

Chapter 72.05 RCW
CHILDREN AND YOUTH SERVICES

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RCW 72.05.010 Declaration of purpose. (1) The purposes of RCW 72.05.010 through 72.05.210 are: To provide for every child with behavior problems, persons with disabilities, and hearing and visually impaired children, within the purview of RCW 72.05.010 through 72.05.210, as now or hereafter amended, such care, guidance and instruction, control and treatment as will best serve the welfare of the child or person and society; to insure nonpolitical and qualified operation, supervision, management, and control of the Green Hill school, the Naselle Youth Camp, Echo Glen, Lakeland Village, Rainier school, the Yakima Valley school, Fircrest school, the Child Study and Treatment Center and Secondary School of western state hospital, and like residential state schools, camps, and centers hereafter established; and to provide for the persons committed or admitted to those schools that type of care, instruction, and treatment most likely to accomplish their rehabilitation and restoration to normal citizenship.

(2) To further such purposes, Green Hill School, Echo Glen, Naselle Youth Camp, and such other juvenile rehabilitation facilities, as may hereafter be established, are placed under the department of children, youth, and families; Lakeland Village, Rainier school, the Yakima Valley school, Fircrest school, the Child Study and Treatment Center and Secondary School of western state hospital, and like residential state schools, camps, and centers, hereafter established, are placed under the department of social and health services. [2020 c 274 s 54; 2017 3rd sp.s. c 6 s 701; 1985 c 378 s 9; 1980 c 167 s 7; 1979 ex.s. c 217 s 7; 1979 c 141 s 177; 1959 c 28 s 72.05.010. Prior: 1951 c 234 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.

Severability—Effective date—1985 c 378: See notes following RCW 72.01.050.

Effective date—1979 ex.s. c 217: See note following RCW 28A.190.030.

RCW 72.05.020 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(2) "Department" means the department of children, youth, and families.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(5) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(6) "Postpartum recovery" means (a) the entire period a youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic.

(7) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(8) "Secretary" means the secretary of the department.

(9) "Service provider" means the entity that operates a community facility.

(10) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the institution or community facility to another location from the moment she leaves the institution or community facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the institution or community facility to a transport vehicle and from the vehicle to the other location. [2017 3rd sp.s. c 6 s 702; 2010 c 181 s 7; 1998 c 269 s 2; 1979 c 141 s 178; 1970 ex.s. c 18 s 58; 1959 c 28 s 72.05.020. Prior: 1951 c 234 s 2. Formerly RCW 43.19.260.]

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.

Intent—Finding—1998 c 269: "It is the intent of the legislature to:

(1) Enhance public safety and maximize the rehabilitative potential of juvenile offenders through modifications to licensed community residential placements for juveniles;

(2) Ensure community support for community facilities by enabling community participation in decisions involving these facilities and assuring the safety of communities in which community facilities for juvenile offenders are located; and

(3) Improve public safety by strengthening the safeguards in placement, oversight, and monitoring of the juvenile offenders placed in the community, and by establishing minimum standards for operation of licensed residential community facilities. The legislature finds that community support and participation is vital to the success of community programming." [1998 c 269 s 1.]

Effective date—1998 c 269: "This act takes effect September 1, 1998." [1998 c 269 s 19.]

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

RCW 72.05.130 Powers and duties of department—"Close security" institutions designated. The department of social and health services and the department of children, youth, and families shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control, and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities, placed under the control of each, except for the programs of education provided pursuant to RCW 28A.190.030 through 28A.190.050 which shall be established, operated, and administered by the school district conducting the program, and in order to accomplish these purposes, the powers and duties of the secretary of the department of social and health services and the secretary of the department of children, youth, and families for the institutions placed under the respective department shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. Such reports shall not be open to public inspection, but shall be open to the inspection of the governor and to the superior court judges of the state of Washington.

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of persons with disabilities, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the department, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection

with, or apart from, any other state institution under the supervision and direction of the secretary of the department of social and health services or the secretary of the department of children, youth, and families. Such diagnostic services shall be available to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state. When the secretary of the department of social and health services or the secretary of the department of children, youth, and families determines it necessary, the secretary of the department of social and health services or the secretary of the department of children, youth, and families may create waiting lists and set priorities for use of diagnostic services for juvenile offenders on the basis of those most severely in need.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the department of social and health services or the department of children, youth, and families, and the transfer of such persons from any such institution, school, or facility to any other such school, institution, or facility: PROVIDED, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court.

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the department. Green Hill school is hereby designated as a "close security" institution to which shall be given the custody of children with the most serious behavior problems. [2020 c 274 s 55; 2017 3rd sp.s. c 6 s 703; 1990 c 33 s 592; 1985 c 378 s 10; 1983 c 191 s 12; 1979 ex.s. c 217 s 8; 1979 c 141 s 179; 1959 c 28 s 72.05.130. Prior: 1951 c 234 s 13. Formerly RCW 43.19.370.]

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.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—Effective date—1985 c 378: See notes following RCW 72.01.050.

Effective date—1979 ex.s. c 217: See note following RCW 28A.190.030.

RCW 72.05.150 "Minimum security" institutions. The department shall have power to acquire, establish, maintain, and operate "minimum security" facilities for the care, custody, education, and treatment of children with less serious behavior problems. Such facilities may include parental schools or homes, farm units, and forest camps.

Admission to such minimum security facilities shall be by juvenile court commitment or by transfer as herein otherwise provided. In carrying out the purposes of this section, the department may establish or acquire the use of such facilities by gift, purchase, lease, contract, or other arrangement with existing public entities, and to that end the secretary may execute necessary leases, contracts, or other agreements. In establishing forest camps, the department may contract with other divisions of the state and the federal government; including, but not limited to, the department of natural resources, the state parks and recreation commission, the U.S. forest service, and the national park service, on a basis whereby such camps may be made as nearly as possible self-sustaining. Under any such arrangement the contracting agency shall reimburse the department for the value of services which may be rendered by the inmates of a camp. [1979 ex.s. c 67 s 6; 1979 c 141 s 181; 1959 c 28 s 72.05.150. Prior: 1951 c 234 s 15. Formerly RCW 43.19.390.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.351.

RCW 72.05.152 Juvenile forest camps—Industrial insurance benefits prohibited—Exceptions. No inmate of a juvenile forest camp who is affected by this chapter or receives benefits pursuant to RCW 72.05.152 and 72.05.154 shall be considered as an employee or to be employed by the state or the department of social and health services or the department of natural resources, nor shall any such inmate, except those provided for in RCW 72.05.154, come within any of the provisions of the workers' compensation act, or be entitled to any benefits thereunder, whether on behalf of himself or herself or any other person. All moneys paid to inmates shall be considered a gratuity. [2012 c 117 s 459; 1987 c 185 s 37; 1973 c 68 s 1.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Effective date—1973 c 68: "This 1973 act shall take effect on July 1, 1973." [1973 c 68 s 3.]

RCW 72.05.154 Juvenile forest camps—Industrial insurance—Eligibility for benefits—Exceptions. From and after July 1, 1973, any inmate working in a juvenile forest camp established and operated pursuant to RCW 72.05.150, pursuant to an agreement between the department of children, youth, and families and the department of natural resources shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions provided by this section.

No inmate as described in RCW 72.05.152, until released upon an order of parole by the department of children, youth, and families, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his or her dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter amended, or to the benefits of chapter 51.36 RCW relating to medical aid: PROVIDED, That RCW 72.05.152 and this section shall not affect

the eligibility, payment or distribution of benefits for any industrial injury to the inmate which occurred prior to his or her existing commitment to the department of children, youth, and families.

Any and all premiums or assessments as may arise under this section pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid by the state department of natural resources. [2017 3rd sp.s. c 6 s 704; 2012 c 117 s 460; 1973 c 68 s 2.]

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—1973 c 68: See note following RCW 72.05.152.

RCW 72.05.160 Contracts with other divisions, agencies authorized. In carrying out the provisions of RCW 72.05.010 through 72.05.210, the department shall have power to contract with other divisions or departments of the state or its political subdivisions, with any agency of the federal government, or with any private social agency. [1979 c 141 s 182; 1959 c 28 s 72.05.160. Prior: 1951 c 234 s 16. Formerly RCW 43.19.400.]

RCW 72.05.170 Counseling and consultative services. The department may provide professional counseling services to delinquent children and their parents, consultative services to communities dealing with problems of children and youth, and may give assistance to law enforcement agencies by means of juvenile control officers who may be selected from the field of police work. [1977 ex.s. c 80 s 45; 1959 c 28 s 72.05.170. Prior: 1955 c 240 s 1. Formerly RCW 43.19.405.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 72.05.200 Parental right to provide treatment preserved. Nothing in RCW 72.05.010 through 72.05.210 shall be construed as limiting the right of a parent, guardian or person standing in loco parentis in providing any medical or other remedial treatment recognized or permitted under the laws of this state. [1959 c 28 s 72.05.200. Prior: 1951 c 234 s 19. Formerly RCW 43.19.410.]

RCW 72.05.210 Juvenile court law—Applicability—Synonymous terms. RCW 72.05.010 through 72.05.210 shall be construed in connection with and supplemental to the juvenile court law as embraced in chapter 13.04 RCW. Process, procedure, probation by the court prior to commitment, and commitment shall be as provided therein. The terms "delinquency", "delinquent" and "delinquent children" as used and applied in the juvenile court law and the terms "behavior problems" and "children with behavior problems" as used in RCW 72.05.010 through

72.05.210 are synonymous and interchangeable. [1959 c 28 s 72.05.210. Prior: 1951 c 234 s 20. Formerly RCW 43.19.420.]

RCW 72.05.310 Parental schools—Personnel. The department may employ personnel, including but not limited to, superintendents and all other officers, agents, and teachers necessary to the operation of parental schools. [1979 c 141 s 184; 1959 c 28 s 72.05.310. Prior: 1957 c 297 s 3. Formerly RCW 43.28.170.]

RCW 72.05.400 Operation of community facility—Establishing or relocating—Public participation required—Secretary's duties. (1) Whenever the department operates, or the secretary enters a contract to operate, a community facility, the community facility may be operated only after the public notification and opportunities for review and comment as required by this section.

(2) The secretary shall establish a process for early and continuous public participation in establishing or relocating community facilities. The process shall include, at a minimum, public meetings in the local communities affected, as well as opportunities for written and oral comments, in the following manner:

(a) If there are more than three sites initially selected as potential locations and the selection process by the secretary or a service provider reduces the number of possible sites for a community facility to no fewer than three, the secretary or the chief operating officer of the service provider shall notify the public of the possible siting and hold at least two public hearings in each community where a community facility may be sited.

(b) When the secretary or service provider has determined the community facility's location, the secretary or the chief operating officer of the service provider shall hold at least one additional public hearing in the community where the community facility will be sited.

(c) When the secretary has entered negotiations with a service provider and only one site is under consideration, then at least two public hearings shall be held.

(d) To provide adequate notice of, and opportunity for interested persons to comment on, a proposed location, the secretary or the chief operating officer of the service provider shall provide at least fourteen days' advance notice of the meeting to all newspapers of general circulation in the community, all radio and television stations generally available to persons in the community, any school district in which the community facility would be sited or whose boundary is within two miles of a proposed community facility, any library district in which the community facility would be sited, local business or fraternal organizations that request notification from the secretary or agency, and any person or property owner within a one-half mile radius of the proposed community facility. Before initiating this process, the department shall contact local government planning agencies in the communities containing the proposed community facility. The department shall coordinate with local government agencies to ensure that opportunities are provided for effective citizen input and to reduce the duplication of notice and meetings.

(3) The secretary shall not issue a license to any service provider until the service provider submits proof that the requirements of this section have been met.

(4) This section shall apply only to community facilities sited after September 1, 1998. [1998 c 269 s 5.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.405 Juveniles in community facility—Infraction policy—Return to institution upon serious violation—Definitions by rule.

The department shall adopt an infraction policy for juveniles placed in community facilities. The policy shall require written documentation by the department and service providers of all infractions and violations by juveniles of conditions set by the department. Any juvenile who commits a serious infraction or a serious violation of conditions set by the department must be returned to an institution. The secretary shall not return a juvenile to a community facility until a new risk assessment has been completed and the secretary reasonably believes that the juvenile can adhere to the conditions set by the department. The department must define the terms "serious infraction" and "serious violation" in rule, which must include the commission of any criminal offense excluding unlawful use or possession of a controlled substance or use or possession of an alcoholic beverage. The department shall adopt and implement rules based on empirically validated best practices to appropriately address offenses involving unlawful use or possession of a controlled substance and unlawful use or possession of alcohol committed by individuals placed in juvenile community facilities. [2019 c 468 s 2; 1998 c 269 s 6.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.410 Violations by juveniles in community facility—Toll-free hotline for reporting. (1) The department shall publish and operate a staffed, toll-free twenty-four-hour hotline for the purpose of receiving reports of violation of conditions set for juveniles who are placed in community facilities.

(2) The department shall include the phone number on all documents distributed to the juvenile and the juvenile's employer, school, parents, and treatment providers.

(3) The department shall include the phone number in every contract it executes with any service provider after September 1, 1998. [1998 c 269 s 8.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.415 Establishing community placement oversight committees—Review and recommendations—Liability—Travel expenses—Notice to law enforcement of placement decisions. (1) The secretary shall develop a process with local governments that allows each

community to establish a community placement oversight committee. The department may conduct community awareness activities. The community placement oversight committees developed pursuant to this section shall be implemented no later than September 1, 1999.

(2) The community placement oversight committees may review and make recommendations regarding the placement of any juvenile who the secretary proposes to place in the community facility.

(3) The community placement oversight committees, their members, and any agency represented by a member shall not be liable in any cause of action as a result of its decision in regard to a proposed placement of a juvenile unless the committee acts with gross negligence or bad faith in making a placement decision.

(4) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) Except as provided in RCW 13.40.215, at least seventy-two hours prior to placing a juvenile in a community facility the secretary shall provide to the chief law enforcement officer of the jurisdiction in which the community facility is sited: (a) The name of the juvenile; (b) the juvenile's criminal history; and (c) such other relevant and disclosable information as the law enforcement officer may require. [2017 3rd sp.s. c 6 s 705; 1998 c 269 s 9.]

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.

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.420 Placement in community facility—Necessary conditions and actions—Department's duties. (1) The department shall not initially place an offender in a community facility unless:

(a) The department has conducted a risk assessment, including a determination of drug and alcohol abuse, and the results indicate the juvenile will pose not more than a minimum risk to public safety; and

(b) The offender has spent at least ten percent of his or her sentence, but in no event less than thirty days, in a secure institution operated by, or under contract with, the department.

The risk assessment must include consideration of all prior convictions and all available nonconviction data released upon request under RCW 10.97.050, and any serious infractions or serious violations while under the jurisdiction of the secretary or the courts.

(2) No juvenile offender may be placed in a community facility until the juvenile's student records and information have been received and the department has reviewed them in conjunction with all other information used for risk assessment, security classification, and placement of the juvenile.

(3) A juvenile offender shall not be placed in a community facility until the department's risk assessment and security classification is complete and local law enforcement has been properly notified. [1998 c 269 s 10.]

~~Intent—Finding—Effective date—1998 c 269~~: See notes following RCW 72.05.020.

RCW 72.05.425 Student records and information—Necessary for risk assessment, security classification, and proper placement—Rules.

(1) The department shall establish by rule, in consultation with the office of the superintendent of public instruction, those student records and information necessary to conduct a risk assessment, make a security classification, and ensure proper placement. Those records shall include at least:

- (a) Any history of placement in special education programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent, aggressive, or disruptive behavior, or gang membership, or behavior listed in RCW 13.04.155;
- (d) Any use of weapons that is illegal or in violation of school policy;
- (e) Any history of truancy;
- (f) Any drug or alcohol abuse;
- (g) Any health conditions affecting the juvenile's placement needs; and
- (h) Any other relevant information.

(2) For purposes of this section "gang" has the meaning defined in RCW 28A.225.225. [1998 c 269 s 13.]

~~Intent—Finding—Effective date—1998 c 269~~: See notes following RCW 72.05.020.

RCW 72.05.430 Placement and supervision of juveniles in community facility—Monitoring requirements—Copies of agreements. (1)

Whenever the department operates, or the secretary enters a contract to operate, a community facility, the placement and supervision of juveniles must be accomplished in accordance with this section.

(2) The secretary shall require that any juvenile placed in a community facility and who is employed or assigned as a volunteer be subject to monitoring for compliance with requirements for attendance at his or her job or assignment. The monitoring requirements shall be included in a written agreement between the employer or supervisor, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

- (a) Acknowledgment of the juvenile's offender status;
- (b) The name, address, and telephone number of the community facility at which the juvenile resides;
- (c) The twenty-four-hour telephone number required under RCW 72.05.410;
- (d) The name and work telephone number of all persons responsible for the supervision of the juvenile;
- (e) A prohibition on the juvenile's departure from the work or volunteer site without prior approval of the person in charge of the community facility;
- (f) A prohibition on personal telephone calls except to the community facility;
- (g) A prohibition on receiving compensation in any form other than a negotiable instrument;

(h) A requirement that rest breaks during work hours be taken only in those areas at the location which are designated for such breaks;

(i) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;

(j) A requirement that any unexcused absence, tardiness, or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;

(k) A requirement that any notice from the juvenile that he or she will not report to the work or volunteer site be verified as legitimate by contacting the person in charge of the community facility; and

(l) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(3) The secretary shall require that any juvenile placed in a community facility and who is enrolled in a public or private school be subject to monitoring for compliance with requirements for attendance at his or her school. The monitoring requirements shall be included in a written agreement between the school district or appropriate administrative officer, the secretary or chief operating officer of the contracting agency, and the juvenile. The requirements shall include, at a minimum, the following:

(a) Acknowledgment of the juvenile's offender status;

(b) The name, address, and telephone number of the community facility at which the juvenile resides;

(c) The twenty-four-hour telephone number required under RCW 72.05.410;

(d) The name and work telephone number of at least two persons at the school to contact if issues arise concerning the juvenile's compliance with the terms of his or her attendance at school;

(e) A prohibition on the juvenile's departure from the school without prior approval of the appropriate person at the school;

(f) A prohibition on personal telephone calls except to the community facility;

(g) A requirement that the juvenile remain on school grounds except for authorized and supervised school activities;

(h) A prohibition on visits from persons not approved in advance by the person in charge of the community facility;

(i) A requirement that any unexcused absence or departure by the juvenile be reported immediately upon discovery to the person in charge of the community facility;

(j) A requirement that any notice from the juvenile that he or she will not attend school be verified as legitimate by contacting the person in charge of the community facility; and

(k) An agreement that the community facility will conduct and document random visits to determine compliance by the juvenile with the terms of this section.

(4) The secretary shall require that when any juvenile placed in a community facility is employed, assigned as a volunteer, or enrolled in a public or private school:

(a) Program staff members shall make and document periodic and random accountability checks while the juvenile is at the school or work facility;

(b) A program counselor assigned to the juvenile shall contact the juvenile's employer, teacher, or school counselor regularly to discuss school or job performance-related issues.

(5) The department shall maintain a copy of all agreements executed under this section. The department shall also provide each affected juvenile with a copy of every agreement to which he or she is a party. The service provider shall maintain a copy of every agreement it executes under this section. [1998 c 269 s 14.]

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.435 Common use of residential group homes for juvenile offenders—Placement of juvenile convicted of a class A felony. (1) The department shall establish by rule a policy for the common use of residential group homes for juvenile offenders under the jurisdiction of the department.

(2) A juvenile confined under the jurisdiction of the department who is convicted of a class A felony is not eligible for placement in a community facility operated by the department that houses juveniles under the department's care pursuant to a dependency proceeding under chapter 13.34 RCW unless:

(a) The juvenile is housed in a separate living unit solely for juvenile offenders;

(b) The community facility is a specialized treatment program and the youth is not assessed as sexually aggressive under RCW 13.40.470; or

(c) The community facility is a specialized treatment program that houses one or more sexually aggressive youth and the juvenile is not assessed as sexually vulnerable under RCW 13.40.470. [2017 3rd sp.s. c 6 s 706; (2018 c 58 s 52 expired July 1, 2019); 1998 c 269 s 15.]

Expiration date—2018 c 58 s 52: "Section 52 of this act expires July 1, 2019." [2018 c 58 s 53.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

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.

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.440 Eligibility for employment or volunteer position with juveniles—Must report convictions—Rules. (1) A person shall not be eligible for an employed or volunteer position within the department of children, youth, and families or any agency with which it contracts in which the person may have regular access to juveniles under the jurisdiction of the department of children, youth, and families or the department of corrections if the person has been convicted of one or more of the following:

(a) Any felony sex offense;

(b) Any violent offense, as defined in RCW 9.94A.030.

(2) Subsection (1) of this section applies only to persons hired by the department or any of its contracting agencies after September 1, 1998.

(3) Any person employed by the department of children, youth, and families, or by any contracting agency, who may have regular access to juveniles under the jurisdiction of the department of children, youth, and families or the department of corrections and who is convicted of an offense set forth in this section after September 1, 1998, shall report the conviction to his or her supervisor. The report must be made within seven days of conviction. Failure to report within seven days of conviction constitutes misconduct under Title 50 RCW.

(4) For purposes of this section "may have regular access to juveniles" means access for more than a nominal amount of time.

(5) The department shall adopt rules to implement this section. [2017 3rd sp.s. c 6 s 707; 1998 c 269 s 16.]

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.

Intent—Finding—Effective date—1998 c 269: See notes following RCW 72.05.020.

RCW 72.05.450 Use of restraints on pregnant youth in custody—Allowed in extraordinary circumstances. (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant youth in an institution or a community facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee of an institution or community facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event an employee of an institution or community facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of an institution or community facility covered by this chapter must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or community facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee accompanying the pregnant youth shall immediately remove all restraints. [2010 c 181 s 8.]

**RCW 72.05.451 Use of restraints on pregnant youth in custody—
Provision of information to staff and pregnant youth in custody. (1)**

The secretary shall provide an informational packet about the requirements of chapter 181, Laws of 2010 to all medical staff and nonmedical staff of the institution or community facility who are involved in the transportation of youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in RCW 70.48.800.

(2) The secretary shall cause the requirements of chapter 181, Laws of 2010 to be provided to all youth who are pregnant, at the time the secretary assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of chapter 181, Laws of 2010 to be posted in conspicuous locations in the institutions or community facilities, including but not limited to the locations in which medical care is provided within the facilities. [2010 c 181 s 9.]

**RCW 72.05.460 Youth adjudicated/sentenced by tribal court—
Department may provide residential custody services in state juvenile
rehabilitation facility—Contract between department and tribe. (1)**

The department may provide residential custody services in a state juvenile rehabilitation facility to youth adjudicated and sentenced by a court of any federally recognized Indian tribe located within the state of Washington, pursuant to a contract between the department and the tribe that is entered into in compliance with the interlocal cooperation act, chapter 39.34 RCW.

(2) As used in this section:

(a) "Residential custody services" means a comprehensive program established pursuant to RCW 72.05.130 for the custody, care, education, treatment, instruction, guidance, control, and rehabilitation of youth committed to a state juvenile rehabilitation facility.

(b) "State juvenile rehabilitation facility" means an institution as defined in *RCW 13.40.020(13), a community facility as defined in RCW 72.05.020(1), or other juvenile rehabilitation facility operated by the department. [2018 c 31 s 1.]

***Reviser's note:** RCW 13.40.020 was amended by 2021 c 328 s 5, changing subsection (13) to subsection (14), effective January 1, 2022.