
HOUSE BILL 1991

State of Washington

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By Representatives Lantz and Woods

Read first time 02/12/2001. Referred to Committee on Juvenile Justice.

1 AN ACT Relating to information sharing between schools and juvenile
2 justice and care agencies; amending RCW 13.40.050, 13.40.150,
3 26.50.050, and 10.14.070; adding a new section to chapter 26.50 RCW;
4 and adding a new section to chapter 10.14 RCW.

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

6 **Sec. 1.** RCW 13.40.050 and 1997 c 338 s 15 are each amended to read
7 as follows:

8 (1) When a juvenile taken into custody is held in detention:

9 (a) An information, a community supervision modification or
10 termination of diversion petition, or a parole modification petition
11 shall be filed within seventy-two hours, Saturdays, Sundays, and
12 holidays excluded, or the juvenile shall be released; and

13 (b) A detention hearing, a community supervision modification or
14 termination of diversion petition, or a parole modification petition
15 shall be held within seventy-two hours, Saturdays, Sundays, and
16 holidays excluded, from the time of filing the information or petition,
17 to determine whether continued detention is necessary under RCW
18 13.40.040.

1 (2)(a) Notice of the detention hearing, stating the time, place,
2 and purpose of the hearing, stating the right to counsel, and requiring
3 attendance shall be given to the parent, guardian, or custodian if such
4 person can be found and shall also be given to the juvenile if over
5 twelve years of age.

6 (b) Notice of the detention hearing shall also be given to the
7 juvenile's school if the offense, violation of a disposition order, or
8 violation of a release order: (i) Involves an employee or student at
9 the juvenile's school; (ii) involves school property; or (iii) pertains
10 to the juvenile's attendance at the school.

11 (3) At the commencement of the detention hearing, the court shall
12 advise the parties of their rights under this chapter and shall appoint
13 counsel as specified in this chapter.

14 (4) The court shall, based upon the allegations in the information,
15 determine whether the case is properly before it or whether the case
16 should be treated as a diversion case under RCW 13.40.080. If the case
17 is not properly before the court the juvenile shall be ordered
18 released.

19 (5) Notwithstanding a determination that the case is properly
20 before the court and that probable cause exists, a juvenile shall at
21 the detention hearing be ordered released on the juvenile's personal
22 recognizance pending further hearing unless the court finds detention
23 is necessary under RCW 13.40.040.

24 (6) If detention is not necessary under RCW 13.40.040, the court
25 shall impose the most appropriate of the following conditions or, if
26 necessary, any combination of the following conditions:

27 (a) Place the juvenile in the custody of a designated person
28 agreeing to supervise such juvenile;

29 (b) Place restrictions on the travel of the juvenile during the
30 period of release;

31 (c) Require the juvenile to report regularly to and remain under
32 the supervision of the juvenile court;

33 (d) Impose any condition other than detention deemed reasonably
34 necessary to assure appearance as required;

35 (e) Require that the juvenile return to detention during specified
36 hours; or

37 (f) Require the juvenile to post a probation bond set by the court
38 under terms and conditions as provided in RCW 13.40.040(4).

1 (7) A juvenile may be released only to a responsible adult or the
2 department.

3 (8) If the parent, guardian, or custodian of the juvenile in
4 detention is available, the court shall consult with them prior to a
5 determination to further detain or release the juvenile or treat the
6 case as a diversion case under RCW 13.40.080.

7 (9) Except for persons notified under subsection (2)(b) of this
8 section, a person notified under this section who fails without
9 reasonable cause to appear and abide by the order of the court may be
10 proceeded against as for contempt of court. In determining whether a
11 parent, guardian, or custodian had reasonable cause not to appear, the
12 court may consider all factors relevant to the person's ability to
13 appear as summoned.

14 **Sec. 2.** RCW 13.40.150 and 1998 c 86 s 1 are each amended to read
15 as follows:

16 (1) In disposition hearings all relevant and material evidence,
17 including oral and written reports, may be received by the court and
18 may be relied upon to the extent of its probative value, even though
19 such evidence may not be admissible in a hearing on the information.
20 The youth or the youth's counsel and the prosecuting attorney shall be
21 afforded an opportunity to examine and controvert written reports so
22 received and to cross-examine individuals making reports when such
23 individuals are reasonably available, but sources of confidential
24 information need not be disclosed. The prosecutor and counsel for the
25 juvenile may submit recommendations for disposition.

26 (2) For purposes of disposition:

27 (a) Violations which are current offenses count as misdemeanors;

28 (b) Violations may not count as part of the offender's criminal
29 history;

30 (c) In no event may a disposition for a violation include
31 confinement.

32 (3) Before entering a dispositional order as to a respondent found
33 to have committed an offense, the court shall hold a disposition
34 hearing, at which the court shall:

35 (a) Consider the facts supporting the allegations of criminal
36 conduct by the respondent;

37 (b) Consider information and arguments offered by parties and their
38 counsel;

1 (c) Consider any predisposition reports;

2 (d) Consult with the respondent's parent, guardian, or custodian on
3 the appropriateness of dispositional options under consideration and
4 afford the respondent and the respondent's parent, guardian, or
5 custodian an opportunity to speak in the respondent's behalf;

6 (e) Allow the victim or a representative of the victim and an
7 investigative law enforcement officer to speak;

8 (f) Consider recommendations and concerns from the juvenile's
9 school when imposing monitoring and reporting requirements, sanctions,
10 or other dispositional conditions relating to the juvenile's school
11 attendance;

12 (g) Determine the amount of restitution owing to the victim, if
13 any, or set a hearing for a later date not to exceed one hundred eighty
14 days from the date of the disposition hearing to determine the amount,
15 except that the court may continue the hearing beyond the one hundred
16 eighty days for good cause;

17 (~~(g)~~) (h) Determine the respondent's offender score;

18 (~~(h)~~) (i) Consider whether or not any of the following mitigating
19 factors exist:

20 (i) The respondent's conduct neither caused nor threatened serious
21 bodily injury or the respondent did not contemplate that his or her
22 conduct would cause or threaten serious bodily injury;

23 (ii) The respondent acted under strong and immediate provocation;

24 (iii) The respondent was suffering from a mental or physical
25 condition that significantly reduced his or her culpability for the
26 offense though failing to establish a defense;

27 (iv) Prior to his or her detection, the respondent compensated or
28 made a good faith attempt to compensate the victim for the injury or
29 loss sustained; and

30 (v) There has been at least one year between the respondent's
31 current offense and any prior criminal offense;

32 (~~(i)~~) (j) Consider whether or not any of the following
33 aggravating factors exist:

34 (i) In the commission of the offense, or in flight therefrom, the
35 respondent inflicted or attempted to inflict serious bodily injury to
36 another;

37 (ii) The offense was committed in an especially heinous, cruel, or
38 depraved manner;

39 (iii) The victim or victims were particularly vulnerable;

1 (iv) The respondent has a recent criminal history or has failed to
2 comply with conditions of a recent dispositional order or diversion
3 agreement;

4 (v) The current offense included a finding of sexual motivation
5 pursuant to RCW 13.40.135;

6 (vi) The respondent was the leader of a criminal enterprise
7 involving several persons;

8 (vii) There are other complaints which have resulted in diversion
9 or a finding or plea of guilty but which are not included as criminal
10 history; and

11 (viii) The standard range disposition is clearly too lenient
12 considering the seriousness of the juvenile's prior adjudications.

13 (4) The following factors may not be considered in determining the
14 punishment to be imposed:

15 (a) The sex of the respondent;

16 (b) The race or color of the respondent or the respondent's family;

17 (c) The creed or religion of the respondent or the respondent's
18 family;

19 (d) The economic or social class of the respondent or the
20 respondent's family; and

21 (e) Factors indicating that the respondent may be or is a dependent
22 child within the meaning of this chapter.

23 (5) A court may not commit a juvenile to a state institution solely
24 because of the lack of facilities, including treatment facilities,
25 existing in the community.

26 **Sec. 3.** RCW 26.50.050 and 1995 c 246 s 6 are each amended to read
27 as follows:

28 (1) Upon receipt of the petition, the court shall order a hearing
29 which shall be held not later than fourteen days from the date of the
30 order. The court may schedule a hearing by telephone pursuant to local
31 court rule, to reasonably accommodate a disability, or in exceptional
32 circumstances to protect a petitioner from further acts of domestic
33 violence. The court shall require assurances of the petitioner's
34 identity before conducting a telephonic hearing. Except as provided in
35 RCW 26.50.085 and 26.50.123, personal service shall be made upon the
36 respondent not less than five court days prior to the hearing. If
37 timely personal service cannot be made, the court shall set a new
38 hearing date and shall either require additional attempts at obtaining

1 personal service or permit service by publication as provided in RCW
2 26.50.085 or service by mail as provided in RCW 26.50.123. If the
3 court permits service by publication or by mail, the court shall set
4 the hearing date not later than twenty-four days from the date of the
5 order. The court may issue an ex parte order for protection pending
6 the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123.

7 (2) If, based on the petition, the court determines that the
8 petitioner and the respondent attend the same school, the court shall
9 send a copy of the petition and notice of the hearing to the school.

10 NEW SECTION. Sec. 4. A new section is added to chapter 26.50 RCW
11 to read as follows:

12 (1) If the petitioner and the respondent attend the same school,
13 the court, in providing relief under this chapter, shall consider the
14 recommendations and concerns raised, prior to or at the time of the
15 hearing, by the school.

16 (2) When a court enters an order under this chapter, other than an
17 ex parte temporary order for protection under RCW 26.50.070, and the
18 petitioner and the respondent attend the same school, the court shall
19 send a copy of the order to the school.

20 **Sec. 5.** RCW 10.14.070 and 1992 c 143 s 10 are each amended to read
21 as follows:

22 (1) Upon receipt of the petition, the court shall order a hearing
23 which shall be held not later than fourteen days from the date of the
24 order. Except as provided in RCW 10.14.085, personal service shall be
25 made upon the respondent not less than five court days before the
26 hearing. If timely personal service cannot be made, the court shall
27 set a new hearing date and shall either require additional attempts at
28 obtaining personal service or permit service by publication as provided
29 by RCW 10.14.085. If the court permits service by publication, the
30 court shall set the hearing date not later than twenty-four days from
31 the date of the order. The court may issue an ex parte order for
32 protection pending the hearing as provided in RCW 10.14.080 and
33 10.14.085.

34 (2) If, based on the petition, the court determines that the
35 petitioner and the respondent attend the same school, the court shall
36 send a copy of the petition and notice of the hearing to the school.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.14 RCW
2 to read as follows:

3 (1) If the petitioner and the respondent attend the same school,
4 the court, in providing relief under this chapter, shall consider the
5 recommendations and concerns raised, prior to or at the time of the
6 hearing, by the school.

7 (2) When a court enters an order under this chapter, other than an
8 ex parte temporary order, and the petitioner and the respondent attend
9 the same school, the court shall send a copy of the order to the
10 school.

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