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SENATE BILL 6576

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State of Washington 57th Legislature

2002 Regular Session

By Senator Hargrove

Read first time . Referred to Committee on .

1 AN ACT Relating to supervision of juvenile offenders; amending RCW  
2 13.40.020; reenacting and amending RCW 13.40.210; adding a new section  
3 to chapter 13.40 RCW; creating a new section; and repealing RCW  
4 13.40.212.

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

6 **Sec. 1.** RCW 13.40.210 and 2001 c 137 s 2 and 2001 c 51 s 1 are  
7 each reenacted and amended to read as follows:

8 (1) The secretary shall set a release date for each juvenile  
9 committed to its custody. The release date shall be within the  
10 prescribed range to which a juvenile has been committed under RCW  
11 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning  
12 offenders the department determines are eligible for the juvenile  
13 offender basic training camp program. Such dates shall be determined  
14 prior to the expiration of sixty percent of a juvenile's minimum term  
15 of confinement included within the prescribed range to which the  
16 juvenile has been committed. The secretary shall release any juvenile  
17 committed to the custody of the department within four calendar days  
18 prior to the juvenile's release date or on the release date set under  
19 this chapter. Days spent in the custody of the department shall be

1 tolled by any period of time during which a juvenile has absented  
2 himself or herself from the department's supervision without the prior  
3 approval of the secretary or the secretary's designee.

4 (2) The secretary shall monitor the average daily population of the  
5 state's juvenile residential facilities. When the secretary concludes  
6 that in-residence population of residential facilities exceeds one  
7 hundred five percent of the rated bed capacity specified in statute, or  
8 in absence of such specification, as specified by the department in  
9 rule, the secretary may recommend reductions to the governor. On  
10 certification by the governor that the recommended reductions are  
11 necessary, the secretary has authority to administratively release a  
12 sufficient number of offenders to reduce in-residence population to one  
13 hundred percent of rated bed capacity. The secretary shall release  
14 those offenders who have served the greatest proportion of their  
15 sentence. However, the secretary may deny release in a particular case  
16 at the request of an offender, or if the secretary finds that there is  
17 no responsible custodian, as determined by the department, to whom to  
18 release the offender, or if the release of the offender would pose a  
19 clear danger to society. The department shall notify the committing  
20 court of the release at the time of release if any such early releases  
21 have occurred as a result of excessive in-residence population. In no  
22 event shall an offender adjudicated of a violent offense be granted  
23 release under the provisions of this subsection.

24 (3)(a) Following the release of any juvenile under subsection (1)  
25 of this section, the ~~((secretary may))~~ sentencing court shall require  
26 the juvenile to comply with a program of parole to be administered by  
27 the ~~((department))~~ county's juvenile community supervision program in  
28 his or her community which shall last no longer than ~~((eighteen))~~  
29 twelve months, except that in the case of a juvenile sentenced for rape  
30 in the first or second degree, rape of a child in the first or second  
31 degree, child molestation in the first degree, or indecent liberties  
32 with forcible compulsion, the period of parole shall be twenty-four  
33 months and, in the discretion of the ~~((secretary))~~ juvenile court, may  
34 be up to thirty-six months when the ~~((secretary))~~ juvenile court finds  
35 that an additional period of parole is necessary and appropriate in the  
36 interests of public safety or to meet the ongoing needs of the  
37 juvenile. A parole program is mandatory for offenders released under  
38 subsection (2) of this section. The decision to place an offender on  
39 parole shall be based on an assessment by the ~~((department))~~ juvenile

1 court of the offender's risk for reoffending upon release. ((The  
2 ~~department shall prioritize available parole resources to provide~~  
3 ~~supervision and services to offenders at moderate to high risk for~~  
4 ~~reoffending-)) Prior pending probation sentences shall run concurrent  
5 with the parole supervision period.~~

6 (b) The ((~~secretary~~)) sentencing court shall, for the period of  
7 parole, facilitate the juvenile's reintegration into his or her  
8 community and to further this goal shall require the juvenile to  
9 refrain from possessing a firearm or using a deadly weapon and refrain  
10 from committing new offenses and may require the juvenile to: (i)  
11 Undergo available medical, psychiatric, drug and alcohol, sex offender,  
12 mental health, and other offense-related treatment services; (ii)  
13 report as directed to a parole/juvenile community supervision officer  
14 ((~~and/or designee~~)); (iii) pursue a course of study, vocational  
15 training, or employment; (iv) notify the parole officer of the current  
16 address where he or she resides; (v) be present at a particular address  
17 during specified hours; (vi) remain within prescribed geographical  
18 boundaries; (vii) submit to electronic monitoring; (viii) refrain from  
19 using illegal drugs and alcohol, and submit to random urinalysis when  
20 requested by the assigned parole officer; (ix) refrain from contact  
21 with specific individuals or a specified class of individuals; (x) meet  
22 other conditions determined by the parole officer to further enhance  
23 the juvenile's reintegration into the community; (xi) pay any court-  
24 ordered fines or restitution; and (xii) perform community service.  
25 Community service for the purpose of this section means compulsory  
26 service, without compensation, performed for the benefit of the  
27 community by the offender. Community service may be performed through  
28 public or private organizations or through work crews.

29 (c) ((~~The secretary may further require up to twenty five percent~~  
30 ~~of the highest risk juvenile offenders who are placed on parole to~~  
31 ~~participate in an intensive supervision program. Offenders~~  
32 ~~participating in an intensive supervision program shall be required to~~  
33 ~~comply with all terms and conditions listed in (b) of this subsection~~  
34 ~~and shall also be required to comply with the following additional~~  
35 ~~terms and conditions: (i) Obey all laws and refrain from any conduct~~  
36 ~~that threatens public safety; (ii) report at least once a week to an~~  
37 ~~assigned community case manager; and (iii) meet all other requirements~~  
38 ~~imposed by the community case manager related to participating in the~~

1 ~~intensive supervision program. As a part of the intensive supervision~~  
2 ~~program, the secretary may require day reporting.~~

3 (d)) After termination of the parole period, the juvenile shall be  
4 discharged from the ~~((department's))~~ juvenile court's supervision.

5 (4)(a) The ~~((department))~~ juvenile court may also modify parole for  
6 violation thereof. If, after affording a juvenile all of the due  
7 process rights to which he or she would be entitled if the juvenile  
8 were an adult, the ~~((secretary))~~ juvenile court finds that a juvenile  
9 has violated a condition of his or her parole, the ~~((secretary shall))~~  
10 juvenile court may order one of the following which is reasonably  
11 likely to effectuate the purpose of the parole and to protect the  
12 public: (i) Continued supervision under the same conditions previously  
13 imposed; (ii) intensified supervision with increased reporting  
14 requirements; (iii) additional conditions of supervision authorized by  
15 this chapter; (iv) except as provided in (a)(v) and (vi) of this  
16 subsection, imposition of a period of confinement not to exceed thirty  
17 days in a facility operated by or pursuant to a contract with the state  
18 of Washington or any city or county for a portion of each day or for a  
19 certain number of days each week with the balance of the days or weeks  
20 spent under supervision; (v) the ~~((secretary))~~ juvenile court may order  
21 any of the conditions or may return the offender to confinement for the  
22 remainder of the sentence range if the offense for which the offender  
23 was sentenced is rape in the first or second degree, rape of a child in  
24 the first or second degree, child molestation in the first degree,  
25 indecent liberties with forcible compulsion, or a sex offense that is  
26 also a serious violent offense as defined by RCW 9.94A.030; and (vi)  
27 the ~~((secretary))~~ juvenile court may order any of the conditions or may  
28 return the offender to confinement for the remainder of the sentence  
29 range if the youth has completed the basic training camp program as  
30 described in RCW 13.40.320.

31 (b) If the ~~((department))~~ juvenile court finds that any juvenile in  
32 a program of parole has possessed a firearm or used a deadly weapon  
33 during the program of parole, the ~~((department))~~ juvenile court shall  
34 modify the parole under (a) of this subsection and confine the juvenile  
35 for at least thirty days. Confinement shall be in a facility operated  
36 by or pursuant to a contract with the state or any county.

37 (5) A parole/juvenile community supervision officer of the  
38 ~~((department of social and health services))~~ juvenile court shall have  
39 the power to arrest a juvenile under his or her supervision on the same

1 grounds as a law enforcement officer would be authorized to arrest the  
2 person.

3       (6) (~~If so requested and approved under chapter 13.06 RCW, the~~  
4 ~~secretary shall permit a county or group of counties to perform~~  
5 ~~functions under subsections (3) through (5) of this section)) The  
6 responsibility for providing parole/juvenile community supervision  
7 services shall be that of the state, unless individual counties choose  
8 to provide parole/juvenile community supervision services. In the  
9 event that a county chooses to provide these services, the state shall  
10 indemnify the county from liability from any action, claim, or  
11 proceeding instituted against the county or its employees arising out  
12 of the good faith performance or failure of performance of the  
13 parole/community supervision services.~~

14       NEW SECTION. Sec. 2. A new section is added to chapter 13.40 RCW  
15 to read as follows:

16       In recognizing the legislature's intent to provide community  
17 services to juvenile offenders through consolidation of service  
18 delivery systems, counties choosing not to provide parole/juvenile  
19 community supervision services may contract with adjoining counties to  
20 provide these services, and shall be indemnified by the state to the  
21 same degree as the county providing the services.

22       **Sec. 3.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to read  
23 as follows:

24       For the purposes of this chapter:

25       (1) "Community-based rehabilitation" means one or more of the  
26 following: Employment; attendance of information classes; literacy  
27 classes; counseling, outpatient substance abuse treatment programs,  
28 outpatient mental health programs, anger management classes, education  
29 or outpatient treatment programs to prevent animal cruelty, or other  
30 services; or attendance at school or other educational programs  
31 appropriate for the juvenile as determined by the school district.  
32 Placement in community-based rehabilitation programs is subject to  
33 available funds;

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

36       (a) A fine, not to exceed five hundred dollars;

1 (b) Community service not to exceed one hundred fifty hours of  
2 service;

3 (3) "Community service" means compulsory service, without  
4 compensation, performed for the benefit of the community by the  
5 offender as punishment for committing an offense. Community service  
6 may be performed through public or private organizations or through  
7 work crews;

8 (4) "Community supervision" means an order of disposition by the  
9 court of an adjudicated youth not committed to the department or an  
10 order granting a deferred disposition. A community supervision order  
11 for a single offense may be for a period of up to two years for a sex  
12 offense as defined by RCW 9.94A.030 and up to one year for other  
13 offenses. As a mandatory condition of any term of community  
14 supervision, the court shall order the juvenile to refrain from  
15 committing new offenses. As a mandatory condition of community  
16 supervision, the court shall order the juvenile to comply with the  
17 mandatory school attendance provisions of chapter 28A.225 RCW and to  
18 inform the school of the existence of this requirement. Community  
19 supervision is an individualized program comprised of one or more of  
20 the following:

21 (a) Community-based sanctions;

22 (b) Community-based rehabilitation;

23 (c) Monitoring and reporting requirements;

24 (d) Posting of a probation bond;

25 (5) "Confinement" means physical custody by the department of  
26 social and health services in a facility operated by or pursuant to a  
27 contract with the state, or physical custody in a detention facility  
28 operated by or pursuant to a contract with any county. The county may  
29 operate or contract with vendors to operate county detention  
30 facilities. The department may operate or contract to operate  
31 detention facilities for juveniles committed to the department.  
32 Pretrial confinement or confinement of less than thirty-one days  
33 imposed as part of a disposition or modification order may be served  
34 consecutively or intermittently, in the discretion of the court;

35 (6) "Court," when used without further qualification, means the  
36 juvenile court judge(s) or commissioner(s);

37 (7) "Criminal history" includes all criminal complaints against the  
38 respondent for which, prior to the commission of a current offense:

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

5 (b) The criminal complaint was diverted by a prosecutor pursuant to  
6 the provisions of this chapter on agreement of the respondent and after  
7 an advisement to the respondent that the criminal complaint would be  
8 considered as part of the respondent's criminal history. A  
9 successfully completed deferred adjudication that was entered before  
10 July 1, 1998, or a deferred disposition shall not be considered part of  
11 the respondent's criminal history;

12 (8) "Department" means the department of social and health  
13 services;

14 (9) "Detention facility" means a county facility, paid for by the  
15 county, for the physical confinement of a juvenile alleged to have  
16 committed an offense or an adjudicated offender subject to a  
17 disposition or modification order. "Detention facility" includes  
18 county group homes, inpatient substance abuse programs, juvenile basic  
19 training camps, and electronic monitoring;

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

37 (11) "Foster care" means temporary physical care in a foster family  
38 home or group care facility as defined in RCW 74.15.020 and licensed by  
39 the department, or other legally authorized care;

1 (12) "Institution" means a juvenile facility established pursuant  
2 to chapters 72.05 and 72.16 through 72.20 RCW;

3 (~~(13)~~) (~~("Intensive supervision program" means a parole program that~~  
4 ~~requires intensive supervision and monitoring, offers an array of~~  
5 ~~individualized treatment and transitional services, and emphasizes~~  
6 ~~community involvement and support in order to reduce the likelihood a~~  
7 ~~juvenile offender will commit further offenses;~~

8 (~~(14)~~) "Juvenile," "youth," and "child" mean any individual who is  
9 under the chronological age of eighteen years and who has not been  
10 previously transferred to adult court pursuant to RCW 13.40.110 or who  
11 is otherwise under adult court jurisdiction;

12 (~~(15)~~) (14) "Juvenile offender" means any juvenile who has been  
13 found by the juvenile court to have committed an offense, including a  
14 person eighteen years of age or older over whom jurisdiction has been  
15 extended under RCW 13.40.300;

16 (~~(16)~~) (15) "Local sanctions" means one or more of the following:  
17 (a) 0-30 days of confinement; (b) 0-12 months of community supervision;  
18 (c) 0-150 hours of community service; or (d) \$0-\$500 fine;

19 (~~(17)~~) (16) "Manifest injustice" means a disposition that would  
20 either impose an excessive penalty on the juvenile or would impose a  
21 serious, and clear danger to society in light of the purposes of this  
22 chapter;

23 (~~(18)~~) (17) "Monitoring and reporting requirements" means one or  
24 more of the following: Curfews; requirements to remain at home,  
25 school, work, or court-ordered treatment programs during specified  
26 hours; restrictions from leaving or entering specified geographical  
27 areas; requirements to report to the probation officer as directed and  
28 to remain under the probation officer's supervision; and other  
29 conditions or limitations as the court may require which may not  
30 include confinement;

31 (~~(19)~~) (18) "Offense" means an act designated a violation or a  
32 crime if committed by an adult under the law of this state, under any  
33 ordinance of any city or county of this state, under any federal law,  
34 or under the law of another state if the act occurred in that state;

35 (~~(20)~~) (19) "Probation bond" means a bond, posted with sufficient  
36 security by a surety justified and approved by the court, to secure the  
37 offender's appearance at required court proceedings and compliance with  
38 court-ordered community supervision or conditions of release ordered  
39 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of



1 cash or posting of other collateral in lieu of a bond if approved by  
2 the court;

3 ~~((21))~~ (20) "Respondent" means a juvenile who is alleged or  
4 proven to have committed an offense;

5 ~~((22))~~ (21) "Restitution" means financial reimbursement by the  
6 offender to the victim, and shall be limited to easily ascertainable  
7 damages for injury to or loss of property, actual expenses incurred for  
8 medical treatment for physical injury to persons, lost wages resulting  
9 from physical injury, and costs of the victim's counseling reasonably  
10 related to the offense if the offense is a sex offense. Restitution  
11 shall not include reimbursement for damages for mental anguish, pain  
12 and suffering, or other intangible losses. Nothing in this chapter  
13 shall limit or replace civil remedies or defenses available to the  
14 victim or offender;

15 ~~((23))~~ (22) "Secretary" means the secretary of the department of  
16 social and health services. "Assistant secretary" means the assistant  
17 secretary for juvenile rehabilitation for the department;

18 ~~((24))~~ (23) "Services" means services which provide alternatives  
19 to incarceration for those juveniles who have pleaded or been  
20 adjudicated guilty of an offense or have signed a diversion agreement  
21 pursuant to this chapter;

22 ~~((25))~~ (24) "Sex offense" means an offense defined as a sex  
23 offense in RCW 9.94A.030;

24 ~~((26))~~ (25) "Sexual motivation" means that one of the purposes  
25 for which the respondent committed the offense was for the purpose of  
26 his or her sexual gratification;

27 ~~((27))~~ (26) "Surety" means an entity licensed under state  
28 insurance laws or by the state department of licensing, to write  
29 corporate, property, or probation bonds within the state, and justified  
30 and approved by the superior court of the county having jurisdiction of  
31 the case;

32 ~~((28))~~ (27) "Violation" means an act or omission, which if  
33 committed by an adult, must be proven beyond a reasonable doubt, and is  
34 punishable by sanctions which do not include incarceration;

35 ~~((29))~~ (28) "Violent offense" means a violent offense as defined  
36 in RCW 9.94A.030.

37 NEW SECTION. **Sec. 4.** RCW 13.40.212 (Intensive supervision  
38 program--Elements--Report) and 1997 c 338 s 34 are each repealed.

1        NEW SECTION.   **Sec. 5.**   If specific funding for the purposes of this  
2 act, referencing this act by bill or chapter number, is not provided by  
3 June 30, 2002, in the omnibus appropriations act, this act is null and  
4 void.

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