



Legislation Details (With Text)

File #: 2024-0168 **Version:** 1

Type: Ordinance **Status:** In Committee

File created: 5/21/2024 **In control:** Law and Justice Committee

On agenda: **Final action:**

Enactment date: **Enactment #:**

Title: 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, Ordinance 18637, Section 3, and K.C.C.2.65.020, and Ordinance 18637, Section 4, and K.C.C.2.65.030 and adding a new section to K.C.C. chapter 2.65.

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Indexes: Adult and Juvenile Detention

Code sections:

Attachments: 1. 2024-0168_SR_JuvenileConfinement, 2. 2024-0168_ATT2_Juvenile Confinement Comparison, 3. 2024-0168_ATT3_Restrictive Housing J-YMrP-13.004-2021 Policy, 4. 2024-0168_ATT4_Indpt-Monitor-Appendix A, 5. 2024-0168_SR_JuvenileConfinement8-28, 6. 2024-0168_AmdS1_CB_final, 7. 2024-0168_AMD1_toS1Safeguardsfinal, 8. 2024-0168_AmdT1

Date	Ver.	Action By	Action	Result
8/28/2024	1	Law and Justice Committee	Deferred	
5/22/2024	1	Law and Justice Committee	Deferred	
5/21/2024	1	Metropolitan King County Council	Introduced and Referred	

Clerk 05/15/2024

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, Ordinance 18637, Section 3, and K.C.C.2.65.020, and Ordinance 18637, Section 4, and K.C.C.2.65.030 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 generally transferred to 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 independent monitoring team report July 1, 2021 - March 31, 2022 states, "Because the Ordinance, as written, defines restrictive housing to situations when one-on-one programming may be required by court-ordered separation of detainees, is necessary if a single female is in the juvenile facility, and may be a preferred therapeutic intervention in helping a youth do restorative problem solving or a step towards reintegrating a youth to the unit, the independent monitors respectfully propose that the Ordinance be amended to address such unintended

consequences." In the same report, the independent monitoring team also recommended making clarifications to K.C.C. chapter 2.65 to allow youth to voluntarily spend time in their rooms.

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 consequence of not being able to use restoration hall, a space that allowed staff to assist youth in working through a restorative process in a specialized unit.

22. The Washington state department of children, youth & families, Juvenile Room Confinement and Isolation in Washington State: Initial Report to the legislature, January 2023, states, "To the extent the intent of the law is to reduce the harm engendered by the lack of access to social connection and rehabilitative activities, we recommend that the definition of isolation should not include instances where youth are engaging in one-on-one programming with staff."

23. The juvenile detention division engaged a consultant to engage a juvenile detention safety and security analysis, with a report published in October 2023. The report recommended the reinstatement of restoration hall, with supervisory safeguards to prevent misuse.

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 to which a juvenile is assigned for sleeping, as evidenced by the presence of bedding, a toilet, or other features necessary for daily living and where a juvenile is confined alone, separated from other juveniles, with limited contact with others.

B. "Imminent harm" means immediate and impending threat of a person causing bodily injury to self or others.

C. "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.

~~((B-))~~ D. "One-on-one programming" is programming where juvenile detention staff engage individually with a juvenile outside of a cell for behavior management, de-escalation, educational programming, skill-building or recreational activities.

E. "Solitary confinement" means the involuntary placement of ~~((an incarcerated person in a locked room or cell alone))~~ a juvenile in a cell or alone in a locked room 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 following placements are not "solitary confinement":

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

2. When a juvenile voluntarily chooses to isolate from the general population, including choosing to remain in the juvenile's cell outside of ordinary sleep and rest periods;

3. The short-term placement of ~~((youth))~~ a juvenile in ~~((individual cells))~~ a cell or alone in a locked room for purposes of facility or living unit security issues or for other short-term facility physical plant safety and maintenance issues, including:

a. during security checks, headcounts, and inspections;

b. during the booking, intake, and initial classification and orientation process; and

c. waiting for transport to court or medical or mental health appointments or treatment, or waiting to attend court or medical or mental health appointments or treatment;

4. The placement of a juvenile in a locked room, that is not a cell, for one-on-one programming;

5. The placement of a juvenile in the infirmary as determined necessary by a medical or mental health professional for medical or mental health reasons; and

6. The assignment of a single juvenile to a residence hall when there are no other safe alternatives for complying with a court order or maintaining appropriate gender separation, as long as any juveniles involved have similar programming schedules as juveniles in other living halls in the facility.

F. "Supervisor" means the person to whom a juvenile detention officer or adult corrections officer directly reports.

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

A. 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.

B. The department of adult and juvenile detention must develop policies and procedures for the use of solitary confinement with the goal of limiting such events and their 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))~~ 1. Policies and procedures setting out the preventative measures to be employed 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.))~~ 2. 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. The four-hour limit may be exceeded if the juvenile continues to pose a risk of imminent harm and if the following requirements are met:

a. the reason for solitary confinement is documented, including the basis for the extension, the date and time the juvenile was first placed in solitary confinement, and when the juvenile is eventually released from solitary confinement;

b. an individualized plan that includes the goals and objectives to be met in order to reintegrate the juvenile to the general population is developed; and

c. the division director or designee provides documented authorization every four hours thereafter;

~~((C.))~~ 3. A requirement that any use of solitary confinement be subject to review by supervisors;

~~((D.))~~ 4. A requirement that mental health or medical professionals assess or evaluate any ((youth)) juvenile housed in solitary confinement as soon as possible after the ((youth's being placed)) juvenile's placement in solitary confinement, and that qualified 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

~~((E.))~~ 5. Procedures to ensure ((youth's)) juvenile's continued access to education, programming, and ordinary necessities, such as medication, meals, and reading material, when in solitary confinement.

C. For placements exempt from the definition of solitary confinement as referred to in K.C.C. 2.65.010.E.3. through 6., the department of adult and juvenile detention must develop policies and procedures for such placements. The procedures must direct that the placement is used in a manner that prioritizes the safety and well-being of juveniles and is limited in use and duration to only what is necessary for safe operations when no less restrictive alternatives are available.

D. In a civil action brought by a person alleging to have been injured by a violation of this section, if the person is the prevailing party, the person shall be entitled to recover reasonable litigation fees, including attorneys' fees, and costs.

SECTION 3. Ordinance 18637, Section 4, and K.C.C.2.65.030 are each amended to read as follows:

It is the policy of King County that the solitary confinement of juveniles shall occur only rarely and in

limited circumstances as authorized in (~~Ordinance 18637~~) this chapter. The policies and practices required by (~~Ordinance 18637~~) this chapter 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.

NEW SECTION. SECTION 4. 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 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 incidents exceeding four hours;
5. A review of the documentation of supervisory review of the use of solitary confinement, including an evaluation of any incidents when supervisory review was not documented as occurring in accordance with policy requirements;
6. A review of the documentation of medical and mental health assessments of youth in solitary

confinement, including an evaluation of any incidents when the assessments were not documented as occurring in accordance with policy requirements;

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 such 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. Discussion of any concerning patterns of juvenile placements, exempt from the definition of solitary confinement in K.C.C. 2.65.010.E.2. through 6., that may be contributing to potential harm for juveniles in detention, including documentation of the number and duration of such incidents and recommendations for reducing the use and duration of such placements.

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 and justice committee or its successor.