

**RCW 13.40.070 Complaints—Screening—Filing information—  
Diversion—Modification of community supervision—Notice to parent or  
guardian—Probation counselor acting for prosecutor—Referral to  
community-based, restorative justice, mediation, or reconciliation  
programs. (Effective until January 1, 2024.)** (1) Complaints referred  
to the juvenile court alleging the commission of an offense shall be  
referred directly to the prosecutor. The prosecutor, upon receipt of a  
complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of  
the court; and

(b) On a basis of available evidence there is probable cause to  
believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under  
both the law of this state and an ordinance of any city or county of  
this state, state law shall govern the prosecutor's screening and  
charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this  
section are met, the prosecutor shall either file an information in  
juvenile court or divert the case, as set forth in subsections (5),  
(6), and (8) of this section. If the prosecutor finds that the  
requirements of subsection (1)(a) and (b) of this section are not met,  
the prosecutor shall maintain a record, for one year, of such decision  
and the reasons therefor. In lieu of filing an information or  
diverting an offense a prosecutor may file a motion to modify  
community supervision where such offense constitutes a violation of  
community supervision.

(4) An information shall be a plain, concise, and definite  
written statement of the essential facts constituting the offense  
charged. It shall be signed by the prosecuting attorney and conform to  
chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile  
court if (a) an alleged offender is accused of an offense that is  
defined as a sex offense or violent offense under RCW 9.94A.030, other  
than assault in the second degree or robbery in the second degree; or  
(b) an alleged offender has been referred by a diversion unit for  
prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall  
divert the case if the alleged offense is a misdemeanor or gross  
misdemeanor or violation and the alleged offense is the offender's  
first offense or violation. If the alleged offender is charged with a  
related offense that may be filed under subsections (5) and (8) of  
this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged  
offender with:

(a) Either prostitution or prostitution loitering and the alleged  
offense is the offender's first prostitution or prostitution loitering  
offense, the prosecutor shall divert the case;

(b) Voyeurism in the second degree, the offender is under  
seventeen years of age, and the alleged offense is the offender's  
first voyeurism in the second degree offense, the prosecutor shall  
divert the case, unless the offender has received two diversions for  
any offense in the previous two years;

(c) Minor selling depictions of himself or herself engaged in  
sexually explicit conduct under RCW 9.68A.053(5) and the alleged  
offense is the offender's first violation of RCW 9.68A.053(5), the  
prosecutor shall divert the case; or

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in RCW 9.68A.053(1) and the alleged offense is the offender's first violation of RCW 9.68A.053(1), the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(10) The responsibilities of the prosecutor under subsections (1) through (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to community-based programs, restorative justice programs, mediation, or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

(12) Prosecutors and juvenile courts are encouraged to engage with and partner with community-based programs to expand, improve, and increase options to divert youth from formal processing in juvenile court. Nothing in this chapter should be read to limit partnership with community-based programs to create diversion opportunities for juveniles. [2019 c 128 § 8; 2018 c 82 § 1; 2017 c 292 § 2; 2013 c 179 § 3; 2010 c 289 § 7; 2009 c 252 § 3; 2003 c 53 § 98; 2001 c 175 § 2; 1997 c 338 § 17; 1994 sp.s. c 7 § 543; 1992 c 205 § 107; 1989 c 407 § 9; 1983 c 191 § 18; 1981 c 299 § 7; 1979 c 155 § 60; 1977 ex.s. c 291 § 61.]

**Short title—2019 c 128:** See note following RCW 13.40.660.

**Finding—2013 c 179:** See note following RCW 13.40.042.

**Findings—2009 c 252:** See note following RCW 13.40.213.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**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.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Application—1994 sp.s. c 7 §§ 540-545:** See note following RCW 13.50.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

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(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile court if (a) an alleged offender is accused of an offense that is defined as a sex offense or violent offense under RCW 9.94A.030, other than assault in the second degree or robbery in the second degree; or (b) an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that may be filed under subsections (5) and (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with:

(a) Prostitution loitering and the alleged offense is the offender's first prostitution loitering offense, the prosecutor shall divert the case;

(b) Voyeurism in the second degree, the offender is under seventeen years of age, and the alleged offense is the offender's first voyeurism in the second degree offense, the prosecutor shall divert the case, unless the offender has received two diversions for any offense in the previous two years;

(c) Minor selling depictions of himself or herself engaged in sexually explicit conduct under RCW 9.68A.053(5) and the alleged offense is the offender's first violation of RCW 9.68A.053(5), the prosecutor shall divert the case; or

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in RCW 9.68A.053(1) and the alleged offense is the offender's first violation of RCW 9.68A.053(1), the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

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**Effective date—2020 c 331 §§ 4, 5, and 6:** See note following RCW 7.68.380.

**Finding—2020 c 331:** See note following RCW 7.68.380.

**Short title—2019 c 128:** See note following RCW 13.40.660.

**Finding—2013 c 179:** See note following RCW 13.40.042.

**Findings—2009 c 252:** See note following RCW 13.40.213.

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