
HOUSE BILL 2061

State of Washington

54th Legislature

1995 Regular Session

By Representatives Clements, Skinner, Honeyford, Lisk, Thompson and Padden

Read first time 03/01/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to juveniles; amending RCW 9.94A.030, 13.04.030,
2 13.04.116, 13.40.110, and 72.76.010; adding a new section to chapter
3 9.94A RCW; and creating a new section.

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

5 **Sec. 1.** RCW 9.94A.030 and 1994 c 261 s 16 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Collect," or any derivative thereof, "collect and remit," or
10 "collect and deliver," when used with reference to the department of
11 corrections, means that the department is responsible for monitoring
12 and enforcing the offender's sentence with regard to the legal
13 financial obligation, receiving payment thereof from the offender, and,
14 consistent with current law, delivering daily the entire payment to the
15 superior court clerk without depositing it in a departmental account.

16 (2) "Commission" means the sentencing guidelines commission.

17 (3) "Community corrections officer" means an employee of the
18 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence
2 conditions.

3 (4) "Community custody" means that portion of an inmate's sentence
4 of confinement in lieu of earned early release time served in the
5 community subject to controls placed on the inmate's movement and
6 activities by the department of corrections.

7 (5) "Community placement" means that period during which the
8 offender is subject to the conditions of community custody and/or
9 postrelease supervision, which begins either upon completion of the
10 term of confinement (postrelease supervision) or at such time as the
11 offender is transferred to community custody in lieu of earned early
12 release. Community placement may consist of entirely community
13 custody, entirely postrelease supervision, or a combination of the two.

14 (6) "Community service" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender.

17 (7) "Community supervision" means a period of time during which a
18 convicted offender is subject to crime-related prohibitions and other
19 sentence conditions imposed by a court pursuant to this chapter or RCW
20 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
21 may include crime-related prohibitions and other conditions imposed
22 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
23 for out-of-state supervision of parolees and probationers, RCW
24 9.95.270, community supervision is the functional equivalent of
25 probation and should be considered the same as probation by other
26 states.

27 (8) "Confinement" means total or partial confinement as defined in
28 this section.

29 (9) "Conviction" means an adjudication of guilt pursuant to Titles
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
31 acceptance of a plea of guilty.

32 (10) "Court-ordered legal financial obligation" means a sum of
33 money that is ordered by a superior court of the state of Washington
34 for legal financial obligations which may include restitution to the
35 victim, statutorily imposed crime victims' compensation fees as
36 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
37 drug funds, court-appointed attorneys' fees, and costs of defense,
38 fines, and any other financial obligation that is assessed to the
39 offender as a result of a felony conviction. Upon conviction for

1 vehicular assault while under the influence of intoxicating liquor or
2 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
3 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
4 legal financial obligations may also include payment to a public agency
5 of the expense of an emergency response to the incident resulting in
6 the conviction, subject to the provisions in RCW 38.52.430.

7 (11) "Crime-related prohibition" means an order of a court
8 prohibiting conduct that directly relates to the circumstances of the
9 crime for which the offender has been convicted, and shall not be
10 construed to mean orders directing an offender affirmatively to
11 participate in rehabilitative programs or to otherwise perform
12 affirmative conduct.

13 (12)(a) "Criminal history" means the list of a defendant's prior
14 convictions, whether in this state, in federal court, or elsewhere.
15 The history shall include, where known, for each conviction (i) whether
16 the defendant has been placed on probation and the length and terms
17 thereof; and (ii) whether the defendant has been incarcerated and the
18 length of incarceration.

19 (b) "Criminal history" shall always include juvenile convictions
20 for sex offenses and shall also include a defendant's other prior
21 convictions in juvenile court if: (i) The conviction was for an
22 offense which is a felony or a serious traffic offense and is criminal
23 history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen
24 years of age or older at the time the offense was committed; and (iii)
25 with respect to prior juvenile class B and C felonies or serious
26 traffic offenses, the defendant was less than twenty-three years of age
27 at the time the offense for which he or she is being sentenced was
28 committed.

29 (13) "Department" means the department of corrections.

30 (14) "Determinate sentence" means a sentence that states with
31 exactitude the number of actual years, months, or days of total
32 confinement, of partial confinement, of community supervision, the
33 number of actual hours or days of community service work, or dollars or
34 terms of a legal financial obligation. The fact that an offender
35 through "earned early release" can reduce the actual period of
36 confinement shall not affect the classification of the sentence as a
37 determinate sentence.

38 (15) "Disposable earnings" means that part of the earnings of an
39 individual remaining after the deduction from those earnings of any

1 amount required by law to be withheld. For the purposes of this
2 definition, "earnings" means compensation paid or payable for personal
3 services, whether denominated as wages, salary, commission, bonuses, or
4 otherwise, and, notwithstanding any other provision of law making the
5 payments exempt from garnishment, attachment, or other process to
6 satisfy a court-ordered legal financial obligation, specifically
7 includes periodic payments pursuant to pension or retirement programs,
8 or insurance policies of any type, but does not include payments made
9 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
10 or Title 74 RCW.

11 (16) "Drug offense" means:

12 (a) Any felony violation of chapter 69.50 RCW except possession of
13 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
14 controlled substance (RCW 69.50.403);

15 (b) Any offense defined as a felony under federal law that relates
16 to the possession, manufacture, distribution, or transportation of a
17 controlled substance; or

18 (c) Any out-of-state conviction for an offense that under the laws
19 of this state would be a felony classified as a drug offense under (a)
20 of this subsection.

21 (17) "Escape" means:

22 (a) Escape in the first degree (RCW 9A.76.110), escape in the
23 second degree (RCW 9A.76.120), willful failure to return from furlough
24 (RCW 72.66.060), willful failure to return from work release (RCW
25 72.65.070), or willful failure to be available for supervision by the
26 department while in community custody (RCW 72.09.310); or

27 (b) Any federal or out-of-state conviction for an offense that
28 under the laws of this state would be a felony classified as an escape
29 under (a) of this subsection.

30 (18) "Felony traffic offense" means:

31 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
32 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
33 and-run injury-accident (RCW 46.52.020(4)); or

34 (b) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a felony
36 traffic offense under (a) of this subsection.

37 (19) "Fines" means the requirement that the offender pay a specific
38 sum of money over a specific period of time to the court.

1 (20)(a) "First-time offender" means any person who is convicted of
2 a felony (i) not classified as a violent offense or a sex offense under
3 this chapter, or (ii) that is not the manufacture, delivery, or
4 possession with intent to manufacture or deliver a controlled substance
5 classified in schedule I or II that is a narcotic drug or the selling
6 for profit of any controlled substance or counterfeit substance
7 classified in schedule I, RCW 69.50.204, except leaves and flowering
8 tops of marihuana, and except as provided in (b) of this subsection,
9 who previously has never been convicted of a felony in this state,
10 federal court, or another state, and who has never participated in a
11 program of deferred prosecution for a felony offense.

12 (b) For purposes of (a) of this subsection, a juvenile adjudication
13 for an offense committed before the age of fifteen years is not a
14 previous felony conviction except for adjudications of sex offenses.

15 (21) "Most serious offense" means any of the following felonies or
16 a felony attempt to commit any of the following felonies, as now
17 existing or hereafter amended:

18 (a) Any felony defined under any law as a class A felony or
19 criminal solicitation of or criminal conspiracy to commit a class A
20 felony;

21 (b) Assault in the second degree;

22 (c) Assault of a child in the second degree;

23 (d) Child molestation in the second degree;

24 (e) Controlled substance homicide;

25 (f) Extortion in the first degree;

26 (g) Incest when committed against a child under age fourteen;

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Robbery in the second degree;

35 (p) Sexual exploitation;

36 (q) Vehicular assault;

37 (r) Vehicular homicide, when proximately caused by the driving of
38 any vehicle by any person while under the influence of intoxicating

1 liquor or any drug as defined by RCW 46.61.502, or by the operation of
2 any vehicle in a reckless manner;

3 (s) Any other class B felony offense with a finding of sexual
4 motivation, as "sexual motivation" is defined under this section;

5 (t) Any other felony with a deadly weapon verdict under RCW
6 9.94A.125;

7 (u) Any felony offense in effect at any time prior to December 2,
8 1993, that is comparable to a most serious offense under this
9 subsection, or any federal or out-of-state conviction for an offense
10 that under the laws of this state would be a felony classified as a
11 most serious offense under this subsection.

12 (22) "Nonviolent offense" means an offense which is not a violent
13 offense.

14 (23) "Offender" means a person who has committed a felony
15 established by state law ((and)), is ((eighteen)) sixteen years of age
16 or older ((or)), and has not been transferred to juvenile court for
17 prosecution pursuant to section 3 of this act. "Offender" also means
18 a person who is less than ((eighteen)) sixteen years of age but whose
19 case has been transferred by the appropriate juvenile court to a
20 criminal court pursuant to RCW 13.40.110. Throughout this chapter, the
21 terms "offender" and "defendant" are used interchangeably.

22 (24) "Partial confinement" means confinement for no more than one
23 year in a facility or institution operated or utilized under contract
24 by the state or any other unit of government, or, if home detention or
25 work crew has been ordered by the court, in an approved residence, for
26 a substantial portion of each day with the balance of the day spent in
27 the community. Partial confinement includes work release, home
28 detention, work crew, and a combination of work crew and home detention
29 as defined in this section.

30 (25) "Persistent offender" is an offender who:

31 (a) Has been convicted in this state of any felony considered a
32 most serious offense; and

33 (b) Has, before the commission of the offense under (a) of this
34 subsection, been convicted as an offender on at least two separate
35 occasions, whether in this state or elsewhere, of felonies that under
36 the laws of this state would be considered most serious offenses and
37 would be included in the offender score under RCW 9.94A.360; provided
38 that of the two or more previous convictions, at least one conviction

1 must have occurred before the commission of any of the other most
2 serious offenses for which the offender was previously convicted.

3 (26) "Postrelease supervision" is that portion of an offender's
4 community placement that is not community custody.

5 (27) "Restitution" means the requirement that the offender pay a
6 specific sum of money over a specific period of time to the court as
7 payment of damages. The sum may include both public and private costs.
8 The imposition of a restitution order does not preclude civil redress.

9 (28) "Serious traffic offense" means:

10 (a) Driving while under the influence of intoxicating liquor or any
11 drug (RCW 46.61.502), actual physical control while under the influence
12 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
13 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
14 or

15 (b) Any federal, out-of-state, county, or municipal conviction for
16 an offense that under the laws of this state would be classified as a
17 serious traffic offense under (a) of this subsection.

18 (29) "Serious violent offense" is a subcategory of violent offense
19 and means:

20 (a) Murder in the first degree, homicide by abuse, murder in the
21 second degree, assault in the first degree, kidnapping in the first
22 degree, or rape in the first degree, assault of a child in the first
23 degree, or an attempt, criminal solicitation, or criminal conspiracy to
24 commit one of these felonies; or

25 (b) Any federal or out-of-state conviction for an offense that
26 under the laws of this state would be a felony classified as a serious
27 violent offense under (a) of this subsection.

28 (30) "Sentence range" means the sentencing court's discretionary
29 range in imposing a nonappealable sentence.

30 (31) "Sex offense" means:

31 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
32 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
33 attempt, criminal solicitation, or criminal conspiracy to commit such
34 crimes;

35 (b) A felony with a finding of sexual motivation under RCW
36 9.94A.127; or

37 (c) Any federal or out-of-state conviction for an offense that
38 under the laws of this state would be a felony classified as a sex
39 offense under (a) of this subsection.

1 (32) "Sexual motivation" means that one of the purposes for which
2 the defendant committed the crime was for the purpose of his or her
3 sexual gratification.

4 (33) "Total confinement" means confinement inside the physical
5 boundaries of a facility or institution operated or utilized under
6 contract by the state or any other unit of government for twenty-four
7 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

8 (34) "Transition training" means written and verbal instructions
9 and assistance provided by the department to the offender during the
10 two weeks prior to the offender's successful completion of the work
11 ethic camp program. The transition training shall include instructions
12 in the offender's requirements and obligations during the offender's
13 period of community custody.

14 (35) "Victim" means any person who has sustained emotional,
15 psychological, physical, or financial injury to person or property as
16 a direct result of the crime charged.

17 (36) "Violent offense" means:

18 (a) Any of the following felonies, as now existing or hereafter
19 amended: Any felony defined under any law as a class A felony or an
20 attempt to commit a class A felony, criminal solicitation of or
21 criminal conspiracy to commit a class A felony, manslaughter in the
22 first degree, manslaughter in the second degree, indecent liberties if
23 committed by forcible compulsion, kidnapping in the second degree,
24 arson in the second degree, assault in the second degree, assault of a
25 child in the second degree, extortion in the first degree, robbery in
26 the second degree, vehicular assault, and vehicular homicide, when
27 proximately caused by the driving of any vehicle by any person while
28 under the influence of intoxicating liquor or any drug as defined by
29 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

30 (b) Any conviction for a felony offense in effect at any time prior
31 to July 1, 1976, that is comparable to a felony classified as a violent
32 offense in (a) of this subsection; and

33 (c) Any federal or out-of-state conviction for an offense that
34 under the laws of this state would be a felony classified as a violent
35 offense under (a) or (b) of this subsection.

36 (37) "Work crew" means a program of partial confinement consisting
37 of civic improvement tasks for the benefit of the community of not less
38 than thirty-five hours per week that complies with RCW 9.94A.135. The
39 civic improvement tasks shall have minimal negative impact on existing

1 private industries or the labor force in the county where the service
2 or labor is performed. The civic improvement tasks shall not affect
3 employment opportunities for people with developmental disabilities
4 contracted through sheltered workshops as defined in RCW 82.04.385.
5 Only those offenders sentenced to a facility operated or utilized under
6 contract by a county or the state are eligible to participate on a work
7 crew. Offenders sentenced for a sex offense as defined in subsection
8 (31) of this section are not eligible for the work crew program.

9 (38) "Work ethic camp" means an alternative incarceration program
10 designed to reduce recidivism and lower the cost of corrections by
11 requiring offenders to complete a comprehensive array of real-world job
12 and vocational experiences, character-building work ethics training,
13 life management skills development, substance abuse rehabilitation,
14 counseling, literacy training, and basic adult education.

15 (39) "Work release" means a program of partial confinement
16 available to offenders who are employed or engaged as a student in a
17 regular course of study at school. Participation in work release shall
18 be conditioned upon the offender attending work or school at regularly
19 defined hours and abiding by the rules of the work release facility.

20 (40) "Home detention" means a program of partial confinement
21 available to offenders wherein the offender is confined in a private
22 residence subject to electronic surveillance. Home detention may not
23 be imposed for offenders convicted of a violent offense, any sex
24 offense, any drug offense, reckless burning in the first or second
25 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
26 degree as defined in RCW 9A.36.031, assault of a child in the third
27 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
28 harassment as defined in RCW 9A.46.020. Home detention may be imposed
29 for offenders convicted of possession of a controlled substance (RCW
30 69.50.401(d)) or forged prescription for a controlled substance (RCW
31 69.50.403) if the offender fulfills the participation conditions set
32 forth in this subsection and is monitored for drug use by treatment
33 alternatives to street crime (TASC) or a comparable court or agency-
34 referred program.

35 (a) Home detention may be imposed for offenders convicted of
36 burglary in the second degree as defined in RCW 9A.52.030 or
37 residential burglary conditioned upon the offender: (i) Successfully
38 completing twenty-one days in a work release program, (ii) having no
39 convictions for burglary in the second degree or residential burglary

1 during the preceding two years and not more than two prior convictions
2 for burglary or residential burglary, (iii) having no convictions for
3 a violent felony offense during the preceding two years and not more
4 than two prior convictions for a violent felony offense, (iv) having no
5 prior charges of escape, and (v) fulfilling the other conditions of the
6 home detention program.

7 (b) Participation in a home detention program shall be conditioned
8 upon: (i) The offender obtaining or maintaining current employment or
9 attending a regular course of school study at regularly defined hours,
10 or the offender performing parental duties to offspring or minors
11 normally in the custody of the offender, (ii) abiding by the rules of
12 the home detention program, and (iii) compliance with court-ordered
13 legal financial obligations. The home detention program may also be
14 made available to offenders whose charges and convictions do not
15 otherwise disqualify them if medical or health-related conditions,
16 concerns or treatment would be better addressed under the home
17 detention program, or where the health and welfare of the offender,
18 other inmates, or staff would be jeopardized by the offender's
19 incarceration. Participation in the home detention program for medical
20 or health-related reasons is conditioned on the offender abiding by the
21 rules of the home detention program and complying with court-ordered
22 restitution.

23 **Sec. 2.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended to
24 read as follows:

25 (1) Except as provided in subsection (2) of this section, the
26 juvenile courts in the several counties of this state, shall have
27 exclusive original jurisdiction over all proceedings:

28 (a) Under the interstate compact on placement of children as
29 provided in chapter 26.34 RCW;

30 (b) Relating to children alleged or found to be dependent as
31 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

32 (c) Relating to the termination of a parent and child relationship
33 as provided in RCW 13.34.180 through 13.34.210;

34 (d) To approve or disapprove alternative residential placement as
35 provided in RCW 13.32A.170;

36 (e) Relating to juveniles alleged or found to have committed
37 offenses, traffic infractions, or violations as provided in RCW
38 13.40.020 through 13.40.230, unless:

1 (i) The juvenile court transfers jurisdiction of a particular
2 juvenile to adult criminal court pursuant to RCW 13.40.110; (~~(e)~~)
3 (ii) The statute of limitations applicable to adult prosecution for
4 the offense, traffic infraction, or violation has expired; (~~(e)~~)
5 (iii) The alleged offense or infraction is a traffic, fish,
6 boating, or game offense or traffic infraction committed by a juvenile
7 sixteen years of age or older and would, if committed by an adult, be
8 tried or heard in a court of limited jurisdiction, in which instance
9 the appropriate court of limited jurisdiction shall have jurisdiction
10 over the alleged offense or infraction: PROVIDED, That if such an
11 alleged offense or infraction and an alleged offense or infraction
12 subject to juvenile court jurisdiction arise out of the same event or
13 incident, the juvenile court may have jurisdiction of both matters:
14 PROVIDED FURTHER, That the jurisdiction under this subsection does not
15 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
16 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
17 jurisdiction which confine juveniles for an alleged offense or
18 infraction may place juveniles in juvenile detention facilities under
19 an agreement with the officials responsible for the administration of
20 the juvenile detention facility in RCW 13.04.035 and 13.20.060; (~~(e)~~)
21 (iv) The juvenile is sixteen or seventeen years old and the alleged
22 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
23 committed on or after June 13, 1994; or (B) a violent offense as
24 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
25 juvenile has a criminal history consisting of: (I) One or more prior
26 serious violent offenses; (II) two or more prior violent offenses; or
27 (III) three or more of any combination of the following offenses: Any
28 class A felony, any class B felony, vehicular assault, or manslaughter
29 in the second degree, all of which must have been committed after the
30 juvenile's thirteenth birthday and prosecuted separately. In such a
31 case the adult criminal court shall have exclusive original
32 jurisdiction.
33 If the juvenile challenges the state's determination of the
34 juvenile's criminal history, the state may establish the offender's
35 criminal history by a preponderance of the evidence. If the criminal
36 history consists of adjudications entered upon a plea of guilty, the
37 state shall not bear a burden of establishing the knowing and
38 voluntariness of the plea; or

1 (v) The juvenile is sixteen years of age or older, the alleged
2 offense is a felony, and the adult criminal court has not declined
3 jurisdiction pursuant to section 3 of this act;

4 (f) Under the interstate compact on juveniles as provided in
5 chapter 13.24 RCW;

6 (g) Relating to termination of a diversion agreement under RCW
7 13.40.080, including a proceeding in which the divertee has attained
8 eighteen years of age; and

9 (h) Relating to court validation of a voluntary consent to foster
10 care placement under chapter 13.34 RCW, by the parent or Indian
11 custodian of an Indian child, except if the parent or Indian custodian
12 and child are residents of or domiciled within the boundaries of a
13 federally recognized Indian reservation over which the tribe exercises
14 exclusive jurisdiction.

15 (2) The family court shall have concurrent original jurisdiction
16 with the juvenile court over all proceedings under this section if the
17 superior court judges of a county authorize concurrent jurisdiction as
18 provided in RCW 26.12.010.

19 (3) A juvenile subject to adult superior court jurisdiction under
20 subsection (1)(e) (i) through ~~((iv))~~ (v) of this section, who is
21 detained pending trial, may be detained in a county detention facility
22 as defined in RCW 13.40.020 pending sentencing or a dismissal.

23 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW
24 to read as follows:

25 (1) The prosecutor, offender, or the court on its own motion may,
26 before a hearing on the information on its merits, file a motion
27 requesting the court to transfer to juvenile court for prosecution as
28 a juvenile, an offender who (a) is sixteen years of age or older but
29 less than eighteen and (b) is not subject to adult criminal court
30 jurisdiction pursuant to RCW 13.04.030(1)(e) (i) or (iv).

31 (2) Upon motion, the court shall set the matter for hearing on the
32 question of declining adult court jurisdiction. The court may order
33 the case transferred for juvenile prosecution upon a finding that
34 prosecuting the offender as a juvenile would be in the best interests
35 of the juvenile or the public. The offender shall bear the burden of
36 establishing by a preponderance of the evidence that the offender
37 should be prosecuted as a juvenile.

1 (3) When considering whether to decline jurisdiction, the court
2 shall consider relevant reports, facts, opinions, and arguments
3 presented by the parties and their counsel. Factors the court may
4 consider include the following:

5 (a) The seriousness of the alleged offense;

6 (b) The offender's sophistication and maturity;

7 (c) The offender's previous criminal history;

8 (d) Whether the offender has been afforded rehabilitation programs
9 available through the juvenile justice system;

10 (e) The likelihood that the offender could be rehabilitated through
11 exposure to the services and facilities currently available through the
12 juvenile court; and

13 (f) The length of time the juvenile is likely to remain
14 incarcerated or under supervision if prosecuted as an adult or a
15 juvenile.

16 (4) The court shall enter its findings of fact in writing.

17 **Sec. 4.** RCW 13.04.116 and 1987 c 462 s 1 are each amended to read
18 as follows:

19 (1) A juvenile shall not be confined in a jail or holding facility
20 for adults, except:

21 (a) For a period not exceeding twenty-four hours excluding weekends
22 and holidays and only for the purpose of an initial court appearance in
23 a county where no juvenile detention facility is available, a juvenile
24 may be held in an adult facility provided that the confinement is
25 separate from the sight and sound of adult inmates; or

26 (b) For not more than six hours and pursuant to a lawful detention
27 in the course of an investigation, a juvenile may be held in an adult
28 facility provided that the confinement is separate from the sight and
29 sound of adult inmates.

30 (2) For purposes of this section a juvenile is an individual under
31 the chronological age of (~~eighteen~~) sixteen years who has not been
32 transferred previously to adult courts.

33 (3) The department of social and health services shall monitor and
34 enforce compliance with this section.

35 (4) This section shall not be construed to expand or limit the
36 authority to lawfully detain juveniles.

1 **Sec. 5.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read
2 as follows:

3 (1) The prosecutor, respondent, or the court on its own motion may,
4 before a hearing on the information on its merits, file a motion
5 requesting the court to transfer the respondent for adult criminal
6 prosecution and the matter shall be set for a hearing on the question
7 of declining jurisdiction. Unless waived by the court, the parties,
8 and their counsel, a decline hearing shall be held where((÷

9 (a)) the respondent is fifteen((~~, sixteen, or seventeen~~)) years of
10 age and the information alleges a class A felony or an attempt,
11 solicitation, or conspiracy to commit a class A felony((~~÷ or~~

12 (b) ~~The respondent is seventeen years of age and the information~~
13 ~~alleges assault in the second degree, extortion in the first degree,~~
14 ~~indecent liberties, child molestation in the second degree, kidnapping~~
15 ~~in the second degree, or robbery in the second degree)).~~

16 (2) The court after a decline hearing may order the case
17 transferred for adult criminal prosecution upon a finding that the
18 declination would be in the best interest of the juvenile or the
19 public. The court shall consider the relevant reports, facts,
20 opinions, and arguments presented by the parties and their counsel.

21 (3) When the respondent is transferred for criminal prosecution or
22 retained for prosecution in juvenile court, the court shall set forth
23 in writing its finding which shall be supported by relevant facts and
24 opinions produced at the hearing.

25 **Sec. 6.** RCW 72.76.010 and 1994 sp.s. c 7 s 539 are each amended to
26 read as follows:

27 The Washington intrastate corrections compact is enacted and
28 entered into on behalf of this state by the department with any and all
29 counties of this state legally joining in a form substantially as
30 follows:

31 WASHINGTON INTRASTATE CORRECTIONS

32 COMPACT

33 A compact is entered into by and among the contracting counties and the
34 department of corrections, signatories hereto, for the purpose of
35 maximizing the use of existing resources and to provide adequate
36 facilities and programs for the confinement, care, treatment, and
37 employment of offenders.

1 The contracting counties and the department do solemnly agree that:

2 (1) As used in this compact, unless the context clearly requires
3 otherwise:

4 (a) "Department" means the Washington state department of
5 corrections.

6 (b) "Secretary" means the secretary of the department of
7 corrections or designee.

8 (c) "Compact jurisdiction" means the department of corrections or
9 any county of the state of Washington which has executed this compact.

10 (d) "Sending jurisdiction" means a county party to this agreement
11 or the department of corrections to whom the courts have committed
12 custody of the offender.

13 (e) "Receiving jurisdiction" means the department of corrections or
14 a county party to this agreement to which an offender is sent for
15 confinement.

16 (f) "Offender" means a person who has been charged with and/or
17 convicted of an offense established by applicable statute or ordinance.

18 (g) "Convicted felony offender" means a person who has been
19 convicted of a felony established by state law and is ((~~eighteen~~))
20 sixteen years of age or older, or who is less than ((~~eighteen~~)) sixteen
21 years of age, but whose case has been transferred by the appropriate
22 juvenile court to a criminal court pursuant to RCW 13.40.110 ((~~or has~~
23 ~~been tried in a criminal court pursuant to RCW 13.04.030(1)(e)(iv)~~)).

24 (h) An "offender day" includes the first day an offender is
25 delivered to the receiving jurisdiction, but ends at midnight of the
26 day immediately preceding the day of the offender's release or return
27 to the custody of the sending jurisdiction.

28 (i) "Facility" means any state correctional institution, camp, or
29 other unit established or authorized by law under the jurisdiction of
30 the department of corrections; any jail, holding, detention, special
31 detention, or correctional facility operated by the county for the
32 housing of adult offenders; or any contract facility, operated on
33 behalf of either the county or the state for the housing of adult
34 offenders.

35 (j) "Extraordinary medical expense" means any medical expense
36 beyond that which is normally provided by contract or other health care
37 providers at the facility of the receiving jurisdiction.

38 (k) "Compact" means the Washington intrastate corrections compact.

1 (2)(a) Any county may make one or more contracts with one or more
2 counties, the department, or both for the exchange or transfer of
3 offenders pursuant to this compact. Appropriate action by ordinance,
4 resolution, or otherwise in accordance with the law of the governing
5 bodies of the participating counties shall be necessary before the
6 contract may take effect. The secretary is authorized and requested to
7 execute the contracts on behalf of the department. Any such contract
8 shall provide for:

9 (i) Its duration;

10 (ii) Payments to be made to the receiving jurisdiction by the
11 sending jurisdiction for offender maintenance, extraordinary medical
12 and dental expenses, and any participation in or receipt by offenders
13 of rehabilitative or correctional services, facilities, programs, or
14 treatment not reasonably included as part of normal maintenance;

15 (iii) Participation in programs of offender employment, if any; the
16 disposition or crediting of any payments received by offenders on their
17 accounts; and the crediting of proceeds from or the disposal of any
18 products resulting from the employment;

19 (iv) Delivery and retaking of offenders;

20 (v) Such other matters as may be necessary and appropriate to fix
21 the obligations, responsibilities and rights of the sending and
22 receiving jurisdictions.

23 (b) The terms and provisions of this compact shall be a part of any
24 contract entered into by the authority of or pursuant to the contract.
25 Nothing in any contract may be inconsistent with the compact.

26 (3)(a) Whenever the duly constituted authorities of any compact
27 jurisdiction decide that confinement in, or transfer of an offender to
28 a facility of another compact jurisdiction is necessary or desirable in
29 order to provide adequate housing and care or an appropriate program of
30 rehabilitation or treatment, the officials may direct that the
31 confinement be within a facility of the other compact jurisdiction, the
32 receiving jurisdiction to act in that regard solely as agent for the
33 sending jurisdiction.

34 (b) The receiving jurisdiction shall be responsible for the
35 supervision of all offenders which it accepts into its custody.

36 (c) The receiving jurisdiction shall be responsible to establish
37 screening criteria for offenders it will accept for transfer. The
38 sending jurisdiction shall be responsible for ensuring that all

1 transferred offenders meet the screening criteria of the receiving
2 jurisdiction.

3 (d) The sending jurisdiction shall notify the sentencing courts of
4 the name, charges, cause numbers, date, and place of transfer of any
5 offender, prior to the transfer, on a form to be provided by the
6 department. A copy of this form shall accompany the offender at the
7 time of transfer.

8 (e) The receiving jurisdiction shall be responsible for providing
9 an orientation to each offender who is transferred. The orientation
10 shall be provided to offenders upon arrival and shall address the
11 following conditions at the facility of the receiving jurisdiction:

12 (i) Requirements to work;

13 (ii) Facility rules and disciplinary procedures;

14 (iii) Medical care availability; and

15 (iv) Visiting.

16 (f) Delivery and retaking of inmates shall be the responsibility of
17 the sending jurisdiction. The sending jurisdiction shall deliver
18 offenders to the facility of the receiving jurisdiction where the
19 offender will be housed, at the dates and times specified by the
20 receiving jurisdiction. The receiving jurisdiction retains the right
21 to refuse or return any offender. The sending jurisdiction shall be
22 responsible to retake any transferred offender who does not meet the
23 screening criteria of the receiving jurisdiction, or who is refused by
24 the receiving jurisdiction. If the receiving jurisdiction has notified
25 the sending jurisdiction to retake an offender, but the sending
26 jurisdiction does not do so within a seven-day period, the receiving
27 jurisdiction may return the offender to the sending jurisdiction at the
28 expense of the sending jurisdiction.

29 (g) Offenders confined in a facility under the terms of this
30 compact shall at all times be subject to the jurisdiction of the
31 sending jurisdiction and may at any time be removed from the facility
32 for transfer to another facility within the sending jurisdiction, for
33 transfer to another facility in which the sending jurisdiction may have
34 a contractual or other right to confine offenders, for release or
35 discharge, or for any other purpose permitted by the laws of the state
36 of Washington.

37 (h) Unless otherwise agreed, the sending jurisdiction shall provide
38 at least one set of the offender's personal clothing at the time of
39 transfer. The sending jurisdiction shall be responsible for searching

1 the clothing to ensure that it is free of contraband. The receiving
2 jurisdiction shall be responsible for providing work clothing and
3 equipment appropriate to the offender's assignment.

4 (i) The sending jurisdiction shall remain responsible for the
5 storage of the offender's personal property, unless prior arrangements
6 are made with the receiving jurisdiction. The receiving jurisdiction
7 shall provide a list of allowable items which may be transferred with
8 the offender.

9 (j) Copies or summaries of records relating to medical needs,
10 behavior, and classification of the offender shall be transferred by
11 the sending jurisdiction to the receiving jurisdiction at the time of
12 transfer. At a minimum, such records shall include:

13 (i) A copy of the commitment order or orders legally authorizing
14 the confinement of the offender;

15 (ii) A copy of the form for the notification of the sentencing
16 courts required by subsection (3)(d) of this section;

17 (iii) A brief summary of any known criminal history, medical needs,
18 behavioral problems, and other information which may be relevant to the
19 classification of the offender; and

20 (iv) A standard identification card which includes the fingerprints
21 and at least one photograph of the offender.

22 Disclosure of public records shall be the responsibility of the sending
23 jurisdiction, except for those documents generated by the receiving
24 jurisdiction.

25 (k) The receiving jurisdiction shall be responsible for providing
26 regular medical care, including prescription medication, but
27 extraordinary medical expenses shall be the responsibility of the
28 sending jurisdiction. The costs of extraordinary medical care incurred
29 by the receiving jurisdiction for transferred offenders shall be
30 reimbursed by the sending jurisdiction. The receiving jurisdiction
31 shall notify the sending jurisdiction as far in advance as practicable
32 prior to incurring such costs. In the event emergency medical care is
33 needed, the sending jurisdiction shall be advised as soon as
34 practicable after the offender is treated. Offenders who are required
35 by the medical authority of the sending jurisdiction to take
36 prescription medication at the time of the transfer shall have at least
37 a three-day supply of the medication transferred to the receiving
38 jurisdiction with the offender, and at the expense of the sending

1 jurisdiction. Costs of prescription medication incurred after the use
2 of the supply shall be borne by the receiving jurisdiction.

3 (l) Convicted offenders transferred under this agreement may be
4 required by the receiving jurisdiction to work. Transferred offenders
5 participating in programs of offender employment shall receive the same
6 reimbursement, if any, as other offenders performing similar work. The
7 receiving jurisdiction shall be responsible for the disposition or
8 crediting of any payments received by offenders, and for crediting the
9 proceeds from or disposal of any products resulting from the
10 employment. Other programs normally provided to offenders by the
11 receiving jurisdiction such as education, mental health, or substance
12 abuse treatment shall also be available to transferred offenders,
13 provided that usual program screening criteria are met. No special or
14 additional programs will be provided except by mutual agreement of the
15 sending and receiving jurisdiction, with additional expenses, if any,
16 to be borne by the sending jurisdiction.

17 (m) The receiving jurisdiction shall notify offenders upon arrival
18 of the rules of the jurisdiction and the specific rules of the
19 facility. Offenders will be required to follow all rules of the
20 receiving jurisdiction. Disciplinary detention, if necessary, shall be
21 provided at the discretion of the receiving jurisdiction. The
22 receiving jurisdiction may require the sending jurisdiction to retake
23 any offender found guilty of a serious infraction; similarly, the
24 receiving jurisdiction may require the sending jurisdiction to retake
25 any offender whose behavior requires segregated or protective housing.

26 (n) Good-time calculations and notification of each offender's
27 release date shall be the responsibility of the sending jurisdiction.
28 The sending jurisdiction shall provide the receiving jurisdiction with
29 a formal notice of the date upon which each offender is to be released
30 from custody. If the receiving jurisdiction finds an offender guilty
31 of a violation of its disciplinary rules, it shall notify the sending
32 jurisdiction of the date and nature of the violation. If the sending
33 jurisdiction resets the release date according to its good-time
34 policies, it shall provide the receiving jurisdiction with notice of
35 the new release date.

36 (o) The sending jurisdiction shall retake the offender at the
37 receiving jurisdiction's facility on or before his or her release date,
38 unless the sending and receiving jurisdictions shall agree upon release

1 in some other place. The sending jurisdiction shall bear the
2 transportation costs of the return.

3 (p) Each receiving jurisdiction shall provide monthly reports to
4 each sending jurisdiction on the number of offenders of that sending
5 jurisdiction in its facilities pursuant to this compact.

6 (q) Each party jurisdiction shall notify the others of its
7 coordinator who is responsible for administrating the jurisdiction's
8 responsibilities under the compact. The coordinators shall arrange for
9 alternate contact persons in the event of an extended absence of the
10 coordinator.

11 (r) Upon reasonable notice, representatives of any party to this
12 compact shall be allowed to visit any facility in which another party
13 has agreed to house its offenders, for the purpose of inspecting the
14 facilities and visiting its offenders that may be confined in the
15 institution.

16 (4) This compact shall enter into force and become effective and
17 binding upon the participating parties when it has been executed by two
18 or more parties. Upon request, each party county shall provide any
19 other compact jurisdiction with a copy of a duly enacted resolution or
20 ordinance authorizing entry into this compact.

21 (5) A party participating may withdraw from the compact by formal
22 resolution and by written notice to all other parties then
23 participating. The withdrawal shall become effective, as it pertains
24 to the party wishing to withdraw, thirty days after written notice to
25 the other parties. However, such withdrawal shall not relieve the
26 withdrawing party from its obligations assumed prior to the effective
27 date of withdrawal. Before the effective date of withdrawal, a
28 withdrawing participant shall notify the other parties to retake the
29 offenders it has housed in its facilities and shall remove to its
30 facilities, at its own expense, offenders it has confined under the
31 provisions of this compact.

32 (6) Legal costs relating to defending actions brought by an
33 offender challenging his or her transfer to another jurisdiction under
34 this compact shall be borne by the sending jurisdiction. Legal costs
35 relating to defending actions arising from events which occur while the
36 offender is in the custody of a receiving jurisdiction shall be borne
37 by the receiving jurisdiction.

1 (7) The receiving jurisdiction shall not be responsible to provide
2 legal services to offenders placed under this agreement. Requests for
3 legal services shall be referred to the sending jurisdiction.

4 (8) The provisions of this compact shall be liberally construed and
5 shall be severable. If any phrase, clause, sentence, or provision of
6 this compact is declared to be contrary to the Constitution or laws of
7 the state of Washington or is held invalid, the validity of the
8 remainder of this compact and its applicability to any county or the
9 department shall not be affected.

10 (9) Nothing contained in this compact shall be construed to
11 abrogate or impair any agreement or other arrangement which a county or
12 the department may have with each other or with a nonparty county for
13 the confinement, rehabilitation, or treatment of offenders.

14 NEW SECTION. **Sec. 7.** This act shall apply to offenses committed
15 on or after the effective date of this act.

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