

RCW 72.01.410 Placement of person convicted as an adult for a felony offense committed under the age of eighteen. (1) Whenever any person is convicted as an adult in the courts of this state of a felony offense committed under the age of eighteen, and is committed for a term of confinement, that person shall be initially placed in a facility operated by the department of children, youth, and families. The department of corrections shall determine the person's earned release date.

(a) While in the custody of the department of children, youth, and families, the person must have the same treatment, housing options, transfer, and access to program resources as any other person committed to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under (d) of this subsection, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. The person shall not be transferred to the custody of the department of corrections without the approval of the department of children, youth, and families until the person reaches the age of twenty-five.

(b) If the person's sentence includes a term of community custody, the department of children, youth, and families shall not release the person to community custody until the department of corrections has approved the person's release plan pursuant to RCW 9.94A.729(5)(b). If a person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the person completes the ordered term of confinement prior to age twenty-five.

(c) If the department of children, youth, and families determines that retaining custody of the person in a facility of the department of children, youth, and families presents a significant safety risk, the department of children, youth, and families may transfer the person to the custody of the department of corrections.

(d) The department of corrections must retain authority over custody decisions relating to a person whose earned release date is on or after the person's twenty-fifth birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under RCW 72.01.412, and must approve any leave from the facility. When the person turns age twenty-five, he or she must be transferred to the department of corrections, except as described under RCW 72.01.412. The department of children, youth, and families has all routine and day-to-day operations authority for the person while the person is in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, a person under the age of eighteen who is transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from other persons in custody who are eighteen years of age or older, until the person reaches the age of eighteen.

(b) A person who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for persons under the age of eighteen if the secretary of corrections determines that: (i) The person's needs and the rehabilitation goals for the person could continue to be better met by the programs and housing environment that is separate from other persons in custody who are eighteen years of age and older; and (ii)

the programs or housing environment for persons under the age of eighteen will not be substantially affected by the continued placement of the person in that environment. The person may remain placed in a housing unit for persons under the age of eighteen until such time as the secretary of corrections determines that the person's needs and goals are no longer better met in that environment but in no case past the person's twenty-fifth birthday.

(c) A person transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

(3) The department of children, youth, and families must review the placement of a person over age twenty-one in the custody of the department of children, youth, and families under this section to determine whether the person should be transferred to the custody of the department of corrections. The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age twenty-three if the person's commitment period in a juvenile institution extends beyond the person's twenty-third birthday. [2019 c 322 s 2; 2017 3rd sp.s. c 6 s 728; 2015 c 156 s 2; 2002 c 171 s 1; 1997 c 338 s 41; 1994 c 220 s 1; 1981 c 136 s 74; 1979 c 141 s 166; 1959 c 140 s 1.]

Findings—Intent—2019 c 322: "The legislature recognizes state and national efforts to reform policies that incarcerate youth and young adults in the adult criminal justice system. The legislature acknowledges that transferring youth and young adults to the adult criminal justice system is not effective in reducing future criminal behavior. Youth and young adults incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities.

The legislature intends to enhance community safety by emphasizing rehabilitation of juveniles convicted even of the most serious violent offenses under the adult criminal justice system. Juveniles adjudicated as adults should be served and housed within the facilities of the juvenile rehabilitation administration up until age twenty-five, but released earlier if their sentence ends prior to that. In doing so, the legislature takes advantage of recent changes made by congress during the reauthorization of the juvenile justice and delinquency prevention act by the juvenile justice reform act of 2018 that allow youth and young adults who at the time of their offense are younger than the maximum age of confinement in a juvenile correctional facility, to be placed in a juvenile correctional facility by operation of state law. The emphasis on rehabilitation up to age twenty-five reflects similar programming in other states, which has significantly reduced recidivism of juveniles confined in adult correctional facilities." [2019 c 322 s 1.]

Effective date—2017 3rd sp.s. c 6 ss 601-631, 701-728, and 804:
See note following RCW 13.04.011.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—2002 c 171: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 27, 2002]." [2002 c 171 s 3.]

Finding—Evaluation—Report—1997 c 338: See note following RCW 13.40.0357.

Severability—Effective dates—1997 c 338: See notes following RCW 5.60.060.

Effective date—1981 c 136: See RCW 72.09.900.

Juvenile not to be confined with adult inmates: RCW 13.04.116.