



## Legislation Text

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Clerk 06/07/2023

AN ORDINANCE related to requirements for the treatment of and services to juveniles in the custody of the department of adult and juvenile detention; amending Ordinance 18637, Section 2, and K.C.C.2.65.010 and Ordinance 18637, Section 3, and K.C.C.2.65.020 and adding a new section to K.C.C. chapter 2.65.

### 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 Basic Juvenile Court Act 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 Norm 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 facility housed in the Judge Patricia H. Clark Children and Family Justice

Center ("the CCFJC") in Seattle, Washington.

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

7. The Best Starts for Kids Implementation Plan, first 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 Ordinance 18637 reentry-related programmatic approaches for system-involved youth.

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

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

10. The adverse effects of isolation are well-documented. While those 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.

11. 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.

12. 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 those 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.

13. 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, counterproductive.

14. 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 U.S. Department of Justice, has made eliminating the use of solitary confinement on youth at the state and local level a priority.

15. 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.

16. 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.

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

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

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

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

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

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

B. "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))~~ the person's confinement begins before the person's eighteenth birthday.

C. "Solitary confinement" means the involuntary placement of ~~((an incarcerated person))~~ a juvenile 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, or temporary isolation or reflection cottage, among others, does not exempt a practice from being "solitary confinement." The following are not "solitary confinement":

1. The use of single person ~~((sleeping rooms))~~ cells, during ordinary sleeping or rest periods~~((, does not constitute "solitary confinement."))~~;
2. When a juvenile voluntarily chooses to be in a cell alone;
3. For four hours or less in any twenty-four hour period, ~~((T))~~the ~~((short-term))~~ placement of ~~((youth))~~ a juvenile in an individual cell(s) 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."))~~, including: during security checks, headcounts, and inspections; during the booking, intake, and initial classification and orientation process; or for the purposes of attending court or medical or mental health appointments or treatment. The four-hour maximum shall apply to one or a combination of reasons set forth in this subsection;
4. The placement of a juvenile in any separate room, that is not a cell, for engagement in individualized support, restorative services, or one-on-one programming.

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

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 or due to lack of staffing. In a civil action brought by a person alleging to have been injured by a violation of this chapter, if the person is the prevailing party, the person shall be entitled to recover reasonable litigation fees, including attorneys' fees, and costs. 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))~~ shall 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))~~;

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

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

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

~~((E-))~~ F. 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;

G. Procedures for a medical or mental health professional to check in with any juvenile who, outside of ordinary sleep or rest periods, voluntarily chooses to be alone in a single cell. Procedures shall require that the medical or mental health professional check in with the juvenile within four hours of the juvenile's voluntarily separating from others, 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;

H. Procedures to ensure that juveniles placed 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 according to appropriate policies; and

I. Procedures to ensure 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 including the goals and objectives to be met in order to reintegrate the juvenile to the general population.

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

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

1. A discussion of challenges, progress and setbacks, and any significant management, policy, or operating environment changes that have occurred since the prior report related to behavioral interventions and confinement of juveniles at county detention facilities;
2. A review of the number of times solitary confinement was used during the evaluation period;
3. An evaluation of the circumstances for the use of solitary confinement;
4. A review of the average duration of solitary confinement incidents, including an evaluation of any incident exceeding four hours;
5. A review of the documentation of supervisory review before the use of solitary confinement, including an evaluation of any incidents exceeding two hours when supervisory review did not occur;
6. A review of the documentation of medical and mental health assessments of youth in solitary confinement, including an evaluation of any incidents when health clinic staff was not notified within one hour or an assessment by a medical professional was not completed within six hours;
7. A review of the documentation of how youth subject to solitary confinement had continued access to education, programming and ordinary necessities, such as medication, meals, and reading material, when in solitary confinement, and an evaluation of any incidents when the access was not documented;
8. The age and race of juveniles involved in each solitary confinement incident;
9. An assessment of the progress by the department of adult and juvenile detention juvenile division on implementing the recommendations outlined in previous monitor reports;
10. Any new recommendations for reducing the use and duration of solitary confinement for juveniles in detention, and recommendations for improving data collection and reporting of incidents of solitary confinement of juveniles in detention; and
11. Any concerning patterns of isolation of juveniles for reasons that do not constitute solitary confinement but may be contributing to potential harm for juveniles in detention.

B. In preparing and completing the reports required by this section, the monitor or monitors shall



consult with stakeholders, including representatives of the King County Juvenile Detention Guild (Department of Adult and Juvenile Detention - Juvenile) representing employees in the department of adult and juvenile detention juvenile division.

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