



Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

June 22, 2018

Ordinance 18637

Proposed No. 2017-0473.3

Sponsors Dembowski, Kohl-Welles and
Gossett

1 AN ORDINANCE related to juvenile detention;
2 establishing requirements for the treatment of and services
3 to juveniles in the custody of the department of adult and
4 juvenile detention; prohibiting solitary confinement of
5 juveniles except when necessary for safety, security or
6 other reasons precluding use of a less restrictive measure;
7 requiring equal treatment and services to be provided
8 without regard to which county detention facility houses
9 the juvenile; and requesting the executive to appoint an
10 independent monitor or monitors to report on the treatment
11 of and services to juveniles at each of the county's
12 detention facilities; amending Ordinance 12432, Section 2,
13 as amended, and K.C.C. 2.16.120 and adding a new chapter
14 to K.C.C. Title 2.

15 **STATEMENT OF FACTS:**

16 1. In Washington state, the juvenile courts, a division of the superior court
17 system, have jurisdiction over youth under the age of eighteen who are
18 charged with committing a crime.

19 2. Under the Washington Youth Violence Reduction Act, juvenile court

20 jurisdiction over youth ages sixteen and seventeen who are charged with
21 certain offenses, is automatically declined. For those youth, the adult
22 superior court has jurisdiction.

23 3. Washington state law also allows prosecutors to petition to transfer a
24 youth to adult court at the discretion of juvenile court; this is known as a
25 discretionary decline of jurisdiction.

26 4. The King County department of adult and juvenile detention operates
27 the Maleng Regional Justice Center in Kent, Washington, through its Kent
28 division and the King County Correctional Facility in Seattle, Washington,
29 through its Seattle division.

30 5. The King County department of adult and juvenile detention's juvenile
31 division operates the Juvenile Detention Center, housed in the King
32 County Youth Services Center in Seattle, Washington.

33 6. Most juveniles detained in King County are housed at the Juvenile
34 Detention Center. King County houses some juveniles charged as adults in
35 King County at the Maleng Regional Justice Center or, occasionally, at the
36 King County Correctional Facility.

37 7. Juveniles housed at the Maleng Regional Justice Center or at the King
38 County Correctional Facility are separated from the adult population.

39 8. There is research showing that the adolescent brain is not fully
40 developed until the age of twenty-five and that adolescence is a period
41 during which the frontal lobe of the brain undergoes great change.

42 Research shows that the prefrontal cortex, which governs executive

43 functions, including impulse control and the ability to consider
44 consequences, is the final areas of the brain to develop to maturity.
45 Consequently, juveniles are more susceptible to the pernicious impacts of
46 traumatic experiences and stand to benefit greatly from therapeutic and
47 rehabilitative efforts.

48 9. King County's Youth Action Plan, adopted by Motion 14378,
49 recognizes the critical brain development that occurs during the first two
50 and a half decades of life and acknowledges the opportunity to have a
51 positive impact in each youth's development during this time period. It
52 also recommends preventative practices and programs that reduce the
53 likelihood of contact with the juvenile justice system. For youth who have
54 already become involved in the juvenile justice system, the King County
55 Youth Action Plan recommends that King County align juvenile and
56 criminal justice systems with education and employment pathways for
57 youth and that youth be assisted with reentry from jail to the community.

58 10. The Best Starts for Kids Implementation Plan, approved by Ordinance
59 18373, notes that adolescence is a critical period when patterns of health-
60 promoting or potentially health-damaging behaviors are established and
61 discusses the potentially life-altering impacts of adverse childhood
62 experiences, trauma and toxic stress. The implementation plan further
63 recognizes that many youth involved in the criminal justice system have
64 routinely been exposed to multiple risk factors and very few protective
65 factors as compared to other youth's experiences. The plan includes

66 reentry-related programmatic approaches for system-involved youth.

67 11. The county's road map to zero detention necessitates that the County
68 consider and implement less restrictive alternatives to detention and
69 incarceration whenever possible.

70 12. The United States Supreme Court has acknowledged the differences
71 in youth brain development.

72 13. The adverse effects of isolation are well-documented. While these
73 may depend on the length of isolation and the individual, effects can
74 include depression, anxiety, anger, cognitive disturbances, perceptual
75 distortions, psychosis, paranoia and obsessive thoughts. For individuals
76 with serious mental illness such as schizophrenia, bipolar disorder or
77 major depression, isolation can make symptoms worse. For mentally ill
78 individuals who decompensate in isolation, it has been found that mental
79 health professionals are often unable to mitigate the harm.

80 14. The American Academy of Child and Adolescent Psychiatry advises
81 that even short periods of isolation often have serious long-term mental
82 health impact on juveniles including trauma, psychosis, depression,
83 anxiety, and increased risk of suicide and self-harm.

84 15. A 2002 investigation by the U.S. Department of Justice showed that
85 juveniles experience symptoms of paranoia, anxiety and depression even
86 after short periods of isolation. Experts note that these effects are more
87 damaging on youth who have mental health disorders. Other studies on
88 the psychological effects of solitary confinement on juveniles suggest that

89 isolation may interfere with essential developmental processes, lead to
90 irreparable damage and increase the risk of suicide ideation and suicide.

91 16. Research has shown that solitary confinement does not reduce
92 behavioral incidents and may increase aggressive or violent behavior by
93 youth; making the practice, when used as a safety tool, counter-
94 productive.

95 17. The federal prison system is banned from using solitary confinement
96 on youth. The Office of Juvenile Justice and Delinquency Prevention,
97 which is part of the United States Department of Justice, has made
98 eliminating the use of solitary confinement on youth at the state and local
99 level a priority.

100 18. Human rights experts including the Human Rights Committee, the
101 Committee Against Torture and the United Nations Special Rapporteur on
102 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
103 have concluded that solitary confinement may amount to cruel, inhuman
104 or degrading treatment in violation of the International Covenant on Civil
105 and Political Rights and of the Convention against Torture and other
106 Cruel, Inhuman or Degrading Treatment or Punishment.

107 19. Under international human rights law, prisoners are to be protected
108 from mistreatment and vulnerable inmates, especially children and persons
109 with mental disabilities, are to be accorded with heightened measures of
110 protection. That body of law, as well as international standards developed
111 to guide its implementation, establishes that people under the age of

112 eighteen have a right to be treated in a manner appropriate to their age and
113 development.

114 20. According to department of adult and juvenile detention staff, youth
115 have not been subject to solitary confinement at the youth services center
116 since the early 1990s. Furthermore, the department's current policy for the
117 use of isolation for youth at the youth services center generally mirrors the
118 national standards as promulgated by the Juvenile Detention Alternatives
119 Initiative and the Council of Juvenile Correctional Administrators.

120 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

121 SECTION 1. Sections 2, 3 and 4 of this ordinance should constitute a new
122 chapter in K.C.C. Title 2.

123 NEW SECTION. SECTION 2. The definitions in this section apply throughout
124 this chapter unless the context clearly requires otherwise.

125 A. "Juvenile" means a person who is currently confined in a King County
126 detention facility for a charge that was filed in juvenile court or based on conduct that
127 occurred before the person's eighteenth birthday where their confinement begins before
128 the person's eighteenth birthday.

129 B. "Solitary confinement" means the placement of an incarcerated person in a
130 locked room or cell alone with minimal or no contact with persons other than guards,
131 correctional facility staff, and attorneys. Using different terminology for this practice,
132 such as room confinement, segregated housing, protective custody, restrictive housing,
133 restricted housing, restricted engagement, close confinement, special management unit,
134 administrative detention, nonpunitive isolation, temporary isolation or reflection cottage,

135 among others, does not exempt a practice from being "solitary confinement." The use of
136 single person sleeping rooms, during ordinary sleeping or rest periods, does not constitute
137 "solitary confinement." The short-term placement of youth in individual cells for
138 purposes of facility or living unit security issues or for other short-term facility physical
139 plant safety and maintenance issues does not constitute "solitary confinement."

140 NEW SECTION. SECTION 3. The solitary confinement of juveniles is banned
141 in all King County detention facilities, except when based on the juvenile's behavior,
142 solitary confinement is necessary to prevent imminent and significant physical harm to
143 the juvenile detained or to others and less restrictive alternatives were unsuccessful.
144 Solitary confinement may not be used for disciplinary or punishment purposes. The
145 department of adult and juvenile detention must develop policies and procedures for
146 solitary confinement with the goal of limiting its use and duration. In determining the
147 policies and procedures, the department of adult and juvenile detention shall ensure
148 consistency with nationally accepted best practices, which are those established by the
149 Juvenile Detention Alternatives Initiative, and should include:

150 A. Preventative measures to protect the safety and security of incarcerated
151 juveniles and their peers, the staff of the department of adult and juvenile detention, other
152 persons who work in the facilities and visitors;

153 B. A requirement that solitary confinement be ended as soon as the juvenile
154 demonstrates physical and emotional control, and a limit on the duration of any solitary
155 confinement to no more than four hours in any twenty-four-hour period;

156 C. A requirement that any use of solitary confinement be subject to review by
157 supervisors;

158 D. A requirement that medical professionals assess or evaluate any youth housed
159 in solitary confinement as soon as possible after the youth's being placed in solitary
160 confinement, and that qualified mental health professionals evaluate and develop a care
161 plan, that may include hospitalization, for youth who are placed in solitary confinement
162 to prevent self-harm; and

163 E. Procedures to ensure youth's continued access to education, programming and
164 ordinary necessities, such as medication, meals and reading material, when in solitary
165 confinement.

166 NEW SECTION. SECTION 4. It is the policy of King County that the solitary
167 confinement of juveniles shall occur only rarely and in limited circumstances as
168 authorized in this ordinance. The policies and practices required by this ordinance are
169 intended to prevent the use of solitary confinement, and in the limited instances of its use,
170 ameliorate and mitigate the harms that result from solitary confinement of juveniles.

171 SECTION 5. Ordinance 12432, Section 2, as amended, and K.C.C. 2.16.120, are
172 each amended to read as follows:

173 A.1. The department of adult and juvenile detention is responsible to manage and
174 be fiscally accountable for the Seattle division, the Kent division, the juvenile division,
175 the community corrections division and the administrative services division, each of
176 which shall have equal standing within the department. Through the Seattle division and
177 the Kent division, the department shall operate the King County adult correctional facility
178 and the security operation of the work and education release unit in Seattle and the
179 Regional Justice Center adult correctional facility in Kent. Through the juvenile division,
180 the department shall operate the county's juvenile detention facility. Through the

181 community corrections division the department shall administer programs that provide
182 alternatives to confinement in the adult correctional facilities, as well as services and
183 support functions directed toward reduction of the adult correctional facilities'
184 populations. Through the administrative services division, the department shall
185 administer personnel operation, budget and fiscal operations and other central support
186 services for the department. In addition, the administrative services division shall be
187 responsible for the administration and monitoring of jail health expenditures and services
188 through a jail health levels of service agreement and contract with its health services
189 contractor. The division shall monitor the provision of health care services and is
190 responsible for ensuring that minimum inmate health care needs are met and monitoring
191 the cost-containment provisions for both operational and health care related costs.

192 2. The judges of the superior court have final authority for approval of all
193 screening criteria for admission to the juvenile detention facility and alternatives to
194 confinement in the juvenile detention facility. The department shall implement such
195 criteria approved by the superior court related to the juvenile detention facility. The
196 department shall implement the criteria approved by the superior and district courts
197 related to adult detention facilities and alternatives to confinement, subject to the
198 eligibility conditions in subsections E. and F. of this section. The department may also
199 accept, from the prosecuting attorney's pre-filing diversion program, persons arrested for
200 the following misdemeanor offenses for placement on work crews: possession of less
201 than forty grams of marijuana (RCW 69.50.4014); minor in possession of alcohol (RCW
202 66.44.270); possession of drug paraphernalia (RCW 69.50.412); and unlawful bus or
203 transit conduct (RCW 9.91.025, K.C.C. 28.96.010).

204 B. The duties of the Seattle division and the Kent division shall include the
205 following:

206 1. House adult persons who are any combination of arrested for, charged for or
207 held on investigation of a criminal offense;

208 2. House adult persons during trial, and before sentencing after conviction;

209 3. House adult persons serving sentences not exceeding one year;

210 4. Maintain records and process and identify property of persons confined or
211 committed to correctional facilities operated by the division;

212 5. Perform functions related to residential and building security, including
213 supervision of persons confined or committed to correctional facilities operated by the
214 division;

215 6. Transport confined or committed adult persons to and from court and provide
216 secure escort of those persons outside the facilities;

217 7. Provide nutritional meals daily to confined or committed adult persons,
218 including preparation of special meals in response to medical and religious requirements;

219 8. Provide health care to confined or committed adult persons in conjunction
220 with the Seattle-King County department of public health, including medical, dental and
221 psychiatric care;

222 9. Provide social services to and for confined or committed adult persons,
223 including, but not limited to, the following: classifying those persons; evaluating
224 mentally ill or developmentally disabled confined or committed persons, including
225 referral to available community programs; reviewing those persons with psychiatric
226 problems; reviewing other special population groups; providing general population group

227 management; and providing outside agency access to those persons including special
228 visitation, library, recreational and educational services; and

229 10. Ensure compliance with laws and regulations applicable to the management
230 and operation of the correctional facilities.

231 C. The ~~((principle))~~ principal function of the juvenile division is to operate the
232 county's juvenile detention facility in a safe, secure and humane manner as prescribed by
233 county ordinance, state law and court rules. The juvenile division shall ~~((administer))~~
234 work with the Seattle division and the Kent division to ensure that all divisions
235 effectuate, consistent with appropriate security measures and maintaining public safety,
236 the equal administration to all juveniles detained in detention facilities in King County of
237 alternatives to secure detention as approved by the court, a school program, a health
238 program and other related programs. ~~((The juvenile division shall be operated in a~~
239 ~~manner that will give))~~ It shall be the responsibility of the juvenile division to ensure that
240 all juveniles detained in any King County detention facility are given reasonable access
241 to the defense bar, juvenile probation counselors and social service providers and
242 educators in a timely manner, consistent with appropriate security measures and
243 maintaining public safety. All juveniles detained in any King County detention facility
244 shall have access to education programs and to educational hours of service as required
245 by state law.

246 D. The duties of the administrative services division shall include administering
247 personnel operations, budget and fiscal operations and other central support services
248 involving all divisions in the department to ensure consistency and efficiency of
249 operations. The department's director of the administrative services division shall

250 oversee these operations and services, and the operations and services shall conform to
251 county policies and procedures and to department guidelines and practices.

252 E. An individual is not eligible for the pretrial alternative to adult detention
253 entitled community corrections alternative program basic if the individual is charged with
254 a violent offense or sex offense and has one or more convictions of a violent offense or
255 sex offense, as defined in RCW 9.94A.030, in the ten years before the date of the charged
256 offense.

257 F. An individual is not eligible for the pretrial alternative to adult detention
258 entitled community corrections alternative program basic if the individual is charged with
259 a domestic violence felony offense and has one or more convictions of a domestic
260 violence felony offense, as defined in RCW 9.94A.525, in the ten years before the date of
261 the charged offense.

262 G. The executive shall not enter into any contractual relationship with any private
263 or nongovernmental entity for the provision of secure detention services to house any
264 adults or juveniles under the jurisdiction of the department under subsections B. and C. of
265 this section.

266 SECTION 6. The executive is requested to appoint an independent monitor or
267 monitors who, either alone or together, have expertise in adolescent development,
268 juvenile detention operations and corrections, officer safety and security and on trauma-
269 informed behavioral modification practices to monitor and report to the council on the
270 implementation of sections 2 through 5 of this ordinance twice, by September 1, 2018,
271 and by January 30, 2019. The monitor, or monitoring group, shall consult with
272 stakeholders, including representatives of the King County Juvenile Detention Guild

273 (Department of Adult and Juvenile Detention - Juvenile Detention) representing
274 employees in the department of adult and juvenile detention juvenile division in
275 preparing and completing the required reports. The reports shall include, but not be
276 limited to: a review of the number of times solitary confinement was used during the
277 evaluation period; an evaluation of the documentation of the circumstances for the use of
278 solitary confinement; a determination whether, for each instance solitary confinement
279 was used, it did not exceed four hours; an evaluation of the documentation of supervisory
280 review before the use of solitary confinement; an evaluation of the documentation that
281 youth in solitary confinement have been assessed or reviewed by medical professionals;
282 and an evaluation of the documentation of how youth subject to solitary confinement had
283 full access to education, programming and ordinary necessities, such as medication,
284 meals and reading material, when in solitary confinement.

285 SECTION 7. To the extent implementation of this ordinance requires
286 collective bargaining, the executive is requested to engage in negotiation with
287 bargaining representatives of affected employees to effectuate the policies
288 contained in this ordinance. In order to implement this ordinance, the executive
289 shall also identify and provide any needed staff training.

290 SECTION 8. The provisions of sections 2 through 5 of this ordinance as

291 they pertain to the operation of the department of adult and juvenile detention's
292 adult facilities become effective on July 1, 2018.
293

Ordinance 18637 was introduced on 11/6/2017 and passed as amended by the Metropolitan King County Council on 12/11/2017, by the following vote:

Yes: 7 - Mr. von Reichbauer, Mr. Dunn, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci
No: 0
Excused: 2 - Mr. Gossett and Ms. Lambert

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

J. Joseph McDermott, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None