

Emergency management of DCYF facilities

Bill Number	HB 1322/SB5296	HB 1917	SB 5278
SGC Position	PRO	CON	CON
Current version	2SHB/2SSB 2 substitute house changes Added to both second substitutes	2SHB - second sub changes in green and strikethroughs	2SSB - second sub changes in green and strikethroughs

Judicial impact	Judicial Changes	<ul style="list-style-type: none"> - Judge must make independent finding by clear and convincing evidence that JR commitment necessary and community-based does not adequately protect community. - Allows EHM for up to the minimum of standard range if no finding of necessity for JR. Also allows suspended dispo. - If sentenced to JR, court maintains concurrent jurisdiction with JR. - If violations on EHM, court may impose detention or revoke EHM and sentence to JR for remainder of sentence. 		
	Affected Cases	<p>All cases w/ JR sentence EXCEPT: When 16/17 and:</p> <ul style="list-style-type: none"> - Serious Violent Offense . - Violent offense w/ criminal history of 1+ serious vio offenses, 2+ vio offenses, or 3+ Class A class B, VehAslt, Man2 Rape of a child 1 <p>HOUSE BILL ONLY: also excludes Child Molestation 1, Hit and Run resulting in Death, Rape of a Child 2, Rape 2, Rape 3.</p>		
	Factors influencing decision	<p>Judges shall consider:</p> <ul style="list-style-type: none"> - Offense severity. - Criminal history - Programming availability - Goals of rehab and community safety - Whether appropriate LRA is available - Age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, any disabilities or special needs. 		
	SUDMH Disp alt	Expands to include all juveniles except exclusions above.		
Sentencing Options	Option B Disp alt	Expands to include all juveniles except exclusions above. Also excludes sex offenses. Allows youth to have Option B more than once		
	Offense specific changes	TMV w/o permission 2 no longer requires 1 day in detention if criminal history score 0.75 or higher (3 days if score 2+)		

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Proposed changes	Safe operational capacity		Must be defined by DCYF. At 105% 110% capacity: DCYF must act by transferring to CFs (Sec. can waive eligibility requirements), transferring to other JR institutions not over capacity, releasing adjudicated juveniles who have already served their minimum. At 90% capacity: DCYF must make plans including notice to DOC, discussing early release options with DOC and potential need for transfer/placement into DOC, reviewing CF capacity, and notifying county courts.		Requires DCYF to create rules related to rated bed capacity - single occupancy rooms and 5% 10% facility beds reserved for IMU and flexibility of moement. At 105% capacity, Secretary authority to: - Transfer persons from CFs to CTS - Transfer from JR to CF or CTS (until reaching 100% capacity) - Transfer to DOC for work release At 90% capacity, begin planning and identifying needs to avoid exceeding capacity: - Notify individuals who could be released/transferred to CTS/CF - Coordinate with DOC any early release options - Report plans to Leg/Juv Courts/Gov
	Movement to DOC		Automatic: - If at 105% 110% capacity, juveniles with adult sentence who are over 21 at time of place and have ERD after age 26 go straight to DOC. Can request transfer to DCYF when capacity <95%. Requires notice to be given to affected individuals when capacity at DCYF falls below 95% and there is more than 1 year on the persons sentence that is eligible to be served at JR, that they receive counsel, and a review hearing. Subject to review board: - Adult sentences can be transferred if DCYF establishes that there is a significant safety risk to others in JR if not transferred. - Adult sentences if the population exceeds 105% 110% capacity then DCYF can transfer and prioritize transfer of oldest individuals with longest terms of confinement but should avoid disruptions to substantive progress or near completion of rehab/edu/tx goals. BUT, review board must consider if transfer is necessary to reduce population or if DCYF may take less restrictive steps to reduce the population first. - Removes the authority for transfers from DCYF to DOC due to exceeding 110% capacity after July 1, 2031. - The youth knowingly, voluntarily, and willingly requests a transfer. Must have access to counsel for decision.		When exceeding 105% capacity DCYF may transfer to DOC work release facility if they are over age 21, within 18 months of ERD, and deemed appropriate for WR by DOC. When exceeding 105%, juveniles with adult sentence who are over the age of 23 21 at the time of placement with an ERD after age of 26 may be sent directly to DOC instead of DCYF/JR. When exceeding 120% 105% of capacity, if no other options are available to reduce capacity and the situation threatens rehabilitative goals of JR, DCYF and DOC can agree to transfer individuals to DOC until reaching JR facility capacity of 100%. Applies to persons over age 21 or under age 21 who have served >3 consecutive years in DCYF and refuses to participate or engage in programming (subject to transfer hearing). Individuals may voluntarily request transfer to DOC. Youth must have opportunity to consult with council to confirm they are making a knowing, voluntary, and fullyinformed request. They may make a ONE TIME request to transfer back to DCYF within 12 months of transferring and only if JR facility does not exceed 100% capacity

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JR facility/Operat	Community Facilities	<p>Eliminates two requirements:</p> <ul style="list-style-type: none"> - that juvenile serve at least 10% of sentence and no less than 30 days in secure facility. - that DCYF receive and review student records. <p>No longer have to send written notice of criminal history to school or employer or notice to local law enforcement except for serious violent offenses, sex offenses, or stalking, but notice no longer has to be before release to CF.</p>	<p>Requirement that individual has served at least 10% of sentence and no less than 30 days in secure facility may be waived if facilities exceed 105% capacity.</p> <p>Requirement that youth only be transferred to CF if risk assessment and security classification is complete and LEO's notified can be waived - modified to notice within 14 days prior placement instead of 30 days if facilities exceed 105% 110% capacity.</p> <p>Requirements for notice to LEOs and schools can be waived changed from 30 days before placement to 14 days before placement for releasees if facilities exceed 105% 110% capacity.</p>	<p>Allows for transfer from JR to CF if at 105% capacity except for: high risk, those better served by services in an institution, persons with prior conviction for escape from JR or CF and who would not be able to comply with residential disciplinary standards.</p> <p>Other eligibility requirements may be waived if transfers are due to facilities being over capacity but risk assessment and LEO notice must be completed.</p> <p>Requirements for notice to LEOs and schools can be waived changed from 30 days before placement to "may be less than 30 days" before placement for releasees if facilities exceed 105% capacity.</p>
	Release Date	JR must set release date for all juveniles and prioritize setting release date ASAP for those who would serve less than 90 days under JR jurisdiction.	Those with an adult sentence with an ERD within 6 months of 26th birthday may be released if they are not high risk and have no serious infractions according to DCYF.	Those with an adult sentence with an ERD within 6 months of 26th birthday 25th birthday may be released if they are not high risk and have no serious infractions according to DCYF.
	Review Hearings	COURT must review at mid-point of minimum and after serving 4 months to assess progress and consider release w/ placement up to a year of community supervision administered by the county or parole (if mandatory parole case). List of considerations pg 9/10, sec. 3.	DCYF must review placement of those aged 21 or older and give information about voluntary transfer to DOC. Should happen once before age 21 and ASAP if person enters at or over age 21 or by request of individuals.	<p>DCYF may not transfer youth to DOC before age 25 unless they establish at a review hearing that placement in DCYF is significant safety risk to others in JR.</p> <p>Transfer review hearings must consider engagement in programming, treatment needs, goals, future plans, length of confinement, classification, current behavior, mental and emotional health, disabilities or special needs.</p> <p>DCYF must review placement of those aged 21 or older and give information about voluntary transfer to DOC. Should happen once before age 23 and ASAP if person enters at or over age 21 or by request of individuals.</p>
	Additional bed space	JR must contract w/ four JCA's for physical custody of persons in confinement for <90 days. These must be new contracts and is not covered by existing contracts.		
	Data/Research/Reporting		DCYF annual report to Gov with: Number of transfers to DOC, reason, age, and DOC facility for each person. Outcome information for transfer hearings.	DCYF annual report to Gov with: Number of transfers to DOC, reason, age, and DOC facility for each person. Outcome information for transfer hearings.
	JR/DCYF infractions			DCYF must establish internal behavioral management infraction system.

Other Appeal language - makes revocations of suspended dispositions appealable. Sets std for reviewing judicial finding for JR.

Null and Void Clause **Added**