first birthday.

14 (2) A juvenile offender adjudicated of a serious violent offense  
15 as defined under RCW 9.94A.030 may be committed by the juvenile court  
16 to the department of children, youth, and families for placement in a  
17 correctional institution up to the time the juvenile offender is age  
18 twenty-five and one-half years old, but not beyond.

19 (3) A juvenile may be under the jurisdiction of the juvenile  
20 court or the authority of the department of children, youth, and  
21 families beyond the juvenile's eighteenth birthday only if prior to  
22 the juvenile's eighteenth birthday:

23 (a) Proceedings are pending seeking the adjudication of a  
24 juvenile offense and the court by written order setting forth its  
25 reasons extends jurisdiction of juvenile court over the juvenile  
26 beyond his or her eighteenth birthday;

27 (b) The juvenile has been found guilty after a fact finding or  
28 after a plea of guilty and an automatic extension is necessary to  
29 allow for the imposition of disposition;

30 (c) Disposition has been held and an automatic extension is  
31 necessary to allow for the execution and enforcement of the court's  
32 order of disposition. If an order of disposition imposes commitment  
33 to the department, then jurisdiction is automatically extended to  
34 include a period of up to twelve months of parole, in no case  
35 extending beyond the offender's twenty-first birthday except under  
36 subsection (2) of this section in which case commitment may not  
37 extend beyond age twenty-five and one-half years; or

38 (d) While proceedings are pending in a case in which jurisdiction  
39 has been transferred to the adult criminal court pursuant to RCW

1 13.04.030, the juvenile turns eighteen years of age and is  
2 subsequently found not guilty of the charge for which he or she was  
3 transferred, or is convicted in the adult criminal court of a lesser  
4 included offense, and an automatic extension is necessary to impose  
5 the disposition as required by RCW 13.04.030(1)(e)(v)(E).

6 ~~((+2))~~ (4) If the juvenile court previously has extended  
7 jurisdiction beyond the juvenile offender's eighteenth birthday and  
8 that period of extension has not expired, the court may further  
9 extend jurisdiction by written order setting forth its reasons.

10 ~~((+3) In no event may)~~ (5) Except as provided in this section  
11 and for purposes of enforcing an order of restitution or penalty  
12 assessment, the juvenile court ~~((have authority to))~~ may not extend  
13 jurisdiction over any juvenile offender beyond the juvenile  
14 offender's twenty-first birthday ~~((except for the purpose of~~  
15 ~~enforcing an order of restitution or penalty assessment))~~.

16 ~~((+4))~~ (6) Notwithstanding any extension of jurisdiction over a  
17 person pursuant to this section, the juvenile court has no  
18 jurisdiction over any offenses alleged to have been committed by a  
19 person eighteen years of age or older.

20 NEW SECTION. Sec. 6. The Washington state institute for public  
21 policy must assess the impact of this act on community safety, racial  
22 disproportionality, and youth rehabilitation and submit a report, in  
23 compliance with RCW 43.01.036, to the governor and the appropriate  
24 committees of the legislature by December 1, 2027.

25 NEW SECTION. Sec. 7. This act applies to all individuals  
26 currently in the custody or who will be in the custody of the  
27 juvenile rehabilitation division of the department of social and  
28 health services on or before the effective date of this section  
29 following an adult court conviction. It does not apply to individuals  
30 who were in the custody of the juvenile rehabilitation division of  
31 the department of social and health services and were transferred to  
32 the custody of the department of corrections before the effective  
33 date of this section. In all other respects, this act applies  
34 prospectively.

35 NEW SECTION. Sec. 8. Sections 3 and 5 of this act take effect  
36 July 1, 2019.

1        NEW SECTION.    **Sec. 9.**    Sections 2 and 4 of this act expire July  
2    1, 2019.

--- END ---