
HOUSE BILL 2616

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By Representatives Foreman, Sheahan, Lisk, Robertson, Hickel, Johnson, Campbell, McMahan and Thompson

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1 AN ACT Relating to juveniles; reenacting and amending RCW
2 13.04.030, 13.40.020, and 9.94A.030; and creating a new section.

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

4 **Sec. 1.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
5 each reenacted and amended to read as follows:

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

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

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

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

15 (d) To approve or disapprove out-of-home placement as provided in
16 RCW 13.32A.170;

17 (e) Relating to juveniles alleged or found to have committed
18 offenses, traffic infractions, or violations as provided in RCW
19 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; or
3 (ii) The statute of limitations applicable to adult prosecution for
4 the offense, traffic infraction, or violation has expired; or
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; or
21 (iv)(A) The juvenile is fifteen, sixteen, or seventeen years old,
22 the alleged offense is a violent offense as defined in RCW 9.94A.030,
23 and during the commission of the offense the juvenile was armed with a
24 firearm that the juvenile illegally possessed in violation of RCW
25 9.41.040; or
26 (B) The juvenile is sixteen or seventeen years old and the alleged
27 offense is: ~~((A))~~ (I) A serious violent offense as defined in RCW
28 9.94A.030 committed on or after June 13, 1994; or ~~((B))~~ (II) a
29 violent offense as defined in RCW 9.94A.030 committed on or after June
30 13, 1994, and the juvenile has a criminal history consisting of:
31 ~~((I))~~ One or more prior serious violent offenses; ~~((II))~~ two or
32 more prior violent offenses; or ~~((III))~~ three or more of any
33 combination of the following offenses: Any class A felony, any class
34 B felony, vehicular assault, or manslaughter in the second degree, all
35 of which must have been committed after the juvenile's thirteenth
36 birthday and prosecuted separately. ~~((In such a case the adult~~
37 ~~criminal court shall have exclusive original jurisdiction.))~~
38 If the juvenile challenges the state's determination of the
39 juvenile's criminal history, the state may establish the offender's

1 criminal history by a preponderance of the evidence. If the criminal
2 history consists of adjudications entered upon a plea of guilty, the
3 state shall not bear a burden of establishing the knowing and
4 voluntariness of the plea.

5 The adult criminal court shall have exclusive original jurisdiction
6 over offenses covered by (e)(iv)(A) and (B) of this subsection. The
7 adult criminal court shall also have exclusive original jurisdiction
8 over any charges arising out of the same incident as an offense covered
9 by (e)(iv)(A) and (B) of this subsection. Any juvenile who becomes
10 subject to adult criminal court jurisdiction under (e)(iv)(A) and (B)
11 of this subsection shall remain under adult criminal court jurisdiction
12 for all future offenses;

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

15 (g) Relating to termination of a diversion agreement under RCW
16 13.40.080, including a proceeding in which the divertee has attained
17 eighteen years of age;

18 (h) Relating to court validation of a voluntary consent to an out-
19 of-home placement under chapter 13.34 RCW, by the parent or Indian
20 custodian of an Indian child, except if the parent or Indian custodian
21 and child are residents of or domiciled within the boundaries of a
22 federally recognized Indian reservation over which the tribe exercises
23 exclusive jurisdiction; and

24 (i) Relating to petitions to compel disclosure of information filed
25 by the department of social and health services pursuant to RCW
26 74.13.042.

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

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

35 **Sec. 2.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
36 each reenacted and amended to read as follows:

37 For the purposes of this chapter:

1 (1) "Serious offender" means a person fifteen years of age or older
2 who has committed an offense which if committed by an adult would be:
3 (a) A class A felony, or an attempt to commit a class A felony;
4 (b) Manslaughter in the first degree; or
5 (c) Assault in the second degree, extortion in the first degree,
6 child molestation in the second degree, kidnapping in the second
7 degree, robbery in the second degree, residential burglary, or burglary
8 in the second degree, where such offenses include the infliction of
9 bodily harm upon another or where during the commission of or immediate
10 withdrawal from such an offense the perpetrator is armed with a deadly
11 weapon;

12 (2) "Community service" means compulsory service, without
13 compensation, performed for the benefit of the community by the
14 offender as punishment for committing an offense. Community service
15 may be performed through public or private organizations or through
16 work crews;

17 (3) "Community supervision" means an order of disposition by the
18 court of an adjudicated youth not committed to the department or an
19 order granting a deferred adjudication pursuant to RCW 13.40.125. A
20 community supervision order for a single offense may be for a period of
21 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
22 one year for other offenses. As a mandatory condition of any term of
23 community supervision, the court shall order the juvenile to refrain
24 from committing new offenses. As a mandatory condition of community
25 supervision, the court shall order the juvenile to comply with the
26 mandatory school attendance provisions of chapter 28A.225 RCW and to
27 inform the school of the existence of this requirement. Community
28 supervision is an individualized program comprised of one or more of
29 the following:

30 (a) Community-based sanctions;
31 (b) Community-based rehabilitation;
32 (c) Monitoring and reporting requirements;
33 (d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

34 (4) Community-based sanctions may include one or more of the
35 following:

36 (a) A fine, not to exceed one hundred dollars;
37 (b) Community service not to exceed one hundred fifty hours of
38 service;

1 (5) "Community-based rehabilitation" means one or more of the
2 following: Attendance of information classes; counseling, outpatient
3 substance abuse treatment programs, outpatient mental health programs,
4 anger management classes, education or outpatient treatment programs to
5 prevent animal cruelty, or other services; or attendance at school or
6 other educational programs appropriate for the juvenile as determined
7 by the school district. Placement in community-based rehabilitation
8 programs is subject to available funds;

9 (6) "Monitoring and reporting requirements" means one or more of
10 the following: Curfews; requirements to remain at home, school, work,
11 or court-ordered treatment programs during specified hours;
12 restrictions from leaving or entering specified geographical areas;
13 requirements to report to the probation officer as directed and to
14 remain under the probation officer's supervision; and other conditions
15 or limitations as the court may require which may not include
16 confinement;

17 (7) "Confinement" means physical custody by the department of
18 social and health services in a facility operated by or pursuant to a
19 contract with the state, or physical custody in a detention facility
20 operated by or pursuant to a contract with any county. The county may
21 operate or contract with vendors to operate county detention
22 facilities. The department may operate or contract to operate
23 detention facilities for juveniles committed to the department.
24 Pretrial confinement or confinement of less than thirty-one days
25 imposed as part of a disposition or modification order may be served
26 consecutively or intermittently, in the discretion of the court;

27 (8) "Court", when used without further qualification, means the
28 juvenile court judge(s) or commissioner(s);

29 (9) "Criminal history" includes all criminal complaints against the
30 respondent for which, prior to the commission of a current offense:

31 (a) The allegations were found correct by a court. If a respondent
32 is convicted of two or more charges arising out of the same course of
33 conduct, only the highest charge from among these shall count as an
34 offense for the purposes of this chapter; or

35 (b) The criminal complaint was diverted by a prosecutor pursuant to
36 the provisions of this chapter on agreement of the respondent and after
37 an advisement to the respondent that the criminal complaint would be
38 considered as part of the respondent's criminal history. A

1 successfully completed deferred adjudication shall not be considered
2 part of the respondent's criminal history;

3 (10) "Department" means the department of social and health
4 services;

5 (11) "Detention facility" means a county facility, paid for by the
6 county, for the physical confinement of a juvenile alleged to have
7 committed an offense or an adjudicated offender subject to a
8 disposition or modification order. "Detention facility" includes
9 county group homes, inpatient substance abuse programs, juvenile basic
10 training camps, and electronic monitoring;

11 (12) "Diversion unit" means any probation counselor who enters into
12 a diversion agreement with an alleged youthful offender, or any other
13 person, community accountability board, or other entity except a law
14 enforcement official or entity, with whom the juvenile court
15 administrator has contracted to arrange and supervise such agreements
16 pursuant to RCW 13.40.080, or any person, community accountability
17 board, or other entity specially funded by the legislature to arrange
18 and supervise diversion agreements in accordance with the requirements
19 of this chapter. For purposes of this subsection, "community
20 accountability board" means a board comprised of members of the local
21 community in which the juvenile offender resides. The superior court
22 shall appoint the members. The boards shall consist of at least three
23 and not more than seven members. If possible, the board should include
24 a variety of representatives from the community, such as a law
25 enforcement officer, teacher or school administrator, high school
26 student, parent, and business owner, and should represent the cultural
27 diversity of the local community;

28 (13) "Institution" means a juvenile facility established pursuant
29 to chapters 72.05 and 72.16 through 72.20 RCW;

30 (14) "Juvenile," "youth," and "child" mean any individual who is
31 under the chronological age of eighteen years and who has ((not))
32 neither been previously transferred to adult court pursuant to RCW
33 13.40.110 ((~~or who is otherwise under~~)) nor ever been subject to adult
34 criminal court jurisdiction pursuant to RCW 13.04.030(1)(e)(iv);

35 (15) "Juvenile offender" means any juvenile who has been found by
36 the juvenile court to have committed an offense, including a person
37 eighteen years of age or older over whom jurisdiction has been extended
38 under RCW 13.40.300;

1 (16) "Manifest injustice" means a disposition that would either
2 impose an excessive penalty on the juvenile or would impose a serious,
3 and clear danger to society in light of the purposes of this chapter;

4 (17) "Middle offender" means a person who has committed an offense
5 and who is neither a minor or first offender nor a serious offender;

6 (18) "Minor or first offender" means a person whose current
7 offense(s) and criminal history fall entirely within one of the
8 following categories:

9 (a) Four misdemeanors;

10 (b) Two misdemeanors and one gross misdemeanor;

11 (c) One misdemeanor and two gross misdemeanors; and

12 (d) Three gross misdemeanors.

13 For purposes of this definition, current violations shall be
14 counted as misdemeanors;

15 (19) "Offense" means an act designated a violation or a crime if
16 committed by an adult under the law of this state, under any ordinance
17 of any city or county of this state, under any federal law, or under
18 the law of another state if the act occurred in that state;

19 (20) "Respondent" means a juvenile who is alleged or proven to have
20 committed an offense;

21 (21) "Restitution" means financial reimbursement by the offender to
22 the victim, and shall be limited to easily ascertainable damages for
23 injury to or loss of property, actual expenses incurred for medical
24 treatment for physical injury to persons, lost wages resulting from
25 physical injury, and costs of the victim's counseling reasonably
26 related to the offense if the offense is a sex offense. Restitution
27 shall not include reimbursement for damages for mental anguish, pain
28 and suffering, or other intangible losses. Nothing in this chapter
29 shall limit or replace civil remedies or defenses available to the
30 victim or offender;

31 (22) "Secretary" means the secretary of the department of social
32 and health services. "Assistant secretary" means the assistant
33 secretary for juvenile rehabilitation for the department;

34 (23) "Services" mean services which provide alternatives to
35 incarceration for those juveniles who have pleaded or been adjudicated
36 guilty of an offense or have signed a diversion agreement pursuant to
37 this chapter;

38 (24) "Sex offense" means an offense defined as a sex offense in RCW
39 9.94A.030;

1 (25) "Sexual motivation" means that one of the purposes for which
2 the respondent committed the offense was for the purpose of his or her
3 sexual gratification;

4 (26) "Foster care" means temporary physical care in a foster family
5 home or group care facility as defined in RCW 74.15.020 and licensed by
6 the department, or other legally authorized care;

7 (27) "Violation" means an act or omission, which if committed by an
8 adult, must be proven beyond a reasonable doubt, and is punishable by
9 sanctions which do not include incarceration;

10 (28) "Violent offense" means a violent offense as defined in RCW
11 9.94A.030;

12 (29) "Probation bond" means a bond, posted with sufficient security
13 by a surety justified and approved by the court, to secure the
14 offender's appearance at required court proceedings and compliance with
15 court-ordered community supervision or conditions of release ordered
16 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
17 cash or posting of other collateral in lieu of a bond if approved by
18 the court;

19 (30) "Surety" means an entity licensed under state insurance laws
20 or by the state department of licensing, to write corporate, property,
21 or probation bonds within the state, and justified and approved by the
22 superior court of the county having jurisdiction of the case.

23 **Sec. 3.** RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and 1995
24 c 101 s 2 are each reenacted and amended to read as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

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

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

35 (3) "Community corrections officer" means an employee of the
36 department who is responsible for carrying out specific duties in
37 supervision of sentenced offenders and monitoring of sentence
38 conditions.

1 (4) "Community custody" means that portion of an inmate's sentence
2 of confinement in lieu of earned early release time or imposed pursuant
3 to RCW 9.94A.120(6) served in the community subject to controls placed
4 on the inmate's movement and activities by the department of
5 corrections.

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

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

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

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

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

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

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

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

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

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

28 (13) "Day fine" means a fine imposed by the sentencing judge that
29 equals the difference between the offender's net daily income and the
30 reasonable obligations that the offender has for the support of the
31 offender and any dependents.

32 (14) "Day reporting" means a program of enhanced supervision
33 designed to monitor the defendant's daily activities and compliance
34 with sentence conditions, and in which the defendant is required to
35 report daily to a specific location designated by the department or the
36 sentencing judge.

37 (15) "Department" means the department of corrections.

38 (16) "Determinate sentence" means a sentence that states with
39 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community supervision, the
2 number of actual hours or days of community service work, or dollars or
3 terms of a legal financial obligation. The fact that an offender
4 through "earned early release" can reduce the actual period of
5 confinement shall not affect the classification of the sentence as a
6 determinate sentence.

7 (17) "Disposable earnings" means that part of the earnings of an
8 individual remaining after the deduction from those earnings of any
9 amount required by law to be withheld. For the purposes of this
10 definition, "earnings" means compensation paid or payable for personal
11 services, whether denominated as wages, salary, commission, bonuses, or
12 otherwise, and, notwithstanding any other provision of law making the
13 payments exempt from garnishment, attachment, or other process to
14 satisfy a court-ordered legal financial obligation, specifically
15 includes periodic payments pursuant to pension or retirement programs,
16 or insurance policies of any type, but does not include payments made
17 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
18 or Title 74 RCW.

19 (18) "Drug offense" means:

20 (a) Any felony violation of chapter 69.50 RCW except possession of
21 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
22 controlled substance (RCW 69.50.403);

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

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

29 (19) "Escape" means:

30 (a) Escape in the first degree (RCW 9A.76.110), escape in the
31 second degree (RCW 9A.76.120), willful failure to return from furlough
32 (RCW 72.66.060), willful failure to return from work release (RCW
33 72.65.070), or willful failure to be available for supervision by the
34 department while in community custody (RCW 72.09.310); or

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

38 (20) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
2 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
3 and-run injury-accident (RCW 46.52.020(4)); or

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

7 (21) "Fines" means the requirement that the offender pay a specific
8 sum of money over a specific period of time to the court.

9 (22)(a) "First-time offender" means any person who is convicted of
10 a felony (i) not classified as a violent offense or a sex offense under
11 this chapter, or (ii) that is not the manufacture, delivery, or
12 possession with intent to manufacture or deliver a controlled substance
13 classified in schedule I or II that is a narcotic drug, nor the
14 manufacture, delivery, or possession with intent to deliver
15 methamphetamine, its salts, isomers, and salts of its isomers as
16 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
17 controlled substance or counterfeit substance classified in schedule I,
18 RCW 69.50.204, except leaves and flowering tops of marihuana, and
19 except as provided in (b) of this subsection, who previously has never
20 been convicted of a felony in this state, federal court, or another
21 state, and who has never participated in a program of deferred
22 prosecution for a felony offense.

23 (b) For purposes of (a) of this subsection, a juvenile adjudication
24 for an offense committed before the age of fifteen years is not a
25 previous felony conviction except for adjudications of sex offenses and
26 serious violent offenses.

27 (23) "Most serious offense" means any of the following felonies or
28 a felony attempt to commit any of the following felonies, as now
29 existing or hereafter amended:

30 (a) Any felony defined under any law as a class A felony or
31 criminal solicitation of or criminal conspiracy to commit a class A
32 felony;

33 (b) Assault in the second degree;

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

35 (d) Child molestation in the second degree;

36 (e) Controlled substance homicide;

37 (f) Extortion in the first degree;

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

39 (h) Indecent liberties;

1 (i) Kidnapping in the second degree;
2 (j) Leading organized crime;
3 (k) Manslaughter in the first degree;
4 (l) Manslaughter in the second degree;
5 (m) Promoting prostitution in the first degree;
6 (n) Rape in the third degree;
7 (o) Robbery in the second degree;
8 (p) Sexual exploitation;
9 (q) Vehicular assault;
10 (r) Vehicular homicide, when proximately caused by the driving of
11 any vehicle by any person while under the influence of intoxicating
12 liquor or any drug as defined by RCW 46.61.502, or by the operation of
13 any vehicle in a reckless manner;
14 (s) Any other class B felony offense with a finding of sexual
15 motivation, as "sexual motivation" is defined under this section;
16 (t) Any other felony with a deadly weapon verdict under RCW
17 9.94A.125;
18 (u) Any felony offense in effect at any time prior to December 2,
19 1993, that is comparable to a most serious offense under this
20 subsection, or any federal or out-of-state conviction for an offense
21 that under the laws of this state would be a felony classified as a
22 most serious offense under this subsection.
23 (24) "Nonviolent offense" means an offense which is not a violent
24 offense.
25 (25) "Offender" means a person who has committed a felony
26 established by state law and is eighteen years of age or older ~~((or))~~.
27 "Offender" also means a person who is less than eighteen years of age
28 ((but)) whose case has been transferred by the appropriate juvenile
29 court to a criminal court pursuant to RCW 13.40.110 or who is under
30 adult criminal court jurisdiction pursuant to RCW 13.04.030(1)(e)(iv).
31 Throughout this chapter, the terms "offender" and "defendant" are used
32 interchangeably.
33 (26) "Partial confinement" means confinement for no more than one
34 year in a facility or institution operated or utilized under contract
35 by the state or any other unit of government, or, if home detention or
36 work crew has been ordered by the court, in an approved residence, for
37 a substantial portion of each day with the balance of the day spent in
38 the community. Partial confinement includes work release, home

1 detention, work crew, and a combination of work crew and home detention
2 as defined in this section.

3 (27) "Persistent offender" is an offender who:

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

6 (b) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.360; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted.

14 (28) "Postrelease supervision" is that portion of an offender's
15 community placement that is not community custody.

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

20 (30) "Serious traffic offense" means:

21 (a) Driving while under the influence of intoxicating liquor or any
22 drug (RCW 46.61.502), actual physical control while under the influence
23 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
24 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
25 or

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

29 (31) "Serious violent offense" is a subcategory of violent offense
30 and means:

31 (a) Murder in the first degree, homicide by abuse, murder in the
32 second degree, assault in the first degree, kidnapping in the first
33 degree, or rape in the first degree, assault of a child in the first
34 degree, or an attempt, criminal solicitation, or criminal conspiracy to
35 commit one of these felonies; or

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

1 (32) "Sentence range" means the sentencing court's discretionary
2 range in imposing a nonappealable sentence.

3 (33) "Sex offense" means:

4 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
5 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
6 criminal attempt, criminal solicitation, or criminal conspiracy to
7 commit such crimes;

8 (b) A felony with a finding of sexual motivation under RCW
9 9.94A.127 or 13.40.135; or

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

13 (34) "Sexual motivation" means that one of the purposes for which
14 the defendant committed the crime was for the purpose of his or her
15 sexual gratification.

16 (35) "Total confinement" means confinement inside the physical
17 boundaries of a facility or institution operated or utilized under
18 contract by the state or any other unit of government for twenty-four
19 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20 (36) "Transition training" means written and verbal instructions
21 and assistance provided by the department to the offender during the
22 two weeks prior to the offender's successful completion of the work
23 ethic camp program. The transition training shall include instructions
24 in the offender's requirements and obligations during the offender's
25 period of community custody.

26 (37) "Victim" means any person who has sustained emotional,
27 psychological, physical, or financial injury to person or property as
28 a direct result of the crime charged.

29 (38) "Violent offense" means:

30 (a) Any of the following felonies, as now existing or hereafter
31 amended: Any felony defined under any law as a class A felony or an
32 attempt to commit a class A felony, criminal solicitation of or
33 criminal conspiracy to commit a class A felony, manslaughter in the
34 first degree, manslaughter in the second degree, indecent liberties if
35 committed by forcible compulsion, kidnapping in the second degree,
36 arson in the second degree, assault in the second degree, assault of a
37 child in the second degree, extortion in the first degree, robbery in
38 the second degree, vehicular assault, and vehicular homicide, when
39 proximately caused by the driving of any vehicle by any person while

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

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

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

9 (39) "Work crew" means a program of partial confinement consisting
10 of civic improvement tasks for the benefit of the community of not less
11 than thirty-five hours per week that complies with RCW 9.94A.135. The
12 civic improvement tasks shall have minimal negative impact on existing
13 private industries or the labor force in the county where the service
14 or labor is performed. The civic improvement tasks shall not affect
15 employment opportunities for people with developmental disabilities
16 contracted through sheltered workshops as defined in RCW 82.04.385.
17 Only those offenders sentenced to a facility operated or utilized under
18 contract by a county or the state are eligible to participate on a work
19 crew. Offenders sentenced for a sex offense as defined in subsection
20 (33) of this section are not eligible for the work crew program.

21 (40) "Work ethic camp" means an alternative incarceration program
22 designed to reduce recidivism and lower the cost of corrections by
23 requiring offenders to complete a comprehensive array of real-world job
24 and vocational experiences, character-building work ethics training,
25 life management skills development, substance abuse rehabilitation,
26 counseling, literacy training, and basic adult education.

27 (41) "Work release" means a program of partial confinement
28 available to offenders who are employed or engaged as a student in a
29 regular course of study at school. Participation in work release shall
30 be conditioned upon the offender attending work or school at regularly
31 defined hours and abiding by the rules of the work release facility.

32 (42) "Home detention" means a program of partial confinement
33 available to offenders wherein the offender is confined in a private
34 residence subject to electronic surveillance.

35 NEW SECTION. **Sec. 4.** This act shall apply to offenses committed
36 on or after the effective date of this act.

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