

ANNOTATED: Compares S1 to underlying ordinance

S1

November 1, 2023

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underlying ordinance**

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Sponsor: Balducci

Proposed No.: 2023-0212

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2023-0212, VERSION**

2 **1**

3 On page 1, beginning on line 6, strike everything through page 9, line 169, and insert:

4 "STATEMENT OF FACTS:

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

8 2. Under the Washington Youth Violence Reduction Act, juvenile court
9 jurisdiction over youth ages sixteen and seventeen who are charged with
10 certain offenses, is automatically declined. For those youth, the adult
11 superior court has jurisdiction.

12 3. Washington state Basic Juvenile Court Act also allows prosecutors to
13 petition to transfer a youth to adult court at the discretion of juvenile court;
14 this is known as a discretionary decline of jurisdiction.

15 4. The King County department of adult and juvenile detention operates
16 the Norm Maleng Regional Justice Center in Kent, Washington, through
17 its Kent division and the King County Correctional Facility in Seattle,
18 Washington, through its Seattle division.

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19 5. The King County department of adult and juvenile detention's juvenile
20 division operates the juvenile detention facility housed in the Judge
21 Patricia H. Clark Children and Family Justice Center ("the CCFJC") in
22 Seattle, Washington.

23 6. Juveniles detained in King County are incarcerated at the CCFJC.
24 Incarcerated juveniles charged as adults are transferred to the Norm
25 Maleng Regional Justice Center or, occasionally, at the King County
26 Correctional Facility after they turn eighteen.

27 7. The Best Starts for Kids Implementation Plan, first approved by
28 Ordinance 18373, notes that adolescence is a critical period when patterns
29 of health-promoting or potentially health-damaging behaviors are
30 established and discusses the potentially life-altering impacts of adverse
31 childhood experiences, trauma and toxic stress. The implementation plan
32 further recognizes that many youth involved in the criminal justice system
33 have routinely been exposed to multiple risk factors and very few
34 protective factors as compared to other youth's experiences. The plan
35 includes Ordinance 18637 reentry-related programmatic approaches for
36 system-involved youth.

37 8. The county's road map to zero detention report recommends that King
38 County consider and implement less restrictive alternatives to detention
39 and incarceration whenever possible.

40 9. The United States Supreme Court has acknowledged the differences in
41 youth brain development.

Commented [BM1]: Language change: "~~((Most juveniles))~~
Juveniles detained in King County are ~~((housed))~~ incarcerated at the
CCFJC. ~~((King County houses some))~~ Incarcerated juveniles
charged as adults ~~((in King County at))~~ are transferred to the Norm
Maleng Regional Justice Center or, occasionally, at the King County
Correctional Facility after they turn eighteen.

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42 10. The adverse effects of isolation are well-documented. While those
43 may depend on the length of isolation and the individual, effects can
44 include depression, anxiety, anger, cognitive disturbances, perceptual
45 distortions, psychosis, paranoia, and obsessive thoughts. For individuals
46 with serious mental illness, such as schizophrenia, bipolar disorder, or
47 major depression, isolation can make symptoms worse. For mentally ill
48 individuals who decompensate in isolation, it has been found that mental
49 health professionals are often unable to mitigate the harm.

50 11. The American Academy of Child and Adolescent Psychiatry advises
51 that even short periods of isolation often have serious long-term mental
52 health impact on juveniles including trauma, psychosis, depression,
53 anxiety, and increased risk of suicide and self-harm.

54 12. A 2002 investigation by the U.S. Department of Justice showed that
55 juveniles experience symptoms of paranoia, anxiety, and depression even
56 after short periods of isolation. Experts note that those effects are more
57 damaging on youth who have mental health disorders. Other studies on
58 the psychological effects of solitary confinement on juveniles suggest that
59 isolation may interfere with essential developmental processes, lead to
60 irreparable damage, and increase the risk of suicide ideation and suicide.

61 13. Research has shown that solitary confinement does not reduce
62 behavioral incidents and may increase aggressive or violent behavior by
63 youth, making the practice, when used as a safety tool, counterproductive.

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64 14. The federal prison system is banned from using solitary confinement
65 on youth. The Office of Juvenile Justice and Delinquency Prevention,
66 which is part of the U.S. Department of Justice, has made eliminating the
67 use of solitary confinement on youth at the state and local level a priority.

68 15. Human rights experts, including the Human Rights Committee, the
69 Committee Against Torture, and the United Nations Special Rapporteur on
70 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
71 have concluded that solitary confinement may amount to cruel, inhuman,
72 or degrading treatment in violation of the International Covenant on Civil
73 and Political Rights and of the Convention against Torture and other
74 Cruel, Inhuman or Degrading Treatment or Punishment.

75 16. Under international human rights law, prisoners are to be protected
76 from mistreatment, and vulnerable inmates, especially children and
77 persons with mental disabilities, are to be accorded with heightened
78 measures of protection. That body of law, as well as international
79 standards developed to guide its implementation, establishes that people
80 under the age of eighteen have a right to be treated in a manner
81 appropriate to their age and development.

82 17. King County prohibited the use of solitary confinement for juveniles
83 except when necessary for safety, through enactment of Ordinance 18637
84 in 2017.

Commented [BM2]: Deleted language: ((According to department of adult and juvenile detention staff, youth have not been subject to solitary confinement at the youth services center since the early 1990s.))

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85 18. Washington state prohibited the use of solitary confinement for
86 juveniles for punitive purposes in 2020 in Chapter 333, Laws of
87 Washington 2020.

Commented [BM3]: New language: "for punitive purposes"

88 19. Ordinance 18637 also called for King County to engage an
89 independent monitor to analyze and report on King County's use of
90 solitary confinement for juveniles. Independent monitors have produced
91 reports annually or semiannually since 2018.

92 20. The recommendations included in reports by the independent
93 monitors have included making clarifications to K.C.C. chapter 2.65 to
94 avoid unintended consequences, such as not allowing for youth to
95 voluntarily spend time in their rooms or for staff to engage in therapeutic
96 one-on-one interventions.

97 21. In 2022, members of the King County council's law, justice, health
98 and human services committee toured the CCFJC and heard from juvenile
99 detention staff about some of the challenges of implementing the solitary
100 confinement ban, including unintended consequences in delivering one-
101 on-one therapeutic programming.

102 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

103 SECTION 1. Ordinance 18637, Section 2, and K.C.C. 2.65.010 are each
104 amended to read as follows:

105 The definitions in this section apply throughout this chapter unless the context
106 clearly requires otherwise.

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107 A. "Cell" means a locked room intended for occupancy, as evidenced by the
108 presence of bedding, a toilet, or other features necessary for daily living, by no more than
109 two people, and where a single youth is confined, away from other youth, with limited
110 contact with others.

Commented [BM4]: New language: Definition of "cell" added.

NOTE: References to "room or cell" or "sleeping room or cell" elsewhere in ordinance are changed to "cell"

111 B. "Juvenile" means a person who is currently confined in a King County
112 detention facility for a charge that was filed in juvenile court or based on conduct that
113 occurred before the person's eighteenth birthday where ~~((their))~~ the person's confinement
114 begins before the person's eighteenth birthday.

115 C. "Solitary confinement" means the involuntary placement of ~~((an incarcerated~~
116 ~~person))~~ a juvenile in a locked ~~((room or))~~ cell alone with minimal or no contact with
117 persons other than guards, correctional facility staff, and attorneys. Using different
118 terminology for this practice, such as room confinement, segregated housing, protective
119 custody, restrictive housing, restricted housing, restricted engagement, close
120 confinement, special management unit, administrative detention, nonpunitive isolation, or
121 temporary isolation or reflection cottage, among others, does not exempt a practice from
122 being "solitary confinement." The following are not "solitary confinement":

Commented [BM5]: New language: "involuntary"

123 1. The use of single person ~~((sleeping rooms))~~ cells, during ordinary sleeping or
124 rest periods~~((, does not constitute "solitary confinement."))~~;

Commented [BM6]: Language change: "The following ~~((do not constitute))~~ are not solitary confinement"

125 2. When a juvenile voluntarily chooses to be in a cell alone;

126 3. For four hours or less in any twenty-four hour period, ~~((T))~~ ~~((the))~~ ~~((short term))~~
127 placement of ~~((youth))~~ a juvenile in an individual cell~~((s))~~ for purposes of facility or
128 living unit security issues or for other short-term facility physical plant safety and
129 maintenance issues ~~((does not constitute "solitary confinement."))~~, including: during

Commented [BM7]: New language: "For four hours or less in any twenty-four hour period"

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130 security checks, headcounts, and inspections; during the booking, intake, and initial
131 classification and orientation process; **or for the purposes of attending court or medical or**
132 **mental health appointments or treatment. The four-hour maximum shall apply to one or a**
133 **combination of reasons set forth in this subsection.**

Commented [BM8]: Language about court, medical, or mental health purposes consolidated from a separate subsection into subsection C.3

Commented [BM9]: New language: "**The four-hour maximum shall apply to one or a combination of reasons set forth in this subsection**"

134 4. **The placement of a juvenile in any separate room, that is not a cell, for**
135 **engagement in individualized support, restorative services, or one-on-one programming.**

Commented [BM10]: Language change: "The placement of a juvenile in any separate (~~housing unit or~~) room, that is not a cell, for engagement in individualized support, restorative services, (~~such as restoration hall and~~) or one-on-one programming"

Deleted language: "~~((Maintaining appropriate gender separation))~~"

136 SECTION 2. Ordinance 18637, Section 3, and K.C.C.2.65.020 are each amended
137 to read as follows:

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

Commented [BM11]: New language: "**or due to lack of staffing**"

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

151 B. A requirement that solitary confinement be ended as soon as the juvenile
152 demonstrates physical and emotional control (~~(-and a-)~~);

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153 C. A limit on the duration of any solitary confinement to no more than four hours
154 in any twenty-four-hour period;

155 ~~((C.))~~ D. A requirement that any use of solitary confinement be ~~((subject to))~~
156 reviewed by supervisors;

157 ~~((D.))~~ E. A requirement that medical **or mental health** professionals assess or
158 evaluate any ~~((youth))~~ juvenile housed in solitary confinement as soon as possible **but not**
159 **more than two hours** after the ~~((youth's))~~ juvenile's being placed in solitary confinement,
160 and that qualified medical or mental health professionals evaluate and develop a care
161 plan, that may include hospitalization, for ~~((youth))~~ juveniles who are placed in solitary
162 confinement to prevent self-harm **and assist in planning the reintegration of the juvenile**
163 **to the general population;** ~~((and))~~

164 ~~((E.))~~ F. Procedures to ensure ~~((youth's continued))~~ juvenile's regular and routine
165 access to education, programming and ordinary necessities, such as medication, meals,
166 and reading material, throughout the juvenile's **entire time** ~~((when))~~ in solitary
167 confinement, **unless medical and mental health professionals in collaboration with**
168 **detention supervisors have concerns of self-harm;**

169 G. Procedures for a **medical or** mental health professional to check in with any
170 juvenile who, outside of ordinary sleep or rest periods, voluntarily chooses to be alone in
171 a single cell. Procedures shall require that the **medical or** mental health professional
172 check in with the juvenile within four hours of the juvenile's voluntarily separating from
173 others, **and thereafter as recommended by a multidisciplinary team comprised of**
174 **representatives of the juvenile division and medical and mental health staff, based on the**
175 **juvenile's needs and circumstances;**

Commented [BM12]: New language: "or mental health"

Commented [BM13]: New language: "but not more than two hours"

Commented [BM14]: New language: "and assist in planning the reintegration of the juvenile to the general population"

Commented [BM15]: Language change: "Procedures to ensure ~~((youth's continued))~~ juvenile's regular and routine access to education, programming and ordinary necessities, such as medication, meals, and reading material, throughout the juvenile's entire time ~~((when))~~ in solitary confinement, unless medical and mental health professionals in collaboration with detention supervisors have concerns of self-harm"

Commented [BM16]: New language: "medical or"

Commented [BM17]: New language: "and thereafter as recommended by a multidisciplinary team comprised of representatives of the juvenile division and medical and mental health staff, based on the juvenile's needs and circumstances"

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176 **H. Procedures to ensure that juveniles placed in a locked cell under conditions**
177 **that do not constitute solitary confinement are released as soon as the purpose of the**
178 **confinement ends to limit the duration to no more than four hours in any twenty-four-**
179 **hour period unless the reason for the extended duration is documented and addressed**
180 **according to appropriate policies; and**

181 **I. Procedures to ensure that if a juvenile is isolated for individualized support,**
182 **restorative services, or one-on-one programming for more than four hours in a twenty-**
183 **four hour period an individualized plan is developed including the goals and objectives to**
184 **be met in order to reintegrate the juvenile to the general population.**

185 **NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 2.65 a**
186 **new section to read as follows:**

187 **A. The executive shall electronically file with the clerk of the council annual**
188 **reports to the council on confinement of juveniles in county detention facilities. Each**
189 **annual report shall be prepared by an appointed, independent monitor or monitors who,**
190 **either alone or together, shall have expertise in adolescent development, juvenile**
191 **detention operations and corrections, officer safety and security, and trauma-informed**
192 **behavioral modification practices. The monitor or monitors shall include in the report an**
193 **analysis of compliance with this K.C.C. chapter and chapter 13.22 RCW by the**
194 **department of adult and juvenile detention juvenile division for the proceeding twelve-**
195 **month period, except as provided in subsection C. of this section. The reports should also**
196 **include, but not be limited to:**

197 **1. A discussion of challenges, progress and setbacks, and any significant**
198 **management, policy, or operating environment changes that have occurred since the prior**

Commented [BM18]: New subsection requiring procedures to ensure that juveniles in a locked cell under conditions that do not constitute solitary confinement are released as soon as the purpose of the confinement ends to limit the duration to no more than four hours in any twenty-four hour period unless the reason for the extended duration is documented and addressed.

Commented [BM19]: New subsection requiring that if a juvenile is isolated for individualized support, restorative services, or one-on-one programming for more than four hours in a twenty-four hour period, an individualized plan is developed to reintegrate the juvenile to the general population.

Commented [BM20]: New section requiring ongoing independent monitoring, with annual reports from the independent monitor beginning June 30, 2025.

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199 report related to behavioral interventions and confinement of juveniles at county
200 detention facilities;

201 2. A review of the number of times solitary confinement was used during the
202 evaluation period;

203 3. An evaluation of the circumstances for the use of solitary confinement;

204 4. A review of the average duration of solitary confinement incidents, including
205 an evaluation of any incident exceeding four hours;

206 5. A review of the documentation of supervisory review before the use of
207 solitary confinement, including an evaluation of any incidents exceeding two hours when
208 supervisory review did not occur;

209 6. A review of the documentation of medical and mental health assessments of
210 youth in solitary confinement, including an evaluation of any incidents when health clinic
211 staff was not notified within one hour or an assessment by a medical professional was not
212 completed within six hours;

213 7. A review of the documentation of how youth subject to solitary confinement
214 had continued access to education, programming and ordinary necessities, such as
215 medication, meals, and reading material, when in solitary confinement, and an evaluation
216 of any incidents when the access was not documented;

217 8. The age and race of juveniles involved in each solitary confinement incident;

218 9. An assessment of the progress by the department of adult and juvenile
219 detention juvenile division on implementing the recommendations outlined in previous
220 monitor reports;

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221 10. Any new recommendations for reducing the use and duration of solitary
222 confinement for juveniles in detention, and recommendations for improving data
223 collection and reporting of incidents of solitary confinement of juveniles in detention; and

224 11. Any concerning patterns of isolation of juveniles for reasons that do not
225 constitute solitary confinement but may be contributing to potential harm for juveniles in
226 detention.

227 B. In preparing and completing the reports required by this section, the monitor
228 or monitors shall consult with stakeholders, including representatives of the King County
229 Juvenile Detention Guild (Department of Adult and Juvenile Detention – Juvenile)
230 representing employees in the department of adult and juvenile detention juvenile
231 division.

232 C. The annual reports required by this section should be transmitted to the clerk
233 of the council on or before June 30 of each year, starting in 2025, and reporting on a
234 period covering the prior twelve months from April 1 to March 31. The clerk shall retain
235 an electronic copy and provide an electronic copy to all councilmembers, the council
236 chief of staff, the chief policy officer, and the lead staff for the law, justice, health and
237 human services committee or its successor."

238 **EFFECT prepared by** L. Krekel-Zoppi and MBourguignon: *This amendment would:*

- 239 • *Add a definition for "cell" as a locked room intended for occupancy where a*
240 *single youth is confined, away from other youth. The purpose of this definition is*
241 *to differentiate between cells and other types of rooms.*

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- 242 • *Change the definition of "solitary confinement" to add the word "involuntary" so*
243 *that the definition would read "the involuntary placement of a juvenile in a*
244 *locked cell..."*
- 245 • *Add additional modifications to the definitions of circumstances that do not*
246 *constitute solitary confinement, including the following:*
- 247 ○ *For the purposes of attending court or medical or mental health*
248 *appointments or treatment (compared with the originally drafted*
249 *proposed ordinance language of "for court, medical, or mental health*
250 *purposes"*
- 251 ○ *Remove the term "restoration hall," and instead refer to the placement, in*
252 *any separate room, that is not a cell, for engagement in individualized*
253 *support, restoration services, or one-on-one programming.*
- 254 ○ *Add a limit of four hours an any 24-hour period and that this four-hour*
255 *limit applies to "one or a combination of reasons" defined as not being*
256 *solitary confinement.*
- 257 • *Add that solitary confinement may not be used due to lack of staffing.*
- 258 • *Add a two-hour time limit within which the required medical assessment of a*
259 *juvenile in solitary confinement must occur.*
- 260 • *In places where a mental health professional is required to perform an evaluation*
261 *or check, allow that duty to be performed by a medical or mental health*
262 *professional. The purpose of this change is to allow the requirement to be*
263 *fulfilled within proposed required timeframes, since the CCFJC has 24-hour*
264 *medical staffing at the onsite health clinic, whereas mental health staffing may be*

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265 *on call or not onsite during certain time periods. In one instance where*
266 *procedures require a medical professional to perform an assessment, the*
267 *proposal would allow the duty to be performed by a mental health professional or*
268 *medical professional.*

269 • *Add a requirement for medical or mental health professionals to assist in*
270 *planning the reintegration into the general population for a juvenile in solitary*
271 *confinement.*

272 • *Clarify that procedures should ensure regular and routine access to education,*
273 *programming and ordinary necessities, such as medication, meals, and reading*
274 *materials throughout the juvenile's entire time in solitary confinement, unless*
275 *medical and mental health professionals in collaboration with detention*
276 *supervisors have concerns of self-harm.*

277 • *Change the proposed requirement for a medical or mental health check in with a*
278 *youth voluntarily separated from others to occur within four hours rather than*
279 *within six hours and allow for additional check ins to occur as recommended by*
280 *a multidisciplinary team of juvenile detention staff.*

281 • *Add a requirement for procedures to ensure that juveniles placed in a locked cell*
282 *under conditions that do not constitute solitary confinement be released as soon*
283 *as the purpose of the confinement ends to limit the duration to no more than four*
284 *hours in any 24-hour period unless the reason for the extended duration is*
285 *documented and addressed according to appropriate policies.*

286 • *Add a requirement for procedures to ensure that if a youth is in one-on-one*
287 *programming for more than four hours in a twenty-four period that an*

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288 *individualized plan is developed for the youth's reintegration with the general*
289 *population.*

290 • *Add a requirement for annual reporting on DAJD's use of solitary confinement by*
291 *an independent monitor, similar to ordinance and proviso requirements that have*
292 *been in place since the juvenile solitary confinement code took effect in 2018.*
293 *The annual reporting requirement would ask the independent monitor to report*
294 *on "any concerning patterns of isolation of juveniles for reasons that do not*
295 *constitute solitary confinement but may be contributing to potential harm for*
296 *juveniles in detention."*

297 • *Make other non-substantive clarifications and corrections.*