

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6180

66th Legislature
2020 Regular Session

Passed by the Senate March 10, 2020
Yeas 48 Nays 0

President of the Senate

Passed by the House March 5, 2020
Yeas 79 Nays 18

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6180** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6180

AS AMENDED BY THE HOUSE

Passed Legislature - 2020 Regular Session

State of Washington **66th Legislature** **2020 Regular Session**

By Senators Darneille, Nguyen, Das, and Wilson, C.

Prefiled 01/09/20. Read first time 01/13/20. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to juvenile sex offense registration waivers
2 under the special sexual offender disposition alternative; and
3 amending RCW 13.40.162 and 9A.44.140.

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

5 **Sec. 1.** RCW 13.40.162 and 2011 c 338 s 3 are each amended to
6 read as follows:

7 (1) A juvenile offender is eligible for the special sex offender
8 disposition alternative when:

9 (a) The offender is found to have committed a sex offense, other
10 than a sex offense that is also a serious violent offense as defined
11 by RCW 9.94A.030, and the offender has no history of a prior sex
12 offense; ((and)) or

13 (b) The offender is found to have committed assault in the fourth
14 degree with sexual motivation, and the offender has no history of a
15 prior sex offense.

16 (2) If the court finds the offender is eligible for this
17 alternative, the court, on its own motion or the motion of the state
18 or the respondent, may order an examination to determine whether the
19 respondent is amenable to treatment.

20 (a) The report of the examination shall include at a minimum the
21 following:

- 1 (i) The respondent's version of the facts and the official
2 version of the facts;
- 3 (ii) The respondent's offense history;
- 4 (iii) An assessment of problems in addition to alleged deviant
5 behaviors;
- 6 (iv) The respondent's social, educational, and employment
7 situation;
- 8 (v) Other evaluation measures used.

9 The report shall set forth the sources of the evaluator's
10 information.

11 (b) The examiner shall assess and report regarding the
12 respondent's amenability to treatment and relative risk to the
13 community. A proposed treatment plan shall be provided and shall
14 include, at a minimum:

- 15 (i) The frequency and type of contact between the offender and
16 therapist;
- 17 (ii) Specific issues to be addressed in the treatment and
18 description of planned treatment modalities;
- 19 (iii) Monitoring plans, including any requirements regarding
20 living conditions, lifestyle requirements, and monitoring by family
21 members, legal guardians, or others;
- 22 (iv) Anticipated length of treatment; and
- 23 (v) Recommended crime-related prohibitions.

24 (c) The court on its own motion may order, or on a motion by the
25 state shall order, a second examination regarding the offender's
26 amenability to treatment. The evaluator shall be selected by the
27 party making the motion. The defendant shall pay the cost of any
28 second examination ordered unless the court finds the defendant to be
29 indigent in which case the state shall pay the cost.

30 (3) After receipt of reports of the examination, the court shall
31 then consider whether the offender and the community will benefit
32 from use of this special sex offender disposition alternative and
33 consider the victim's opinion whether the offender should receive a
34 treatment disposition under this section. If the court determines
35 that this special sex offender disposition alternative is
36 appropriate, then the court shall impose a determinate disposition
37 within the standard range for the offense, or if the court concludes,
38 and enters reasons for its conclusions, that such disposition would
39 cause a manifest injustice, the court shall impose a disposition
40 under option D, and the court may suspend the execution of the

1 disposition and place the offender on community supervision for at
2 least two years.

3 (4) As a condition of the suspended disposition, the court may
4 impose the conditions of community supervision and other conditions,
5 including up to thirty days of confinement and requirements that the
6 offender do any one or more of the following:

7 (a) Devote time to a specific education, employment, or
8 occupation;

9 (b) Undergo available outpatient sex offender treatment for up to
10 two years, or inpatient sex offender treatment not to exceed the
11 standard range of confinement for that offense. A community mental
12 health center may not be used for such treatment unless it has an
13 appropriate program designed for sex offender treatment. The
14 respondent shall not change sex offender treatment providers or
15 treatment conditions without first notifying the prosecutor, the
16 probation counselor, and the court, and shall not change providers
17 without court approval after a hearing if the prosecutor or probation
18 counselor object to the change;

19 (c) Remain within prescribed geographical boundaries and notify
20 the court or the probation counselor prior to any change in the
21 offender's address, educational program, or employment;

22 (d) Report to the prosecutor and the probation counselor prior to
23 any change in a sex offender treatment provider. This change shall
24 have prior approval by the court;

25 (e) Report as directed to the court and a probation counselor;

26 (f) Pay all court-ordered legal financial obligations, perform
27 community restitution, or any combination thereof;

28 (g) Make restitution to the victim for the cost of any counseling
29 reasonably related to the offense; or

30 (h) Comply with the conditions of any court-ordered probation
31 bond.

32 (5) If the court orders twenty-four hour, continuous monitoring
33 of the offender while on probation, the court shall include the basis
34 for this condition in its findings.

35 (6) (a) The court must order the offender not to attend the public
36 or approved private elementary, middle, or high school attended by
37 the victim or the victim's siblings.

38 (b) The parents or legal guardians of the offender are
39 responsible for transportation or other costs associated with the

1 offender's change of school that would otherwise be paid by the
2 school district.

3 (c) The court shall send notice of the disposition and
4 restriction on attending the same school as the victim or victim's
5 siblings to the public or approved private school the juvenile will
6 attend, if known, or if unknown, to the approved private schools and
7 the public school district board of directors of the district in
8 which the juvenile resides or intends to reside. This notice must be
9 sent at the earliest possible date but not later than ten calendar
10 days after entry of the disposition.

11 (7) ~~((a))~~ For offenders required to register under RCW
12 9A.44.130, at the end of the supervision ordered under this
13 disposition alternative, there is a presumption that the offender is
14 sufficiently rehabilitated to warrant removal from the central
15 registry of sex offenders. The court shall relieve the offender's
16 duty to register unless the court finds that the offender is not
17 sufficiently rehabilitated to warrant removal and may consider the
18 following factors: (a) The nature of the offense committed, including
19 the number of victims and the length of the offense history;

20 (b) Any subsequent criminal history of the juvenile;

21 (c) The juvenile's compliance with supervision requirements;

22 (d) The length of time since the charged incident occurred;

23 (e) Any input from community corrections officers, juvenile
24 parole or probation officers, law enforcement, or treatment
25 providers;

26 (f) The juvenile's participation in sex offender treatment;

27 (g) The juvenile's participation in other treatment and
28 rehabilitative programs;

29 (h) The juvenile's stability in employment and housing;

30 (i) The juvenile's community and personal support system;

31 (j) Any risk assessments or evaluations prepared by a qualified
32 professional related to the juvenile;

33 (k) Any updated polygraph examination completed by the juvenile;

34 (l) Any input of the victim; and

35 (m) Any other factors the court may consider relevant.

36 (8) (a) The sex offender treatment provider shall submit quarterly
37 reports on the respondent's progress in treatment to the court and
38 the parties. The reports shall reference the treatment plan and
39 include at a minimum the following: Dates of attendance, respondent's
40 compliance with requirements, treatment activities, the respondent's

1 relative progress in treatment, and any other material specified by
2 the court at the time of the disposition.

3 (b) At the time of the disposition, the court may set treatment
4 review hearings as the court considers appropriate.

5 (c) Except as provided in this subsection, examinations and
6 treatment ordered pursuant to this subsection shall ~~((only))~~ be
7 conducted by qualified professionals as described under (d) of this
8 subsection, certified sex offender treatment providers, or certified
9 affiliate sex offender treatment providers under chapter 18.155 RCW.

10 (d) A sex offender therapist who examines or treats a juvenile
11 sex offender pursuant to this subsection does not have to be
12 certified by the department of health pursuant to chapter 18.155 RCW
13 if the therapist is a professional licensed under chapter 18.225 or
14 18.83 RCW and the treatment employed is evidence-based for sex
15 offender treatment, or if the court finds that: (i) The offender has
16 already moved to another state or plans to move to another state for
17 reasons other than circumventing the certification requirements; (ii)
18 no certified sex offender treatment providers or certified affiliate
19 sex offender treatment providers are available for treatment within a
20 reasonable geographical distance of the offender's home; and (iii)
21 the evaluation and treatment plan comply with this subsection and the
22 rules adopted by the department of health.

23 ~~((+8))~~ (9)(a) If the offender violates any condition of the
24 disposition or the court finds that the respondent is failing to make
25 satisfactory progress in treatment, the court may revoke the
26 suspension and order execution of the disposition or the court may
27 impose a penalty of up to thirty days confinement for violating
28 conditions of the disposition.

29 (b) The court may order both execution of the disposition and up
30 to thirty days confinement for the violation of the conditions of the
31 disposition.

32 (c) The court shall give credit for any confinement time
33 previously served if that confinement was for the offense for which
34 the suspension is being revoked.

35 ~~((+9))~~ (10) For purposes of this section, "victim" means any
36 person who has sustained emotional, psychological, physical, or
37 financial injury to person or property as a direct result of the
38 crime charged. "Victim" may also include a known parent or guardian
39 of a victim who is a minor child unless the parent or guardian is the
40 perpetrator of the offense.

1 (~~(10)~~) (11) A disposition entered under this section is not
2 appealable under RCW 13.40.230.

3 **Sec. 2.** RCW 9A.44.140 and 2015 c 261 s 6 are each amended to
4 read as follows:

5 The duty to register under RCW 9A.44.130 shall continue for the
6 duration provided in this section.

7 (1) For a person convicted in this state of a class A felony, or
8 a person convicted of any sex offense or kidnapping offense who has
9 one or more prior convictions for a sex offense or kidnapping
10 offense, the duty to register shall continue indefinitely.

11 (2) For a person convicted in this state of a class B felony who
12 does not have one or more prior convictions for a sex offense or
13 kidnapping offense, the duty to register shall end fifteen years
14 after the last date of release from confinement, if any, (including
15 full-time residential treatment) pursuant to the conviction, or entry
16 of the judgment and sentence, if the person has spent fifteen
17 consecutive years in the community without being convicted of a
18 disqualifying offense during that time period.

19 (3) For a person convicted in this state of a class C felony, a
20 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
21 or conspiracy to commit a class C felony, and the person does not
22 have one or more prior convictions for a sex offense or kidnapping
23 offense, the duty to register shall end ten years after the last date
24 of release from confinement, if any, (including full-time residential
25 treatment) pursuant to the conviction, or entry of the judgment and
26 sentence, if the person has spent ten consecutive years in the
27 community without being convicted of a disqualifying offense during
28 that time period.

29 (4) Except as provided in RCW 9A.44.142, for a person required to
30 register for a federal, tribal, or out-of-state conviction, the duty
31 to register shall continue indefinitely.

32 (5) For a person who is or has been determined to be a sexually
33 violent predator pursuant to chapter 71.09 RCW, the duty to register
34 shall continue for the person's lifetime.

35 (6) Nothing in this section prevents a person from being relieved
36 of the duty to register under RCW 9A.44.142 (~~and~~), 9A.44.143, and
37 13.40.162.

1 (7) Nothing in RCW 9.94A.637 relating to discharge of an offender
2 shall be construed as operating to relieve the offender of his or her
3 duty to register pursuant to RCW 9A.44.130.

4 (8) For purposes of determining whether a person has been
5 convicted of more than one sex offense, failure to register as a sex
6 offender or kidnapping offender is not a sex or kidnapping offense.

7 (9) The provisions of this section and RCW 9A.44.141 through
8 9A.44.143 apply equally to a person who has been found not guilty by
9 reason of insanity under chapter 10.77 RCW of a sex offense or
10 kidnapping offense.

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