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**SUBSTITUTE HOUSE BILL 1198**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Human Services (originally sponsored by Representatives Leonard, Padden, Appelwick, King, Brough, Johanson, Jones, Roland, Long, G. Cole, Veloria, Horn, Karahalios, Springer, Wood, Flemming, Kessler, Lemmon and Pruitt)

Read first time 03/03/93.

1 AN ACT Relating to recommendations of the juvenile issues task  
2 force; amending RCW 13.40.020; adding a new section to chapter 71.34  
3 RCW; adding a new section to chapter 70.96A RCW; adding a new section  
4 to chapter 13.40 RCW; and providing an effective date.

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

6 **Sec. 1.** RCW 13.40.020 and 1990 1st ex.s. c 12 s 1 are each amended  
7 to read as follows:

8 For the purposes of this chapter:

9 (1) "Serious offender" means a person fifteen years of age or older  
10 who has committed an offense which if committed by an adult would be:

11 (a) A class A felony, or an attempt to commit a class A felony;

12 (b) Manslaughter in the first degree; or

13 (c) Assault in the second degree, extortion in the first degree,  
14 child molestation in the second degree, kidnapping in the second  
15 degree, robbery in the second degree, residential burglary, or burglary  
16 in the second degree, where such offenses include the infliction of  
17 bodily harm upon another or where during the commission of or immediate  
18 withdrawal from such an offense the perpetrator is armed with a deadly  
19 weapon or firearm as defined in RCW 9A.04.110;

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

6 (3) "Community supervision" means an order of disposition by the  
7 court of an adjudicated youth not committed to the department. A  
8 community supervision order for a single offense may be for a period of  
9 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
10 one year for other offenses ~~((and))~~. Community supervision is an  
11 individualized program comprised of one or more of the following:

12 (a) Community-based sanctions;

13 (b) Community-based rehabilitation;

14 (c) Monitoring and reporting requirements;

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

17 (a) A fine, not to exceed one hundred dollars;

18 (b) Community service not to exceed one hundred fifty hours of  
19 service;

20 ~~((+e))~~ (5) "Community-based rehabilitation" means one or more of  
21 the following: Attendance of information classes;

22 ~~((d) Counseling; or~~

23 ~~(e) Such other services to the extent funds are available for such~~  
24 ~~services,))~~ counseling, outpatient substance abuse treatment programs,  
25 outpatient mental health programs, anger management classes, or other  
26 services; or attendance at school or other educational programs  
27 appropriate for the juvenile as determined by the school district.  
28 Placement in community-based rehabilitation programs is subject to  
29 available funds;

30 (6) "Monitoring and reporting requirements" means one or more of  
31 the following: Curfews; requirements to remain at home, school, work,  
32 or court-ordered treatment programs during specified hours;  
33 restrictions from leaving or entering specified geographical areas;  
34 requirements to report to the probation officer as directed and to  
35 remain under the probation officer's supervision; and other  
36 conditions~~((7))~~ or limitations as the court may require which may not  
37 include confinement;

38 ~~((+4))~~ (7) "Confinement" means physical custody by the department  
39 of social and health services in a detention facility operated by or

1 pursuant to a contract with the state, or physical custody in a  
2 detention facility operated by or pursuant to a contract with any  
3 county. The county may operate or contract with vendors to operate  
4 county detention facilities. The department may operate or contract to  
5 operate detention facilities for juveniles committed to the department.  
6 Confinement of less than thirty-one days imposed as part of a  
7 disposition or modification order may be served consecutively or  
8 intermittently, in the discretion of the court;

9 ~~((+5))~~ (8) "Court", when used without further qualification, means  
10 the juvenile court judge(s) or commissioner(s);

11 ~~((+6))~~ (9) "Criminal history" includes all criminal complaints  
12 against the respondent for which, prior to the commission of a current  
13 offense:

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

18 (b) The criminal complaint was diverted by a prosecutor pursuant to  
19 the provisions of this chapter on agreement of the respondent and after  
20 an advisement to the respondent that the criminal complaint would be  
21 considered as part of the respondent's criminal history;

22 ~~((+7))~~ (10) "Department" means the department of social and health  
23 services;

24 ~~((+8))~~ (11) "Detention facility" means a facility for the physical  
25 confinement of a juvenile alleged to have committed an offense or an  
26 adjudicated offender subject to a disposition or modification order.  
27 Detention facilities may be secure, semisecure, or nonsecure, and may  
28 include group homes, foster homes, and home detention with electronic  
29 or staff monitoring. "Secure detention" means lockup or staff-secure  
30 facilities. "Nonsecure detention" means residential placement in the  
31 community in a physically nonrestrictive environment under the  
32 supervision of and funded by the local government department of youth  
33 services or equivalent department. "Home detention" means placement of  
34 the juvenile in the custody of the juvenile's parent, guardian, or  
35 custodian in a physically nonrestrictive environment under the  
36 supervision of and funded by the local government department of youth  
37 services or equivalent department with electronic monitoring or  
38 department staff monitoring. Placement in group homes and foster homes  
39 is subject to available funds;

1       (12) "Diversion unit" means any probation counselor who enters into  
2 a diversion agreement with an alleged youthful offender, or any other  
3 person or entity except a law enforcement official or entity, with whom  
4 the juvenile court administrator has contracted to arrange and  
5 supervise such agreements pursuant to RCW (~~(13.04.040, as now or~~  
6 ~~hereafter amended,)~~) 13.40.080, or any person or entity specially  
7 funded by the legislature to arrange and supervise diversion agreements  
8 in accordance with the requirements of this chapter;

9       (~~(9)~~) (13) "Institution" means a juvenile facility established  
10 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

11       (~~(10)~~) (14) "Juvenile," "youth," and "child" mean any individual  
12 who is under the chronological age of eighteen years and who has not  
13 been previously transferred to adult court;

14       (~~(11)~~) (15) "Juvenile offender" means any juvenile who has been  
15 found by the juvenile court to have committed an offense, including a  
16 person eighteen years of age or older over whom jurisdiction has been  
17 extended under RCW 13.40.300;

18       (~~(12)~~) (16) "Manifest injustice" means a disposition that would  
19 either impose an excessive penalty on the juvenile or would impose a  
20 serious, and clear danger to society in light of the purposes of this  
21 chapter;

22       (~~(13)~~) (17) "Middle offender" means a person who has committed an  
23 offense and who is neither a minor or first offender nor a serious  
24 offender;

25       (~~(14)~~) (18) "Minor or first offender" means a person sixteen  
26 years of age or younger whose current offense(s) and criminal history  
27 fall entirely within one of the following categories:

- 28       (a) Four misdemeanors;
- 29       (b) Two misdemeanors and one gross misdemeanor;
- 30       (c) One misdemeanor and two gross misdemeanors;
- 31       (d) Three gross misdemeanors;
- 32       (e) One class C felony except manslaughter in the second degree and  
33 one misdemeanor or gross misdemeanor;
- 34       (f) One class B felony except: Any felony which constitutes an  
35 attempt to commit a class A felony; manslaughter in the first degree;  
36 assault in the second degree; extortion in the first degree; indecent  
37 liberties; kidnapping in the second degree; robbery in the second  
38 degree; burglary in the second degree; residential burglary; vehicular  
39 homicide; or arson in the second degree.

1 For purposes of this definition, current violations shall be  
2 counted as misdemeanors;

3 ~~((15))~~ (19) "Offense" means an act designated a violation or a  
4 crime if committed by an adult under the law of this state, under any  
5 ordinance of any city or county of this state, under any federal law,  
6 or under the law of another state if the act occurred in that state;

7 ~~((16))~~ (20) "Respondent" means a juvenile who is alleged or  
8 proven to have committed an offense;

9 ~~((17))~~ (21) "Restitution" means financial reimbursement by the  
10 offender to the victim, and shall be limited to easily ascertainable  
11 damages for injury to or loss of property, actual expenses incurred for  
12 medical treatment for physical injury to persons, lost wages resulting  
13 from physical injury, and costs of the victim's counseling reasonably  
14 related to the offense if the offense is a sex offense. Restitution  
15 shall not include reimbursement for damages for mental anguish, pain  
16 and suffering, or other intangible losses. Nothing in this chapter  
17 shall limit or replace civil remedies or defenses available to the  
18 victim or offender;

19 ~~((18))~~ (22) "Secretary" means the secretary of the department of  
20 social and health services;

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

25 ~~((20))~~ (24) "Sex offense" means an offense defined as a sex  
26 offense in RCW 9.94A.030;

27 ~~((21))~~ (25) "Sexual motivation" means that one of the purposes  
28 for which the respondent committed the offense was for the purpose of  
29 his or her sexual gratification;

30 ~~((22))~~ (26) "Foster care" means temporary physical care in a  
31 foster family home or group care facility as defined in RCW 74.15.020  
32 and licensed by the department, or other legally authorized care;

33 ~~((23))~~ (27) "Violation" means an act or omission, which if  
34 committed by an adult, must be proven beyond a reasonable doubt, and is  
35 punishable by sanctions which do not include incarceration.

36 NEW SECTION. Sec. 2. A new section is added to chapter 71.34 RCW  
37 to read as follows:

1 Whenever a county-designated mental health professional makes a  
2 determination under RCW 71.34.050 that a minor, thirteen years or  
3 older, does not meet the criteria for an involuntary detention at an  
4 evaluation and treatment facility, the county-designated mental health  
5 professional shall:

6 (1) Provide written notice to the minor's parent of the parent's  
7 right to file petitions and obtain services available under chapter  
8 13.32A RCW;

9 (2) Provide a written evaluation to the minor's parent detailing  
10 the county-designated mental health professional's reasons for not  
11 detaining the minor at an evaluation and treatment facility. The  
12 evaluation shall include the specific facts investigated, the  
13 credibility of the person or persons providing the information, and the  
14 criteria for an involuntary detention; and

15 (3) Refer the minor and the parents to other available services.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.96A RCW  
17 to read as follows:

18 Whenever a county-designated chemical dependency specialist makes  
19 a determination under RCW 70.96A.140 that a minor does not meet the  
20 criteria for a commitment to a chemical dependency program, the county-  
21 designated chemical dependency specialist shall:

22 (1) Provide written notice to the minor's parent of the parent's  
23 right to file petitions and obtain services available under chapter  
24 13.32A RCW; and

25 (2) Refer the minor and the parents to other available services.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.40 RCW  
27 to read as follows:

28 The department shall within existing funds collect such data as may  
29 be necessary to monitor any disparity in processing or disposing of  
30 cases involving juvenile offenders due to economic, gender, geographic,  
31 or racial factors that may result from implementation of section 1,  
32 chapter . . . , Laws of 1993 (section 1 of this act). Beginning  
33 December 1, 1993, the department shall report annually to the  
34 legislature on economic, gender, geographic, or racial  
35 disproportionality in the rates of arrest, detention, trial, treatment,  
36 and disposition in the state's juvenile justice system. The report  
37 shall cover the preceding calendar year. The annual report shall

1 identify the causes of such disproportionality and shall specifically  
2 point out any economic, gender, geographic, or racial  
3 disproportionality resulting from implementation of section 1, chapter  
4 . . ., Laws of 1993 (section 1 of this act).

5 NEW SECTION. **Sec. 5.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 6.** Sections 1, 2, and 3 of this act shall take  
10 effect July 1, 1994.

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