
HOUSE BILL 2215

State of Washington 61st Legislature 2009 Regular Session

By Representatives Klippert and Hope

Read first time 02/13/09. Referred to Committee on Human Services.

1 AN ACT Relating to diversions for offenses in juvenile court; and
2 amending RCW 13.40.070.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.40.070 and 2003 c 53 s 98 are each amended to read
5 as follows:

6 (1) Complaints referred to the juvenile court alleging the
7 commission of an offense shall be referred directly to the prosecutor.
8 The prosecutor, upon receipt of a complaint, shall screen the complaint
9 to determine whether:

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

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

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

18 (3) If the requirements of subsections (1)(a) and (b) of this
19 section are met, the prosecutor shall either file an information in

1 juvenile court or divert the case, as set forth in subsections (5),
2 (6), and (7) of this section. If the prosecutor finds that the
3 requirements of subsection (1)(a) and (b) of this section are not met,
4 the prosecutor shall maintain a record, for one year, of such decision
5 and the reasons therefor. In lieu of filing an information or
6 diverting an offense a prosecutor may file a motion to modify community
7 supervision where such offense constitutes a violation of community
8 supervision.

9 (4) An information shall be a plain, concise, and definite written
10 statement of the essential facts constituting the offense charged. It
11 shall be signed by the prosecuting attorney and conform to chapter
12 10.37 RCW.

13 (5) Where a case is legally sufficient, the prosecutor shall file
14 an information with the juvenile court if:

15 (a) An alleged offender is accused of a class A felony, a class B
16 felony, an attempt to commit a class B felony, a class C felony listed
17 in RCW 9.94A.411(2) as a crime against persons or listed in RCW
18 9A.46.060 as a crime of harassment, or a class C felony that is a
19 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

20 (b) An alleged offender is accused of a felony and has a criminal
21 history of any felony, or at least two gross misdemeanors, or at least
22 two misdemeanors; or

23 (c) An alleged offender has previously been committed to the
24 department; or

25 (d) An alleged offender has been referred by a diversion unit for
26 prosecution or desires prosecution instead of diversion; or

27 (e) An alleged offender has two or more diversion agreements on the
28 alleged offender's criminal history; or

29 (f) A special allegation has been filed that the offender or an
30 accomplice was armed with a firearm when the offense was committed.

31 (6) Where a case is legally sufficient the prosecutor (~~shall~~) may
32 divert the case if the alleged offense is a misdemeanor or gross
33 misdemeanor or violation and the alleged offense is the offender's
34 first offense or violation. If the alleged offender is charged with a
35 related offense that must or may be filed under subsections (5) and (7)
36 of this section, a case under this subsection may also be filed.

37 (7) Where a case is legally sufficient and falls into neither
38 subsection (5) nor (6) of this section, it may be filed or diverted.

1 In deciding whether to file or divert an offense under this section the
2 prosecutor shall be guided only by the length, seriousness, and recency
3 of the alleged offender's criminal history and the circumstances
4 surrounding the commission of the alleged offense.

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

13 (9) The responsibilities of the prosecutor under subsections (1)
14 through (8) of this section may be performed by a juvenile court
15 probation counselor for any complaint referred to the court alleging
16 the commission of an offense which would not be a felony if committed
17 by an adult, if the prosecutor has given sufficient written notice to
18 the juvenile court that the prosecutor will not review such complaints.

19 (10) The prosecutor, juvenile court probation counselor, or
20 diversion unit may, in exercising their authority under this section or
21 RCW 13.40.080, refer juveniles to mediation or victim offender
22 reconciliation programs. Such mediation or victim offender
23 reconciliation programs shall be voluntary for victims.

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