



Legislation Text

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

STATEMENT OF FACTS:

1. In Washington state, the juvenile courts, a division of the superior court system, have jurisdiction over youth under the age of eighteen who are charged with committing a crime.
2. Under the Washington Youth Violence Reduction Act, juvenile court jurisdiction over youth ages sixteen and seventeen who are charged with certain offenses, is automatically declined. For those youth, the adult superior court has jurisdiction.
3. Washington state law also allows prosecutors to petition to transfer a youth to adult court at the discretion of juvenile court; this is known as a discretionary decline of jurisdiction.
4. The King County department of adult and juvenile detention operates the Maleng Regional Justice Center in Kent, Washington, through its Kent division and the King County Correctional

Facility in Seattle, Washington, through its Seattle division.

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

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

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

8. There is research showing that the adolescent brain is not fully developed until the age of twenty-five and that adolescence is a period during which the frontal lobe of the brain undergoes great change. Research shows that the prefrontal cortex, which governs executive functions, including impulse control and the ability to consider consequences, is the final areas of the brain to develop to maturity. Consequently, juveniles are more susceptible to the pernicious impacts of traumatic experiences and stand to benefit greatly from therapeutic and rehabilitative efforts.

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

10. The Best Starts for Kids Implementation Plan, approved by Ordinance 18373, notes that

adolescence is a critical period when patterns of health-promoting or potentially health-damaging behaviors are established and discusses the potentially life-altering impacts of adverse childhood experiences, trauma and toxic stress. The implementation plan further recognizes that many youth involved in the criminal justice system have routinely been exposed to multiple risk factors and very few protective factors as compared to other youth's experiences. The plan includes reentry-related programmatic approaches for system-involved youth.

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

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

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

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

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

risk of suicide ideation and suicide.

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

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

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

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

20. 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. Furthermore, the department's current policy for the use of isolation for youth at the youth services center generally mirrors the national standards as promulgated by the Juvenile Detention Alternatives Initiative and the Council of Juvenile Correctional Administrators.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

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

B. "Solitary confinement" means the placement of an incarcerated person in a locked room or cell alone with minimal or no contact with persons other than guards, correctional facility staff, and attorneys. Using different terminology for this practice, such as room confinement, segregated housing, protective custody, restrictive housing, restricted housing, restricted engagement, close confinement, special management unit, administrative detention, nonpunitive isolation, temporary isolation or reflection cottage, among others, does not exempt a practice from being "solitary confinement." The use of single person sleeping rooms, during ordinary sleeping or rest periods, does not constitute "solitary confinement." The short-term placement of youth in individual cells for purposes of facility or living unit security issues or for other short-term facility physical plant safety and maintenance issues does not constitute "solitary confinement."

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

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

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

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

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

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

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

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

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

operate the county's juvenile detention facility. Through the community corrections division the department shall administer programs that provide alternatives to confinement in the adult correctional facilities, as well as services and support functions directed toward reduction of the adult correctional facilities' populations.

Through the administrative services division, the department shall administer personnel operation, budget and fiscal operations and other central support services for the department. In addition, the administrative services division shall be responsible for the administration and monitoring of jail health expenditures and services through a jail health levels of service agreement and contract with its health services contractor. The division shall monitor the provision of health care services and is responsible for ensuring that minimum inmate health care needs are met and monitoring the cost-containment provisions for both operational and health care related costs.

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

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

1. House adult persons who are any combination of arrested for, charged for or held on investigation of a criminal offense;
2. House adult persons during trial, and before sentencing after conviction;

3. House adult persons serving sentences not exceeding one year;
4. Maintain records and process and identify property of persons confined or committed to correctional facilities operated by the division;
5. Perform functions related to residential and building security, including supervision of persons confined or committed to correctional facilities operated by the division;
6. Transport confined or committed adult persons to and from court and provide secure escort of those persons outside the facilities;
7. Provide nutritional meals daily to confined or committed adult persons, including preparation of special meals in response to medical and religious requirements;
8. Provide health care to confined or committed adult persons in conjunction with the Seattle-King County department of public health, including medical, dental and psychiatric care;
9. Provide social services to and for confined or committed adult persons, including, but not limited to, the following: classifying those persons; evaluating mentally ill or developmentally disabled confined or committed persons, including referral to available community programs; reviewing those persons with psychiatric problems; reviewing other special population groups; providing general population group management; and providing outside agency access to those persons including special visitation, library, recreational and educational services; and
10. Ensure compliance with laws and regulations applicable to the management and operation of the correctional facilities.

C. The ((~~principle~~)) principal function of the juvenile division is to operate the county's juvenile detention facility in a safe, secure and humane manner as prescribed by county ordinance, state law and court rules. The juvenile division shall ((~~administer~~)) work with the Seattle division and the Kent division to ensure that all divisions effectuate, consistent with appropriate security measures and maintaining public safety, the equal administration to all juveniles detained in detention facilities in King County of alternatives to secure

detention as approved by the court, a school program, a health program and other related programs. ~~((The juvenile division shall be operated in a manner that will give))~~ It shall be the responsibility of the juvenile division to ensure that all juveniles detained in any King County detention facility are given reasonable access to the defense bar, juvenile probation counselors and social service providers and educators in a timely manner, consistent with appropriate security measures and maintaining public safety. All juveniles detained in any King County detention facility shall have access to education programs and to educational hours of service as required by state law.

D. The duties of the administrative services division shall include administering personnel operations, budget and fiscal operations and other central support services involving all divisions in the department to ensure consistency and efficiency of operations. The department's director of the administrative services division shall oversee these operations and services, and the operations and services shall conform to county policies and procedures and to department guidelines and practices.

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

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

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

SECTION 6. The executive is requested to appoint an independent monitor or monitors who, either

alone or together, have expertise in adolescent development, juvenile detention operations and corrections, officer safety and security and on trauma-informed behavioral modification practices to monitor and report to the council on the implementation of sections 2 through 5 of this ordinance twice, by September 1, 2018, and by January 30, 2019. The monitor, or monitoring group, shall consult with stakeholders, including representatives of the King County Juvenile Detention Guild (Department of Adult and Juvenile Detention - Juvenile Detention) representing employees in the department of adult and juvenile detention juvenile division in preparing and completing the required reports. The reports shall include, but not be limited to: a review of the number of times solitary confinement was used during the evaluation period; an evaluation of the documentation of the circumstances for the use of solitary confinement; a determination whether, for each instance solitary confinement was used, it did not exceed four hours; an evaluation of the documentation of supervisory review before the use of solitary confinement; an evaluation of the documentation that youth in solitary confinement have been assessed or reviewed by medical professionals; and an evaluation of the documentation of how youth subject to solitary confinement had full access to education, programming and ordinary necessities, such as medication, meals and reading material, when in solitary confinement.

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

SECTION 8. The provisions of sections 2 through 5 of this ordinance as they pertain to the operation of the department of adult and juvenile detention's adult facilities become effective on July 1, 2018.